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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 7th December 2006

No. 10838—li/1(S)-34/1999-L. E.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 31st October 2006 in Industrial Disputes Case No. 40 of 2002 of the Presiding Officer, Labour Court, Sambalpur to whom the industrial dispute between the Management of M/s Sambalpuri Bastralaya Handloom Co-operative Society Ltd., Bargarh, Dist. Bargarh and its workman Shri Panchanan Patel, S/o Jaladhar Patel, At/P. O. Bijabahal Bharel, Dist. Sonepur was referred for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE COURT OF THE PRESIDING OFFICER
LABOUR COURT, SAMBALPUR

INDUSTRIAL DISPUTE CASE No. 40 OF 2002

Dated the 31st October 2006

Present :

Shri P. K. Mahapatro, LL. B.
Presiding Officer, Labour Court
Sambalpur.

Between :

The Management of
M/s Sambalpuri Bastralaya Handloom
Co-operative Society Ltd.
Bargarh, Dist. Bargarh

.. First Party—Management

And

Its workman Shri Panchanan Patel S/o Jaladhar Patel At/P. O. Bijabahal Bharel Dist. Sonepur.	..	Second Party—Workman
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Appearances :

For the First Party—Management	..	Shri H. Patel Assistant Accts. Officer
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For the Second Party—Workman	..	Self

AWARD

This case arises out of the reference made by the Government of Orissa, Labour & Employment Department under Sections 10 and 12 of the Industrial Disputes Act, 1947 vide Memo No. 5911(5)-L.E., dated the 10th May 2002 for adjudication of disputes Schedule below :

SCHEDULE

“Whether the dismissal of Shri Panchanan Patel from services with effect from the 2nd March 1998 by the management of Sambalpur Bastralaya Handloom Co-operative Society Ltd., Bargarh is legal and/or justified ? If not, what relief Shri Panchanan Patel is entitled to ?”

2. The workman named above has moved this Court to answer the reference in his favour by arriving at a conclusion that the order of dismissal is illegal and unjustified and he be reinstated in service with full back wages with the facts that he was transferred to Jharbandha Sales Centre as Sales In-charge and during his incumbency there as and when he was on leave, the second man attached to him was managing the sale centre and during his absence period, the second man committed irregularities, but the entire liability was bestowed on him as the second man is an influential person and during his incumbency, no audit was done by keeping the connected registers in view and even no stock checking was conducted in his presence and without any documentary evidence, he was held guilty of misappropriation to the tune of Rs. 59,598.97 paise. It is also the case of the workman that the checking squad members took his signatures on some papers by showing force with the sole intention to save the second man and at no point of time, he has given in writing by admitting the alleged misappropriation. The workman has also pleaded that a charge sheet was submitted against him with the allegation of misappropriation, as a result, he was mentally upset and by taking advantage of such situation, some false documents were created and then he was removed from service. To sum up, it is the plea of the workman that the order of dismissal is illegal, unjustified and the allegation of misappropriation is a cocked up allegation. By mentioning the above facts and circumstances, he has prayed for reinstating him in service with full back wages by holding that the order of dismissal is illegal and unjustified.

3. In the written statement the management side has justified the allegation of misappropriation and according to the management on the very day of inspection i.e. on the 27th October 1997 the shortage of Rs. 59,598.97 paise was detected and the workman represented the management admitting the factum of misappropriation, as a result, he was placed under suspension from the 30th October 1997 and after thorough check up it is found that the misappropriation amount is Rs. 62,914.97 paise. It is also the case of the management that thereafter a charge sheet was framed and a copy of the same was served on the workman. In response to it, the workman has admitted his guilt and prayed for time to deposit the amount swallowed by him. Though sufficient time was granted to him but he failed to deposit the amount and simply deposited an amount of Rs. 26,881.45 paise. In the written statement, the management has also taken the plea that the explanation furnished by the workman was found unsatisfactory and he was dismissed from service from the 2nd March 1998 as a measure of punishment. In the body of written statement, the management side has justified the punishment imposed on the workman.

4. By taking the note of the pleading of the parties, the following issues have been framed for adjudication in this case :

ISSUES

- (i) "Whether the dismissal of Shri Panchanan Patel from services with effect from the 2nd March 1998 by the management of Sambalpur Bastralaya Handloom Co-operative Society Ltd., Bargarh is legal and/or justified ?
- (ii) If not, to what relief Shri Panchanan Patel is entitled ?"

FINDINGS

5. *Issue Nos. (i) and (ii) :—*During the course of trial the management side has examined two witnesses and the workman is figured as the only witness from his side. In his evidence, the workman has stated that during his incumbency in Jharabandha Branch in order to reach the target fixed by the management, he had given sarees and other items to the local officers on credit basis and due to his suspension, the credit amount could not be realised from the Government servants and then the shortage was detected and in order to liquidate the shortage, he had deposited Rs. 26,881.45 paise and then he was dismissed from service and now if he is posted again, he will pay the balance amount on instalment basis. He was cross-examined by the management and in it, he has admitted the shortage of Rs. 62,914.97 paise with regard to the cash and cloth stock and he has also admitted that an amount of Rs. 36,033.52 paise is to be paid by him. He has also admitted that he had given in writing to the management that a part of the amount was utilised by him for the treatment of his wife. According to the workman, he has given such writing as he was threatened by the management for criminal action. From the evidence of the workman it is well forthcoming that he has

misappropriated the amount as referred above. The allegation of thereatening is a completely cooked up story as the same is not available in the pleading. So the factum of misappropriation is well forthcoming from the evidence of the workman. The two witnesses of the management have also supported it. So the allegation of misappropriation sounds probable.

6. Once it is proved that the workman has misappropriated the money of the management, the punishment of dismissal is justified. But in the case at hand, the management after the enquiry did not report the matter to the local police and rather they took up the issue in their level. Most probably the management thought that the action of the workman is not serious as is an outcome of the situation. But in any case, the punishment of termination is not unjustified. The above issues are answered accordingly. Hence the following award :—

AWARD

The reference is answered on contest against the workman and in favour of the management. The dismissal of Shri Panchanan Patel from services with effect from the 2nd March 1998 by the management of Sambalpuri Bastralaya Handloom Co-op Society Ltd., Bargarh is legal and justified and the workman is not entitled to get any relief in this case.

Dictated and corrected by me.

P. K. MAHAPATRO
31-10-2006
Presiding Officer
Labour Court, Sambalpur

P. K. MAHAPATRO
31-10-2006
Presiding Officer
Labour Court, Sambalpur

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