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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 31st July 2009

No.6993—li/1(B)-51/2001 (pt)-L. E.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 19th March 2009 in I. D. Case No. 260 of 2008 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the industrial dispute between the Management of M/s Orissa Textile Mills Ltd., Choudwar, Dist. Cuttack and their Workman Shri Abdul Rehman was referred to for adjudication is hereby published as in the Schedule below:—

SCHEDULE

IN THE INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 260 OF 2008

Dated the 19th March 2009

Present :

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

Between :

The Managing Director .. First Party—Management
M/s Orissa Textile Mills Ltd.
Choudwar, Dist. Cuttack.

And

Shri Abdul Rehman, T. No. 3571 .. Second Party—Workman
Bale Checker Warehouse
Qr. No. X-29, O. T. M., Choudwar Colony
Choudwar, Dist. Cuttack..

Appearances:

For the First Party—Management .. None

For the Second Party—Workman .. Shri Trilochan Lenka, Advocate

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. 13190—li/1(B) 51/2001-L.E., dated the 19th September 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 Abdul Rahman, T. No. 3571 Sale Checker with effect from the 6th July 1999 is legal and /or justified ? If not, to what relief Shri Rehman is entitled ?”

2. The case of the workman in brief is that he was working as a Bale checker in the Warehouse of the management and while working so, he was placed under suspension w.e.f the 6th August 1998 and subsequently a charge sheet was drawn up against him on the allegation that due to his fault, the company suffered financial loss, in as much as, being a Bale Checker the had not tallied the kuchha slips with the balling slips before packing the materials. It is stated that since the allegations levelled against him were not true, he submitted his explanation on the 20th August 1998 but the Management without taking the same into consideration decided to hold a domestic enquiry and accordingly appointed Shri R.C.Behera as the Enquiry Officer. It is alleged that the Enquiry Officer without affording reasonable opportunity in his defence conducted the enquiry in a most biased manner and submitted his report holding the charges to have been proved against the workman. It is further alleged that the workman was not supplied with a copy of the enquiry report as well as the copy of the proceedings of the enquiry and on receiving the second show cause although he had submitted his reply yet the Management with an ulterior motive passed orders for his dismissal from service w.e.f. the 6th July 1999. According to the workman, even if he had rendered service for 36 years under the Management, he has been punished in an illegal manner. In the circumstance, therefore, the workman has prayed for his reinstatement in service with back wages and other benefits.

3. The management despite registered notice served on it neither appeared nor filed its written statement as a result of which it was set *ex parte* vide Order No.6, dated the 1st August 2002. The workman thereafter submitted his evidence on affidavit and proved as many as 17 documents which have been marked as Exts.1 to 17.

4. The workman in his evidence on affidavit has admitted about initiation of a proceeding against him and his participation in the enquiry conducted pursuant to such proceeding, but deposed that though he was not responsible for the fault yet the Enquiry Officer without considering his grounds advanced in his defence and without supplying him the documents basing on which the charge was framed and in a most biased manner submitted his report holding him guilty of the charges. He further deposed that even the disciplinary authority without supplying him a copy of the enquiry report and the explanation submitted by him to the second show cause, inflicted the punishment of dismissal in a most illegal and motivated manner. He has proved the copy of his suspension order, Ext.3; the copy of the charge sheet, Exts.4; his

explanation, Ext.7; the notices of the enquiry , Exts.12, 12/1 and 12/2; the copy of the second show-cause, Ext.13,& the reply of the workman to the second show cause, Ext.14. since there is no rebuttal evidence available on record that the enquiry so conducted against the workman was held in accordance with the principles of natural justice, it is held that the misconducts alleged against the workman were not duly enquired into and further the disciplinary authority having failed to furnish a copy of the enquiry report to the workman, the punishment imposed basing on such enquiry report cannot be sustained in the eye of law. Accordingly, it is held that the termination of service of the workman w.e.f. the 6th July 1999 is neither legal nor justified.

5. In view of the finding as aforesaid, the workman is held entitled to reinstatement in service but without any back wages as there is nothing in the pleadings of the workman that during the period of his unemployment, he was not gainfully employed elsewhere. As it appears, the workman has already reached the age of superannuation and presently he is aged about 65 years. Hence, in the fitness of things, it is felt appropriate to compensate him in lieu of reinstatement. Accordingly, the management is directed to pay a lump sum amount of Rs.20,000 to the workman in lieu of his reinstatement within a period of one month of publication of this Award in the Official Gazette.

The reference is answered accordingly.

Dictated and corrected by me.

P. C. MISHRA
19-3-2009
Presiding Officer
Industrial Tribunal, Bhubaneswar

P. C. MISHRA
19-3-2009
Presiding Officer
Industrial Tribunal, Bhubaneswar

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