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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 24th April 2007

No.3855-1i/1(S)-32/2005/LE.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the award dated the 29th March, 2007 in I.D. Case No. 2/ 2006 of the Presiding Officer, Labour Court, Sambalpur to whom the industrial dispute between the Management of O.S.R.T.C., Bargarh, through the District Transport Manager (A), Orissa State Road Transport Corporation, Bargarh, District Bargarh and its workman Shri Laxman Kumar Sahu, Ex-Conductor, O.S.R.T.C., Bargarh At/P.O.-Deulbandh Balway Line side, Modipara, Sambalpur, District-Sambalpur 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. 2 of 2006

Dated, the 29th March, 2007.

Present:

Shri P. K. Mohapatro, L.L.B.,
Presiding Officer,
Labour Court,
Sambalpur.

Between:

The Management of O.S.R.T.C., Bargarh
through the District Transport Manager (A),
Orissa State Road Transport Corporation,
Bargarh, Dist: Bargarh. ... First-Party—Management.

AND

Its Workman
Shri Laxman Kumar Sahu,
Ex-Conductor, OSRTC, Bargarh,
At/P.O. - Deulbandh Balway Line side,
Modipara, Sambalpur,
Dist: Sambalpur. ... Second-Party —Workman.

Appearances :

For the First-Party—Management. ... Shri B. S. Panda, Jr. Clerk,
O.S.R.T.C., Bhubaneswar.

For the Second-Party—Workman. ... Self.

AWARD

1. This case arises out of the reference made by the Government of Orissa, Labour and Employment Department U/s. 10 & 12 of the I.D. Act, 1947 vide Memo No. 1398(5)/LE., Dated the 13th February 2006 for adjudication of disputes scheduled below :—

“ Whether the dismissal of Shri Laxman Kumar Sahu, Conductor from services with effect from 30th October 2002 by the District Transport Manager (A), O.S.R.T.C., Bargarh is legal and /or justified ? If not, what relief he is entitled to ?”

2. The Workman Shri Laxman Kumar Sahu was serving as a Conductor in Bargarh Zone of O.S.R.T.C. and he was dismissed from service w.e.f. 30th October 2002 by the District Transport Manager (Admn.), O.S.R.T.C., Bargarh. According to him, he was dismissed from service in an illegal manner as because the departmental proceeding initiated against him was taken up in a perfunctory manner by the Head Clerk though as per normal procedure he was not legally entitled to carry on the same as he is of the same status in the official side and he is also very close to the Management. Furthermore during the proceeding clinching materials were not placed to substantiate the charges and the entire show is an outcome of the grudge harboured by the Management on him. To sum up, the workman has prayed for answering the reference in his favour.

3. The Management took the plea that the entire proceeding was taken up in a manner as stipulated in the law and inspite of observing the principles of natural justice the workman has come up with some manufactured allegations and such allegations be ignored and the reference be answered against the workman. It is also the case of the Management that allowing passengers to travel in the Management bus without tickets is a serious misconduct and the order of dismissal is justified.

4. In the rejoinder, the workman has clarified his stand in relation to the lapses alleged by the Management. In it, the workman has also pointed out the certain facts and circumstances which according to him are serious irregularities and can be taken into account while weighing the merit of the reference.

5. By taking note of the pleadings of the parties the following issues are settled in this Case.

ISSUES

- (i) “ Whether the domestic enquiry conducted by the Management of O.S.R.T.C. was fair and proper ?
- (ii) Whether the dismissal of Shri Laxman Kumar Sahu, conductor from services with effect from 30th October 2002 by the District Transport Manager(A), O.S.R.T.C., Bargarh is legal and justified ?
- (iii) To what relief the workman Shri Sahu is entitled ?”.

FINDINGS

6. Issue No. i & ii :- With the consent of the parties the fairness of the domestic enquiry (issue no.i) was taken up as a preliminary issue and after recording evidence in that regard the same was answered in support of the Management and against the workman vide Order dated 14th December 2006. Thereafter, both parties were allowed to adduce further evidence in relation to the quantum of punishment and during course of the same, the workman is examined as the sole witness from his side and the Management has examined the Junior Clerk to buttress the claim. As per law, award of punishment is left entirely to the discretion of the punishing Authority. But it must not be shockingly disproportionate. It is a well settled law that award of punishment must not be a mechanical act of the authority, but it must be based on the objective assessment of facts. In the case at hand the workman was found allowing passengers to travel in the bus without tickets. that aspect is well proved from the evidence of the Management. As per the stipulations of the Corporation, the Conductors should issue tickets to the passengers who are inside the bus before the bus moves and such a check and balance is given to avoid unruly employees from taking numerous pleas. Admittedly, the checking squad found him (workman) allowing passengers to travel inside the bus without tickets and the plea taken by him was not accepted by this Court while answering the issue No.i. I took judicial note of the report of the Inquiring Officer wherein he found the workman guilty for allowing eight passengers to travel in the bus without tickets. The order passed by the D.T.M. whereby the heavy punishment was imposed on the workman is also scrutinised by me. Ext. 28 is that order. In the body of Ext. 28 the D.T.M. has mentioned that prior to this misconduct, the workman had committed eighteen offences and punishments were also awarded on him. In his evidence, the workman has admitted that on eighteen occasions he was found guilty and all the occasions either he was found carrying passengers without tickets or carrying luggages without drawing any receipt. So the past record of the workman is also bad. As per law, the Labour Court has jurisdiction and power U/s. 11-A to substitute any other punishment in place of the punishment awarded by the employer, but in the case at hand there is no reason to invoke that power as it is neither disproportionate nor shocking. So the order of termination passed by the District Transport Manager is legal and justified. Issue No.ii is answered accordingly.

7. Issue No. iii:- In the above issue it is to be determined as to what relief the workman is entitled to get. I have already arrived into a conclusion that the order of dismissal passed by the D.T.M. is legal and justified. So the workman is not entitled to get any relief. Hence the following award.

AWARD

The reference is answered on contest in support of the Management and against the workman. The order of dismissal of Shri Laxman Kumar Sahu, Conductor from services with effect from 30th October 2002 by the District Transport Manager (A) O.S.R.T.C., Bargarh is legal and justified and the workman is not entitled to get any relief in this case.

Dictated and corrected by me.

Shri P. K. Mohapatro,
Dt.29-03-2007
Presiding Officer,
Labour Court,
Sambalpur.

Shri P. K. Mohapatro,
Dt.29-03-2007
Presiding Officer,
Labour Court,
Sambalpur.

By order of the Governor

N. C. RAY
Under-Secretary to Government