

AWARD

Originally, the Government of Orissa in the Labour & Employment Department had referred the following dispute for adjudication by the Presiding Officer, Labour Court, Bhubaneswar vide its Order No. 17208—li/1(B)-45/2001-L.E., dated the 13th December 2001 but subsequently it transferred the dispute to be adjudicated by the Presiding Officer, Industrial Tribunal, Bhubaneswar vide its Order No. 4138—li/21-32/2007-L.E., dated the 4th April 2008.

“Whether the termination of services of Shri Sadhu Charan Pattnaik, T. No. 1556 with effect from the 25th July 1996 is legal and /or justified ? If not, to what relief Shri Pattnaik is entitled ?”

2. The case of the workman in brief is that he initially joined the employment of the management in the year 1959 and was discharging his duty as a Fitter in the Spinning Department up to the year, 1996. It is averred in the claim statement that during his period of employment under the management he had worked continuously without any stigma or charge against him, rather he was awarded with a certificate of appreciation on the auspicious occasion of the 49th Independence Day on the 15th August 1995. It is stated that on the 18th May 1996 he was served with a charge-sheet asking him to show-cause on the allegation of theft of 61 pieces of bananas by him from out of the Mill's premises. As the allegation was totally false, the workman submitted his explanation on the 20th May 1996 but the same was not taken into consideration and Shri R. K. Mishra, Welfare Officer was appointed to enquire into the matter, who conducted the enquiry in a half-hazard manner and thereby violated the principles of natural justice. It is also alleged that even the disciplinary authority without serving upon him a copy of the enquire report imposed on him the punishment of discharge from service vide letter No. 2791, dtd. 25-7-1996. According to the workman, the action of the management in discharging him from service is quite illegal and unjustified and in that view of the matter he is entitled to reinstatement in service with full back wages, till he attained the age of his retirement i. e. 1998.

3. The Management despite opportunity did not appear in the case nor filed its written statement as a result of which it was set *ex parte* vide Order No. 4. dt. 28-9-2002. The workman there after filed his affidavit evidence and brought on record as many as 13 documents which have been marked as Exts. 1 to 13.

4. In his evidence on affidavit the workman has deposed that during the continuous period of employment under the management i. e. from 1959 till 1996, he was never charge-sheeted by the management for any misconduct and on the contrary the management being satisfied with his outstanding performance has granted him the certificate of excellence as per Ext. 13. He deposed that the charge-sheet drawn up against him as per Ext. 3 is totally false, in as

much as, after lapse of 17 days of the alleged incident the management with a view to harass him drawn up the proceeding and subsequently appointed an Enquiry Officer to enquire into the charges, who in a motivated manner and in utter disregard to the principle of natural justice conducted such enquiry and found him guilty of the charges. He deposed that the disciplinary authority thereafter without furnishing him a copy of the enquiry report inflicted the punishment of discharge on him as per Ext. 4. Since the management has neither filed its written statement nor participated in the proceeding, the evidence of the workman, as aforesaid remained unassailed. Therefore, in absence of any positive evidence on record that the charges levelled against the workman were duly enquired into by affording all reasonable opportunity to the workman and keeping in view the principle of natural justice, it is not proper to conclude that the action of the management was either legal or justified.

5. In view of the discussions, as above, it is held that the termination of service of the workman w. e. f. the 25th July 1996 by the management is neither legal nor justified. Since by now the workman is aged about 67 years, the management is directed to treat him to be in its employment from the date of discharge till his retirement and extend him all such service benefits to which he would have entitled had he been continued in employment till his superannuation.

The reference is answered accordingly.

Dictated and corrected by me.

P. C. MISHRA
27-3-2009
Presiding Officer,
Industrial Tribunal, Bhubaneswar

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27-3-2009
Presiding Officer,
Industrial Tribunal, Bhubaneswar

By order of the Governor
K. C. BASKE
Under-Secretary to Government