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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 26th June 2007

No.8161-li/1 (B) 59/1999 (pt)-LE. — In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 12th March 2007 in I. D. Case No. 32/99 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the Executive Engineer, P.W.D. (R.& B.) Division, Puri, and its workman Shri Manoranjan Das, was referred for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR
INDUSTRIAL DISPUTE CASE No. 32 OF 1999
Dated Bhubaneswar, the 12th March 2007

Present :

Shri S. K. Mohapatra, o.s.j.s. (Jr. Br.)
Presiding Officer
Labour Court, Bhubaneswar.

Between :

The Management of Executive Engineer, P.W.D. (R & B) Division Puri.	First Party—Management
And His Workman Shri Manoranjan Das.	Second Party—Wokman

Appearances :

None	For First Party Management
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Shri Manoranjan Das

Second Party Workman himself

A W A R D

The Government of Orissa, Labour & Employment Department referred the present dispute between the management of Executive Engineer, P.W.D. (R. & B.) Division, Puri and his workman Shri Manoranjan Das under Notification No.5323-LE., dated the 18th May 1998 vide memo No.4536(5)-LE., dated the 3rd April 1999 for adjudication by this Court.

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

“Whether the termination of service of Shri Manoranjan Das, DLR- Clerk with effect from the 16th January 1998 by the Executive Engineer, Puri P.W.D. (R. & B.) Division, Puri by way of refusal of employment is legal and/ or justified ? If not, to what relief Shri Das is entitled ?”

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

The workman had been engaged as DLR-Clerk by the management on 14th May 93 on a monthly wages of Rs.750/- Although the performance of the workman was satisfactory, the management did not issued any letter of appointment. One Junior Engineer working under the management issue one experience certificate in favour of the workman on the 30th May 1996. The management illegally terminated the workman from his service with effect from the 16th January 1998. Being aggrieved by the illegal termination from service, the workman raised an industrial dispute before the Assistant Labour Officer, Puri who started a conciliation proceeding in which the management did not participate and therefore, the matter was referred to this Court for adjudication.

4. The management has been set *ex parte* vide order, dated the 26th December 2000.

5. The workman has examined himself as W. W. 1. In his evidence the workman has deposed that he had joined his service under the management on the 14th May 1993 and continued as such till the date of his termination from service. According to W. W. 1 on 16th January 1998 he was refused employment by the management without any notice. Further evidence of W.W. 1 is that he had worked continuously for a period of five years without any break. During his deposition, W.W. 1 has proved one xerox copy of letter addressed to the management relating to arrear wages for the period 3/97 and 2/98. Ext. 2 is the xerox copy of the experience certificate said to have been issued by one Junior Engineer. Ext.3 is the xerox copy of representation of the workman regarding payment of wages for two months as noted in Ext. 1. Ext.4 is the xerox copy of postal acknowledgement receipt regarding receipt of a letter by the management. Even if all these evidence are accepted it does not prove conclusively that the workman had been working under the management since the 14th May 1993 or that he had worked continuously for a period of five years without any break as claimed by him through his oral evidence. In the absence of any evidence that the workman had worked continuously as defined under Section 25-B of the Industrial Disputes Act, 1947, the workman in the instant case is not entitled to the benefit of Section 25-F of the Industrial Disputes Act, 1947.

6. Hence Ordered:

The facts and circumstances of this case, the termination of the workman from service with effect from the 16th January 1998 is not illegal and therefore, the workman is not entitled to any relief whatsoever.

The reference is answered accordingly.

Dictated and corrected by me.

S. K. MOHAPATRA
Dt. 12-3-2007
Presiding Officer
Labour Court

S. K. MOHAPATRA
Dt. 12-3-2007
Presiding Officer
Labour Court

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