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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 27th June 2007

No. 8171-1i/1-(B)-82/2003/LE.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the award dated the 28th March, 2007 in I.D. Case No. 81 of 2003 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the Management of Aurobindo Institute of Integral Education, Bhubaneswar and its workman Shri Babaji Nayak was referred for adjudication is hereby published as in the schedule below :—

SCHEDULE

IN THE LABOUR COURT : BHUBANESWAR.

INDUSTRIAL DISPUTE CASE No. 88 OF 2003

Dated the 28th March, 2007

Present:

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

Between:

The Management of Aurobindo
Institute of Integral Education,
Bhubaneswar.

... First-Party — Management

And

Their Workman
Shri Babaji Nayak

... Second-Party — Workman

Appearances :

NONE.

... For First-Party— Management.

Shri Babaji Nayak

... For Second-Party— Workman himself.

AWARD

The Government of Orissa, Labour & Employment Department referred the present dispute between the Management of Aurobindo Institute of Integral Education, Bhubaneswar and their workman Shri Babaji Nayak under Notification No. 1057/LE., dated the 31st January, 2003 vide Memo No. 12410(5)/LE., dated the 24th December, 2003 for adjudication by this Court.

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

“ Whether the termination of service of Shri Babaji Nayak, Ex-Sweeper by the Management of M/s. Aurobindo Institute of Integral Education, Matrubiha, Khandagiri, Bhubaneswar with effect from 22nd October, 2002 is legal and/or justified ? If not, what relief is Shri Nayak entitled to ?”

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

The workman started working as a Sweeper in the School namely Aurobindo Institute of Integral Education, Matrubiha, Khandagiri, Bhubaneswar (hereinafter referred to as the Management School) with effect from 10th November, 1996, on 10th August, 1998 the Head Master of the Management School verbally informed the workman that his service had been regularized and allowed him to put his signature in the Attendance Register with effect from 10th August, 1998. Thereafter when the workman received his salary for the month of August, 1998, some staffs of the School including one teacher made a false complaint against the workman and basing on such complaint the workman was placed under suspension. Repeated request by the workman to allow him to join his service was not considered. On 22nd October, 2002 the School Management verbally terminated the services of the workman. Being aggrieved by the action of the Management the workman took his grievance to the authorities of the Labour Department who tried for a conciliation and when their efforts in that regard failed, the case was referred to this Court for adjudication.

4. The Management has been set *ex parte* vide order dated the 2nd February, 2007.

5. The workman has examined himself as W.W.1. In his evidence the workman has stated that he had been working as a Sweeper in the Management School since 10th November, 1996 and that he was verbally directed by the Head Master of the Management School to put his signature in the Attendance Register with effect from 10th August, 1998. further evidence of the workman W.W.1 is that on 22nd October, 2002 the School Management terminated his service by way of refusal of employment without assigning any reason. In his evidence W.W.1 has further stated that during his service he was working regularly and had done his duty for more than 240 days in each year of his service. According to W.W.1 during 12 months preceding the date of retrenchment from service he had worked for more than 240 days but the school Management had not paid him any notice pay or compensation when his service was terminated. According to W.W.1 the Management had not initiated any domestic enquiry against him and there was no charge-sheet against him. Such evidence of the workman goes unchallenged as the Management has been set *ex parte*. The unchallenged evidence of the workman shows that he had worked for more than 240 days under the Management. There is no evidence on record to exclude the Management School from the definition of term "industry" as defined under Section 2(j) of the Industrial Disputes Act, 1947. Therefore, the Management was bound to observe the provisions of Section 25-F of the Industrial Disputes Act, 1947 while terminating the services of the workman. Since the same was not done, the termination of the service of the workman is held to be illegal and unjustified and therefore, the workman is entitled to the relief of reinstatement in service. By applying the principle of 'no work no pay' no order is passed as regards payment of any wages.

The reference is answered accordingly.

Dictated and corrected by me.

S. K. Mohapatra
28-3-2007
Presiding Officer,
Labour Court,
Bhubaneswar.

S. K. Mohapatra
28-3-2007
Presiding Officer,
Labour Court,
Bhubaneswar.

By order of the Governor

N. C. RAY

Under-Secretary to Government