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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 20th September, 2007

No.10861-1i/1-(B)-121/1996/LE.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the award dated the 25th June, 2007 in I.D. Case No. 15 of 1997 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the Management of Notified Area Council, Jatni and its workman Shri Bira Kishore Pradhan, was referred for adjudication is hereby published as in the schedule below :—

SCHEDULE

IN THE LABOUR COURT : BHUBANESWAR.

INDUSTRIAL DISPUTE CASE No. 15 OF 1997

Dated the 25th June, 2007

Present:

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

Between:

The Management of
Notified Area Council,
Jatni.

... First-Party — Management

And

Their Workman
Shri Bira Kishore Pradhan.

... Second-Party — Workman.

Appearances :

NONE.

... For First-Party— Management.

Shri B. K. Pradhan.

... For Second-Party— Workman himself.

AWARD

The Government of Orissa, Labour & Employment Department referred the present dispute between the Management of Notified Area Council, Jatni and their workman Shri Bira Kishore Pradhan under Notification No. 7559/LE., dated the 27th June, 1995 vide Memo No. 5956(5)/LE., dated the 22nd May, 1997 for adjudication by this Court.

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

“ Whether the action of the Management of Notified Area Council, Jatni in terminating the services of Shri Bira Kishore Pradhan, casual labourer with effect from 18th May, 1995 is legal and/or justified ? If not, what relief Shri Pradhan is entitled to ?”

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

The workman was working as a daily labourer under the Management of Notified Area Council, Jatni (hereinafter referred to as the Management) with effect from 21st January, 1994 on a daily wage of Rs. 25/- per day. All of a sudden the Management terminated the service of the workman with effect from 18th May, 1995 without any notice. The workman approached the Executive Officer of the Management for engagement but he was not allowed to work in the Management. On the other hand, one Rabi Pradhan and one Pramod Naik who were quite junior to the workman are still working under the Management. On these averments the workman has challenged his retrenchment from service and claimed for reinstatement in service in a regular post with full back wages with effect from 18th May, 1995.

4. The Management has been set *ex parte* vide order dated 17th November, 2000.

5. The workman in his evidence has deposed that he was working as a daily labourer under the Management from 21st April, 1994 till 17th May, 1995 on daily wage basis but the Management illegally terminated his service with effect from 18th May, 1995 by way of refusal of employment. Further evidence of the workman W.W.1 is that the Management did not follow the procedure laid down in the Industrial Disputes Act, 1947

(hereinafter referred to as the I. D. Act) while terminating him from his service. In his evidence W.W.1 has further stated that he had worked continuously for more than 240 days during 12 calendar months preceding the date of his termination from service.

6. No document has been proved by the workman to show that the workman was in continuous service within the meaning of Section 25-B of the I. D. Act. Thus only from the bald statement of the workman it can not be said that the workman was in continuous service. In the context the decision of the Hon'ble Supreme Court in the case Range Forest Officer v. S. T. Hadimani reported in 2002-1 L.L.J. SUPREME COURT 1053 can be relied on. The workman was only a daily wage labourer and he has failed to prove that he was in continuous service and therefore, the workman was not entitled to any benefit under Section 25-F of the I. D. Act. Consequently it can never be held that the termination of the service of the workman by the Management with effect from 18th May, 1995 was illegal in any way.

7. Hence the reference is answered as follows :

(1) The action of the Management of Notified Area Council, Jatni in terminating the service of the workman Shri Bira Kishore Pradhan, casual labourer with effect from 18th May, 1995 is legal .

(2) The workman Shri Pradhan is not entitled to any relief under any provisions of the I. D. Act.

The reference is answered accordingly.

Dictated and corrected by me.

S. K. Mohapatra
25-6-2007
Presiding Officer,
Labour Court,
Bhubaneswar.

S. K. Mohapatra
25-6-2007
Presiding Officer,
Labour Court,
Bhubaneswar.

By order of the Governor

N. C. RAY

Under-Secretary to Government