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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 11th December 2007

No. 13299—li-1(J)-3/2007-L. E.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 18th August 2007 in Industrial Dispute Case No. 13 of 2007 of the Presiding Officer, Labour Court, Jeypore to whom the industrial disputes between the Management of the M/s Regulated Market Committee, Tikabali, Raikia, District Kandhamal and its workman Shri Surya Digal 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. 13 OF 2007

Dated the 18th August 2007

Present :

Shri G. K. Mishra, O.S.J.S. (Jr. Branch)
Presiding Officer, Labour Court,
Jeypore, Dist. Koraput.

Between :

The Management of .. First Party—Management
M/s Regulated Market Committee
Tikabali, Raikia, At/P.O. Raikia
District Kandhamal.

Versus

Its workman .. Second Party—Workman
Shri Surya Digal
S/o. Biswanath Digal
At Hatapada, P.O. Sankaranol
P.S. Tikabali, District Kandhamal.

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

Appearances :

For the Management	..	None
For the Workman	..	Self
Date of Argument	..	18-8-2007
Date of Award	..	18-8-2007

1. The Government of Orissa in the Labour & Employment Department in exercise of the powers conferred upon them under sub-section (5) of Section 12, read with Clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, (14 of 1947) have referred the following disputes vide their Order No. 7378(5), dated the 5th June 2007 for adjudication of the following disputes :—

SCHEDULE

“Whether the action of the management of Regulated Market Committee, Tikabali, At/P.O. Raikia, District Kandhamal in terminating the services of Shri Surya Digal, Ex-N. M. R. part time watcher with effect from the 1st September 2002 is legal and/or justified ? If not, to what relief Shri Surya Digal is entitled ?”

AWARD

2. This is a case appears to have been originated under reference submitted by the Government for determination of the disputed issue regarding the validity of the termination effected by the management in respect of the workman coupled with consequential relief to be granted basing upon the conclusion determined. The management having not entered his appearance the case was taken up on basis of merit and material available on record.

3. The second party workman was in fact working as a N.M.R.-cum-Watchman from 1997 to 2003 when the termination was effected the workman was continued in service for a period of more than 240 days. As it seems from the documents filed in the Court that the workman was not inducted on daily wage basis or casual labourer with some break, but he was engaged to work with the remuneration to be paid per month at Rs. 1,275. Nothing has been adversely mentioned that the workman was in default of doing any work during the period of engagement. Documents 2 and 3 would go to show that he was in continuous service for which transfer order was effected to be orders served at different places. There is no in-genuinity as regards the continuity of his service which has been provided through circumstances. As it reveals from the conciliation report that the workman having remained absent for definite period, he was terminated from the service vide Ext. 1. But the workman has challenged the condition on the point that he was never absent from duty at any point of time. Even if there are findings of his absence either for a definite period, it is the duty cast on the management to make an enquiry as regards the propriety of the absence. The workman was engaged as daily labourer or casual labourer or any category of post he should be protected and cannot be deprived of his right to livelihood as has been guaranteed under

Section 21 of the Indian Constitution. Whether the livelihood purely depend upon the service, the service would be definitely entail starvation. In order to render fair justice, the workman should be asked to showcause for his absence being followed by any enquiry. The laches on the part of the Management in not following the proper procedure in terminating the service of the workman will create gross in justice to the interest of the workman. Apart from that the workman has served for a period of more than 240 working days for which notice under Section 25-F is highly required which should be complied with by the management. The workman has neither been noticed nor any compensation being paid for the loss of service. The management without taking any valid measures as demanded by the law has committed illegality in terminating the service of the workman. The workman being illegally terminated is to be legitimately compensatory by way of reinstatement in his service. It is clearly fact that workman was working in the capacity of permanent in job with consolidated salary. Nothing has been indicated as to the closure of business undertaken by the management. The management by taking hasty action has played unfair labour practice in order to deprived the workman from his valuable right of having livelihood. No gainful employment seems to have been accepted by the workman. The requirement for doing work being available under the management, the workman is entitled to the reinstatement with full back wages.

The reference case is answered accordingly.

ORDER

The Award is passed in favour of the workman who is entitled to reinstatement with full back wages.

Dictated and corrected by me.

G. K. MISHRA
18-8-2007
Presiding Officer
Labour Court, Jeypore, Koraput

G. K. MISHRA
18-8-2007
Presiding Officer
Labour Court, Jeypore, Koraput

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