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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 28th July 2009

No.6897—li/1(BH)-12/2007-L.E.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 5th May 2009 in I.D.(C) Case No.11/2008 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the industrial dispute between the management of the Managing Director, Bindal Sponge Ltd., Village Ekagharia, Post Sunakhani, Dist. Angul and their workmen Shri Sunil Nanda and four others were referred to for adjudication is hereby published as in the Schedule below:

SCHEDULE

INDUSTRIAL TRIBUNAL, ORISSA, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No.11 OF 2008

Dated Bhubaneswar, the 5th May 2009

Present :

Shri P. C. Mishra , o.s.J.s.(Sr. Branch)
Presiding Officer,
Industrial Tribunal,
Orissa, Bhubaneswar.

Between:

The Managing Director,
Bindal Sponge Ltd.,
Village Ekagharia,
Post Sunakhani,
Dist. Angul .

.. First Party—Management

And

Shri Sunil Nanda and 4 others,
Village Ekagharia,
Post Sunakhani,
Dist. Angul.

.. Second Party— Workmen

Appearances :

None	.. For the First Party—Management
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Shri Sunil Nanda	.. Second Party Workmen himself

AWARD

The Government of Orissa in the Labour & Employment Department in exercise of powers conferred upon them by 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 dispute for adjudication vide their Order No.1620— li/1 (BH) -12/2007 -LE.,dated the 12th February 2008 :—

“Whether the demand of abolition of trainee designation and fixation of correct designation and salary in respect of 64 trainee workmen (list enclosed at Annexure-D) is legal and justified ? If so, what are the relief the concerned workmen are entitled to ?”

2. The case of the workmen may briefly be stated as follows :

That the second party-workmen, numbering 64 after being duly selected and appointed by the management during the year 2005-2006 have been working as ‘Trainee’ under the Management without there being any complaint against any of them. It is averred that although in the meantime they have completed two to three years of continuous service under the management as Trainee, yet the management has not fixed their grade and its corresponding salary despite a tripartite settlement entered into between the parties on the 13th November 2006. It is alleged that the aforesaid act on the part of the management is nothing but an exploitation to avoid payment of appropriate wages to the workmen. In the circumstances, the workmen have prayed for a direction to the management to abolish the trainee designation and to fixup their grade and salary.

3. The Management despite notice did not appear nor did it file the written statement as a result of which it was set *ex parte* vide Order No.11, dated the 5th January 2009. Thereafter on behalf of the workmen one witness was produced who submitted his evidence on affidavit.

4. On perusal of the affidavit tendered by Shri Sunil Kumar Nanda, it reveals that although in Para. 5 he has referred to about signing of a memorandum of settlement regarding the

dispute on the 13th November 2006, but a copy thereof is not produce for perusal . Even the workmen have not produced a copy of their appointment order in order to ascertain the terms and conditions stipulated therein with regard to their traineeship. In absence of any documentary proof, therefore on the basis of the affidavit which is considered as a self-serving statement it can not be said that the demand made is either legal or justified.

5. Before parting with the Award, it may be observed here that since the workmen have consistently pleaded in their claim statement as well as mentioned so in their affidavit that both the parties had entered into a tripartite settlement on the 13th November 2006 but the terms agreed therein are not being implemented by the Management, the same constitutes a violation of the tripartite agreement attracting penal consequence and therefore, the management is impressed upon to implement the terms agreed therein without delay.

With this observation, the reference is answered accordingly.

Dictated & corrected by me.

P. C. MISHRA
5-5-2009
Presiding Officer,
Industrial Tribunal,
Bhubaneswar.

P.C. MISHRA
5-5-2009
Presiding Officer,
Industrial Tribunal,
Bhubaneswar.

By order of the Governor

K.C. BASKE

Under-Secretary to Government