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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 7th December 2007

No. 13194–li/1(J)-38/2005-L. E.–In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 1st August 2007 in Industrial Dispute Case No. 1/2006 of the Presiding Officer, Labour Court, Jeypore to whom the industrial disputes between the Management of Executive Officer, Jeypore Municipality, Jeypore and its Workman Shri Simadri Pattnaik represented through General Secretary Jeypore Poura Karmachari Sangha, Jeypore, District Koraput was referred for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE COURT OF THE PRESIDING OFFICER
LABOUR COURT, JEYPORE, KORAPUT
INDUSTRIAL DISPUTE CASE NO. 1/2006
Dated the 1st August 2007

Present :

Shri G. K. Mishra, o.s.J.s. (Jr. Branch)
Presiding Officer, Labour Court
Jeypore, District Koraput.

Between :

The Management of .. First Party—Management
Executive Officer, Jeypore Municipality
At/P.O. Jeypore, Dist. Koraput.

Versus

Its Workman .. Second Party—Workman
Shri Simadri Pattnaik
C/o General Secretary, Jeypore Poura
Karmachari Sangha, Jeypore
At/P.O. Jeypore, Dist. Koraput

Under Sections : 10 and 12 of the Industrial Disputes Act, 1947..

Appearances :

For the Management	..	Shri K. Prasad Rao Advocate, Jeypore
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For the Workman	..	Self
Date of Argument	..	1-8-2007
Date of Award	..	1-8-2007

The Government of Orissa in the Labour & Employment Department in exercise of the power conferred upon them under sub-section (5) of Section 12, readwith Clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1974) have referred the following disputes vide their Order No. 1428 (5), dated the 13th February 2006 for adjudication of the following dispute :—

SCHEDULE

“Whether the action of the Management, i.e. Executive Officer, Jeypore Municipality, Jeypore, District Koraput in refusing the case of Shri Simadri Pattnaik to the post of Sr. Stenographer as raised by the Union is legal and/or justified ? If not, what relief he is entitled to ? ”

2. This is a case originated under reference to made by the Government in order to decide the disputed issue basing upon the counter claim put forth by the parties regarding the justifiability of the refusal entertained by the Executive Officer, Jeypore Municipality to the prayer made by the workman appointing him to the post of Stenographer coupled with the consequent relief to the granted sequel to the determination effected on the issue.

3. The claim of the workman seems to have concentrated on the point of his prayer for appointment in the post of Stenographer being refuted by the Executive Officer, Jeypore Municipality taking the stand of lacking the essential qualification for the post which have been countenanced by the Management stating the fact that the absence of requisite qualification becoming the stumbling block to the appointment of Stenographer which can not be said to be an irregularity committed by the Management.

4. The genesis of the case seems to have been differently pictured by the claimant which is not in consonance with the real subject initially presented by him during the course of evidence. The workman appears to have expressed strong departure from the claim stating inconstant on the point that he had never sought for any appointment for a post of Stenographer as he has not obtained requisite certificate showing his training in shorthand except the formal engagement in the post in typing as well as shorthand. His main grievance was only in the nature for the purpose of adjusting him to any cadre and post similar to the post of Stenographer availed of by one Shri G. Ch. Jena who is reported to be junior to him. It is explained by him that while they were working together as N. M. Rs. such Shri G. Ch. Jena

being junior was adjusted by the management in the post of Stenographer which promoted him to request the management to adjust him in any post held Shri G. Ch. Jena being junior. The refusal of the management to accept his prayer further paved the way for the workman to take shelter of the District Labour Officer for settlement of the issue. But unfortunately the Conciliation Officer without applying mind to his prayer of adjustment submitted the report to the Government for reference in the matter of justifiability of the refused to the post Stenographer ignoring his basic grievance which is totally different having not sought for any act at any point of time. As it reveals from the above contention, the claimant has never put forth any grievance of absorption in the post of Stenographer except observing which any post like nature. He admits that the reference was sought by the Conciliation Officer in order to hoodwink or baffle his prayer. The reference being not in tune with the prayer of the workman and he having not intended for the post of Stenographer the issue of such cannot be considered for determining the interest of the workman. It can be cumulatively deduced that the workman having not acquired any requisite qualification for the Stenographer as admitted by him he is not entitled to the post of Stenographer. Shri Gopal Chandra Jena although junior to him having basic requisite qualification as well as training and having had experienced in the same office by involvings the same work taking shorthand and typing, he was found selected to be appointed as Stenographer and the act of the Executive Officer is not entertaining the claim of the workman is considered to be quite justified and there was no illegality on the subject for management in refusing the prayer of the workman. Accordingly the workman is not entitled to any relief as sought for.

ORDER

In the result the reference is answered on contest against the workman

Dictated and corrected by me.

G. K. MISHRA
1-8-2007
Presiding Officer
Labour Court, Jeypore
Koraput

G. K. MISHRA
1-8-2007
Presiding Officer
Labour Court, Jeypore
Koraput

By order of the Governor
P. MALLICK
Under-Secretary to Government