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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 28th November 2008

No.12197-li/1(B)37/98/LE.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the award, dated the 14th November, 2008 in I.D. Case No.167/2008 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the Industrial Dispute between the Management of M/s Jagatsinghpur Wholesale Consumer Co-operative Stores Ltd., Jagatsinghpur and its workman Shri Abhaya Charan Pradhan was referred for adjudication is hereby published as in the Scheduled below :—

SCHEDULE

INDUSTRIAL TRIBUNAL : ORISSA, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 167 OF 2008

Dated Bhubaneswar, the 14th November, 2008

Present:

Shri P. C. Mishra, O.S.J.S.(Sr, Branch),
Presiding Officer, Industrial Tribunal,
B h u b a n e s w a r .

Between:

The Secretary,
Jagatsinghpur Wholesale Consumer
Co-operative Stores Ltd.,
Jatgatsinghpur.

... First Party—Management.

(And)

Shri Abhaya Charan Pradhan,
At Birtol, P.O. Rasulpur,
Via Nalibar,
Dist. Jagatsinghpur.

.. Second Party—Workman

Appearances:

None

... For the First Party— Management

Shri Abhaya Charan Pradhan

... Second Party—Workman himself

A W A R D

Originally, the Government in the Labour & Employment Department had referred the following dispute for adjudication by the Presiding Officer, Labour Court, Bhubaneswar vide its Order No.10988—li-1(B)-37/98 -LE, dated 12th October 1998, but subsequently it transferred the dispute to be adjudicated by the Industrial Tribunal, Bhubaneswar vide its Order No.4138—li-21-32/2007-LE, dated the 4th April 2008.

“Whether the action of the management of Jagatsinghpur Wholesale Consumer Co-operative Stores Ltd., Jagatsinghpur in terminating the services of Shri Abhaya Charan Pradhan, Sales Manager w.e.f. the 29th September 1995 is legal and/or justified? If not, what relief Shri Pradhan is entitled to?”

2. The case of the workman may briefly be stated thus—

The workman was appointed as a Salesman under the management on the 3rd January 1980 and subsequently promoted to the post of Sales Manager in the year 1983. After rendering service as Sales Manager in different Stores/Branches/Counters of the management, suddenly he received a letter from the management on 21st September 1995 wherein he was directed to explain regarding his business activities and sales performance within three days. On receiving such letter, the workman requested the Secretary of the Management to allow him seven days time for submission of his written explanation. But, the management without considering his prayer terminated his service w.e.f. 29th September 1995 which according to the workman is neither legal nor justified. It is asserted that while doing away with his service, the management has not complied with the provisions of the Industrial Disputes Act, 1947, in as much as, no notice/notice pay was given to the workman nor compensation was paid. The action of termination of service having been taken against the workman without compliance of the Statutory provisions, he has prayed for his reinstatement in service with full back wages.

3. In spite of notice the management neither appeared nor filed written statement in the dispute, According, vide order No.8, dated the 30th May 2001 it was set *ex parte*. Thereafter the workman adduced *ex parte* evidence in the case and proved his termination letter marked Ext.1.

4. The unchallenged evidence of the workman reveals that he joined the services of the management in the year 1980 as a Salesman on a monthly wage of Rs.150 and in the year 1983 he was promoted to the post of Sales Manager. It is in his evidence that on 29th September 1995 his services were terminated by the management without assigning any reason and while doing so, the management had not paid him any retrenchment compensation nor offered him any notice/notice pay. By the time of his termination from service, the workman was getting Rs.890 per month. His evidence further reveals that he was not paid wages for 10 months during his service period. The termination letter, Ext.1 indicates that for his failure to submit explanation within the stipulated time, the management terminated his services w.e.f. 29th September 1995. For non-compliance of the statutory provisions embodied in the Industrial Disputes Act and failure of

the management to prove any misconduct against the workman, the termination of service of the workman can not be said to be legal or justified one. Hence, the workman is held entitled to reinstatement in service .In absence of any evidence on record that during the period of his unemployment the workman was not gainfully employed elsewhere, it is held that he is not entitled to any back wages.

The reference is answered accordingly .

Dictated & corrected by me.

P. C. MISHRA, O.S.J.S.(Sr. Branch)

Dt.14-11-2008
Presiding officer,
Industrial Tribunal
Bhubaneswar

P. C. MISHRA,O.S.J.S.(Sr. Branch)

Dt. 14-11-2008.
Presiding officer,
Industrial Tribunal
Bhubaneswar

By order of the Governor

K. C. BASKE

Under-Secretary to Government