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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 25th April 2008

No.4882-li/1(J)-2/2004/LE.— In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award dated the 30th January 2008 in Industrial Disputes Case No. 7/2004 of the Presiding Officer, Labour Court, Jeypore to whom the Industrial Dispute between the Management of M/s Orissa State Road Transport Corporation, Berhampur, Dist: Ganjam and its workman Shri Binayak Sahu, Ex-Cleaner represented through the General Secretary, Orissa Road Transport Federation, Berhampur was referred for adjudication is hereby published as in the scheduled below:—

SCHEDULE

IN THE COURT OF THE PRESIDING OFFICER, LABOUR COURT, JEYPORE, KORAPUT.

CAMP AT RAYAGADA.

INDUSTRIAL DISPUTE CASE NO.7/2004.

The 30th January 2008.

Present : Shri G.K. Mishra, o.s.j.s. (Junior Branch)

Presiding Officer,
Labour Court, Jeypore
Dist : Koraput

Between:

The D. T. M.
M/s. O.S.R.T.C., Berhampur
At/P.O.-Berhampur,
Dist: Ganjam.

... First-Party—Management.

Versus

The General Secretary
The O.R.T. Staff Federation Berhampur,
At/P.O.- Berhampur,
Dist: Ganjam.

... Second-Party—Workman.

Under Section : 10 & 12 of the Industrial Disputes Act, 1947.

Appearances : For the Management .. None.

For the Workman .. Shri K.Ch. Mishra, Advocate
Berhampur

Date of Argument .. 29-01-2008

Date of Award .. 30-01-2008.

1. The Government of Orissa in the Labour & Employment Department in exercise of the power 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. 6221 (5) dated the 17th July 2004 for adjudication of the following disputes :—

SCHEDULE

“Whether the action of termination of services of Shri Binayak Sahu Ex-Cleaner of Orissa State Road Transport Corporation, Berhampur w.e.f. 2nd June 2000 is legal and/or justified ? If not to what relief Shri Sahu, Ex-Cleaner is entitled to ?”

AWARD

2. This is a case originated out of the reference submitted by the Government before this Court for determination of an issue with regards to the validity and justifiability of the termination effected on the workman since from 2nd June 2000 coupled with the relief to be granted in consequence upon such determination.

3. The brief matrix of the facts presented by the workman may be described here under that the workman was appointed by the Management on basis of job exchanged scheme after retirement of his father, on 2nd December 1991 and continued as such till 1st June 2000 on the basis of different office letter Nos. But unfortunately the Management terminated his service on 2nd June 2000 without giving a scope of the matter being heard in due compliance of natural justice. On being aggrieved the workman challenged the order of termination being illegal and unjustified for which he sought for reinstatement and full back wages.

4. The Management having not participated in the proceeding after availing several opportunities it is felt necessary on the part of the Court to assess the genuineness of the issue referred above on the basis of the materials available on the record.

5. There is no dispute that the workman who was appointed on the basis of job exchange scheme consequent upon the merger of the ORT with OSRTC in the year 1990 and the workman was substituted in the place of his father and copy was given to him to continue his job till 1st June 2000. The official letters stipulated the specific term of period for his work giving an indication that his service is permanent and permanent in nature. Where the service of the workman is permanent in nature there must be security for his job. The workman has got right to life which includes right to livelihood as granted under article 21 of the Indian Constitution. Though the right to work is not guaranteed as a fundamental right due to financial constraints but once

a person is put into service right is accrued for the purpose of livelihood. His service can not be deprived of since it will effect his livelihood. It is the bounded duty of the employer to give security to the workman accrued by the workman unless there is right to livelihood a right to life has got no meaning. Therefore the service of the workman can not be deprived of without giving any opportunity of being heard. Therefore the I.D. Act has provided protection U/S 25-F of the I.D. Act to give a months notice prior to the date of termination or one month notice pay or compensation as deemed proper. The right of the principle of natural justice is inherently imported to any other standing order which can not get precedent over the principles of natural justice. The workman having not been provided any scope to explain the cause of termination, the order passed by the employer is considered to be illegal and unjustified. The result of the unjustified termination is necessitly for the Court to grant reinstatement with full back wages. There is no materials on the side of the Management to show that the workman was employed any where else. In absence of any specific allegations about the workers involved in any other job in the mean time, it can be said that he has remained un-employed till date. Therefore reinstatement is inevitable. As he has not been employed yet he is entitled to full back wages.

ORDER

The reference is answered accordingly. The Management is directed to reinstate the workman within six months and paid the full back wages within the denied period otherwise the part to take shelter of the appropriate authority for getting full back wages.

Dictated and Corrected by me.

G. K. Mishra, o.s.J.s. (Junior Branch)

Dt. 30-01-2007

Presiding Officer,

Labour Court,

Jeypore ,

Koraput.

G. K. Mishra, o.s.J.s. (Junior Branch)

Dt. 30-01-2007

Presiding Officer,

Labour Court.

Jeypore,

Koraput.

By order of the Governor

G. N. JENA

Deputy Secretary to Government