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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 27th June 2007

No.8176-1i/1-(B)-163/1998(pt)/L.E. — In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the award dated the 19th March 2007 in I.D. Case No. 197/1998 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the Management of Agriculture Extension, Bhubaneswar and its workman Shri Pradeep Kumar Dhal was referred for adjudication is hereby published as in the schedule below:—

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR
INDUSTRIAL DISPUTE CASE No. 197 of 1998

Dated the 19th March 2007

Present:

Shri S.K. Mohapatra, O.S.J.S. (Jr.Branch),
Presiding Officer,
Labour Court,
Bhubaneswar.

Between:

The Management of
Agriculture Extension,
Bhubaneswar. ... First-Party—Management

And

Their Workman
Shri Pradeep Kumar Dhal ... Second-Party—Workman

Appearances :

None ... For First-Party—Management

Shri B. C. Bastia, Advocate. ... For Second-Party—Workman

AWARD

The Government of Orissa, Labour & Employment Department referred the present dispute between the Management of Agriculture Extension, Bhubaneswar and their workman Shri Pradeep Kumar Dhal under Notification No. 5323/L.E., dated the 18th May 1998 vide Memo. No. 13718(5)/L.E., dated the 1st December 1998 for adjudication by this Court.

2. The terms of reference by the State Government is as follows :

“Whether the action of the Principal, Institute of Management of Agriculture Extension, Bhubaneswar in terminating the services of Shri Pradeep Kumar Dhal, Watchman, by way of refusal of employment with effect from the 18th July 1992 is legal or justified ? If not , what relief he is entitled to ?”

3. Shorn of all unnecessary details, the case of the workman is as follows :

The workman joined his service as a Watchman under the Management on 15th July 1991 on a monthly wages of Rs. 750/-. The Management terminated the service of the workman with effect from the 17th July 1992 arbitrarily without complying the provisions of Section 25-F of the Industrial Disputes Act, 1947 (hereinafter referred to as the I.D. Act). By the time of termination of his service, the workman had rendered more than 240 days of continuous work under the Management. The workman had worked quite satisfactorily. During the period of his service there was never any charge against him. After termination of his service the workman raised an industrial dispute which started a conciliation proceeding by the Conciliation Officer and when the conciliation did not succeed the present reference was made to this Court for adjudication of this case.

4. The Management has been set *ex parte* vide order dated the 20th August 2005.

5. The workman has examined himself as W.W.1 and has deposed that he joined his service under the Management on monthly wages of Rs. 750/- with effect from the 15th July 1991 and worked as such till the 17th July 1992 when the Management terminated his service by way of refusal of further employment. The workman W.W.1 has proved one experience certificate vide Ext.1 in support of his contention. According to W.W.1 no charge had been framed against him and no enquiry had been conducted. Further evidence of the workman is that the Management did not issue any notice and did not give him any notice pay and retrenchment compensation before his service was terminated. Ext.1 is only the documentary evidence proved by W.W.1. Ext.1 is the xerox copy of one experience certificate said to have been issued by the Principal, Gram Sevak Talim Kendra, Bhubaneswar. Even if this document Ext.1 is accepted in its totality, it only shows that the workman was working on a monthly contract basis as Watchman for the Ladies Hostel of Gram Sevak Talim Kendra. It does not prove in itself that the service rendered by the workman was continuous as defined under Section 25-B of I.D. Act. It is trite law that heavy onus lies on the workman to

prove that he was in continuous service as defined under Section 25-B of the I.D. Act. In the instant case the bald oral evidence of the workman coupled with the experience certificate Ext.1 does not lead to any definite conclusion that the workman had worked under the Management for 240 days in the period of 12 months preceding to the date of his termination. Therefore, it cannot be said that the workman is entitled to the benefit of Section 25-F of the I.D. Act and consequently the termination of the workman from his service cannot be held to be illegal and therefore, the workman is not entitled to any benefit whatsoever under any provisions of the I.D. Act.

The reference is answered accordingly.

Dictated and corrected by me.

S.K. Mohapatra
19-3-2007
Presiding Officer,
Labour Court,
Bhubaneswar.

S.K. Mohapatra
19-3-2007
Presiding Officer,
Labour Court,
Bhubaneswar.

By order of the Governor

N. C. RAY
Under-Secretary to Government