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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 6th June 2006

No. 4544-li/1(BH)-29/2000 (Pt.)-L. E.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 22nd April 2006 in Industrial Dispute Case No. 70 of 2000 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial disputes between the Management of the Divisional Forest Officer, Baripada, Mayurbhanj and its workman Shri Chaitan Mohanta, At/P.O. Jamsola, Dist. Mayurbhanj was referred for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 70 OF 2000

Dated the 22nd April 2006

Present :

Shri P. K. Sahoo, o.s.j.s. (Jr. Branch)
Presiding Officer, Labour Court
Bhubaneswar.

Between :

The Divisional Forest Officer .. First Party—Management
Baripada, Mayurbhanj.
And
Shri Chaitan Mohanta .. Second Party—Workman
At/P.O. Jamsola, Dist. Mayurbhanj.

Appearances :

For the First Party—Management .. None

For the Second Party—Workman himself .. Shri Chaitan Mohanta

AWARD

The State Government in exercise of powers conferred by sub-section (5) of Section 12, read with clause (c)/(d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 have referred the matter in dispute to this Court in the Labour & Employment Department Memo No. 8797(5)-L.E., dated the 1st July 2000 for adjudication and Award.

2. The terms of reference may briefly be stated as follows :

“Whether the termination of Shri Chaitan Mohanta from services with effect from the 1st April 1999 by the Divisional Forest Officer, Baripada Division, Baripada, Dist. Mayurbhanj is legal and/or justified ? If not, to what relief Shri Mohanta is entitled ?”

3. By way of this reference workman Shri Chaitan Mohanta has challenged the legality and justifiability of the action of the management of Divisional Forest Officer, Baripada Division, Baripada, Dist. Mayurbhanj (in short the management) in terminating his services with effect from the 1st April 1999.

The brief facts giving rise to the present reference are that the workman was working as Watcher with effect from the 7th July 1986 under the management. He continued to work as such till the 31st May 1999. He was informed by the Range Officer on the 1st June 1999 that he was terminated from service with effect from the 1st April 1999. According to the workman although he had rendered continuous service since the date of joining till the date of termination with much sincerity, devotion and to the utmost satisfaction of the authorities but the management without any rhyme or reason terminated his services without following the mandate of Section 25-F of the Industrial Disputes Act, 1947 (in short the Act). While seeking industrial adjudication the workman has prayed for his reinstatement in service with back wages along with other service benefits. Hence the reference.

4. The management was set *ex parte* and the *ex parte* hearing commenced on the 17th July 2001 and the 20th April 2004 respectively.

5. During *ex parte* evidence the workman has fully corroborated and supported the averments averred in his statement of claim. In his evidence he has clearly stated that he was working as Watcher from the 8th July 1986 to the 31st May 1999 under the management but on the 1st June 1999 he was informed by the Range Officer that his services were terminated with effect from the 1st April 1999. The management while terminating his service had not given any notice or notice pay and retrenchment compensation to him. He has now claimed for his reinstatement in service with back wages. W. W. 2 Shri Sarat Chandra Das has clearly supported the evidence given by the workman with regard to the engagement and illegal termination by the management with effect from the 1st April 1999. The evidence given by the workman on the above aspect has not been challenged by the management during evidence. In absence of any rebuttal evidence absolutely I find no cogent reason to disbelieve the evidence led by the workman. The settled position of law is that compliance of provision of Section 25-F of the Act is mandatory and any violation thereof will render the retrenchment void *ab initio*. The evidence led by the workman clearly goes to show that the workman had rendered continuous service with effect from the 8th July 1986 till the date of his termination on the 1st

April 1999 and the management while terminating his services had not complied with the mandatory provisions of Section 25-F of the Act. After carefully examining the evidence led by the workman and in view of the settled position of law, the termination having been made in violation of the mandatory provisions of Section 25-F of the Act, in my opinion, is void *ab initio*. Therefore, the action of the management in terminating the services of the workman with effect from the 1st April 1999 was illegal, unjustified and against the mandate of Section 25-F of the Act. In that view of the matter, the workman is entitled to the relief of reinstatement.

6. Hence it is ordered.

ORDER

That the termination of Shri Chaitan Mohanta from services with effect from the 1st April 1999 by the Divisional Forest Officer, Baripada Division, Baripada, Dist. Mayurbhanj is neither legal nor justified. The workman has nowhere asserted that he has not been gainfully employed elsewhere with effect from the date of his termination. In that view of the matter the workman is entitled for reinstatement in service but on the facts and circumstances of this case, as the workman had not worked under the management with effect from the date of his termination, he is not entitled to any back wages.

The reference is thus answered accordingly.

Dictated and corrected by me.

P. K. SAHOO
22-4-2006
Presiding Officer
Labour Court, Bhubaneswar

P. K. SAHOO
22-4-2006
Presiding Officer
Labour Court, Bhubaneswar

By order of the Governor
N. C. RAY
Under-Secretary to Government