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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 31st July 2009

No. 7007-1i/1(B)-24/1995(Pt)/LE.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the award, dated the 30th March, 2009 in I.D. Case No. 102 of 2008 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the Industrial Dispute between the Management of M/s. IPITEX International Ltd., Sahidnagar, Bhubaneswar and its Workman Smt. Sujata Praharaj was referred to for adjudication is hereby published as in the Schedule below :—

SCHEDULE

IN THE INDUSTRIAL TRIBUNAL : BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 102 OF 2008

Dated the 30th March, 2009.

Present:

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

Between:

The Managing Director,
M/s. IPITEX International Ltd.,
52, Saheednagar,
Bhubaneswar-751007.

... First-Party — Management.

(And)

Smt. Sujata Praharaj,
C/o. Shri N. K. Mohanty, (C.I.T.U.),
32, Ashoknagar,
Bhubaneswar. ... Second-Party — Workman.

Appearances :

Shri Maheswar Das, ... For the First-Party — Management.
Authorised Representative.

Smt. Sujata Praharaj ... For the Second-Party — Workman herself.

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.18370-li/1(B)-24/95/LE., dated the 18th December, 1995 but subsequently it transferred to 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 M/s. IPITEX International Ltd., Bhubaneswar in dismissing the services of Smt. Sujata Praharaj, Ex-Tailor, with effect from 19th August, 1994 is legal and/or justified ? If not, to what relief Smt. Praharaj is entitled ?”

2. The case of the Workman, Smt. Sujata Praharaj, in short is that she was engaged as a Tailor with effect from the 1st October, 1982 on a monthly wage of Rs. 951/- under the Management of M/s. IPITEX International Ltd., Bhubaneswar and continued as such till 19th August, 1994 without any break and discharged her duty to the utmost satisfaction of the authorities. It is alleged that basing on some false and baseless charges the Management dismissed her from service with effect from the 19th August, 1994 without conducting any domestic enquiry into the so-called charges and thereby violated the principles of natural justice. Since she was dismissed from service illegally and not for any justified cause, she has prayed for her reinstatement in service with full back wages.

3. The Management filed its written statement stating therein *inter alia*, that since the second party Workman along with others unauthorized gheroud the Managing Director and other staff of the company and gave slogans abusing the Managing Director in vulgar language and showed gesture to assault during the period from 27th July, 1994 to

30th July, 1994, the Management treated the aforesaid act of the workman as a serious misconduct and as per the Model Standing Orders applicable to the establishment, it imposed the punishment of dismissal on the Workman. It is stated in the written statement that by now the establishment of the Management is closed and all the workers on the roll have since been retrenched. According to the Management since the workman was involved in serious acts of misconduct, its action in dismissing the Workman from service is legal as well as justified one.

4. On the basis of the pleadings of the parties, the following issue have been framed :—

ISSUES

- (1) Whether the action of the Management of M/s. IPITEX International Ltd., Bhubaneswar in dismissing the services of Smt. Sujata Praharaj, Ex-Tailor with effect from the 19th August, 1994 is legal and/or justified ?
- (2) If not, to what relief Smt. Praharaj is entitled.

5. In order to substantiate her case, the Workman examined herself but did not adduce any documentary evidence. The Management, on the other hand, remained content by cross-examining W.W. No.1. It neither adduced any oral nor documentary evidence in support of its stand.

6. W.W. No.1 stated in her examination-in-chief that owing to her involvement in the Union activities the Management bore a grudge against her and on false allegation she was dismissed from service without there being any enquiry into such allegations. She deposed that neither she was even served any notice nor paid notice pay and retrenchment compensation. Nothing was brought in her cross-examination to discredit her version in examination-in-chief. In cross-examination the workman stated that the factory is still running and she denied the suggestion of the Management that all the workers have been retrenched owing to closure of the factory since 13th April, 1995. She deposed that presently she is unemployed.

7. The evidence of the Workman, as above, has not been controverted in any manner. In support of its action in dismissing the Workman from service, the Management has placed nothing on record which would suggest that on the allegation of misconduct against the Workman, she was proceeded against followed by a domestic enquiry and on conclusion thereof she was awarded with the punishment and while dealing with the matter the Management had strictly adhered to the principles of natural justice, in as much

as, afforded all reasonable opportunities to the Workman to place his defence. In absence of any evidence on the score, therefore, the action of the Management in dismissing the Workman from service with effect from the 19th August, 1994 cannot be held to be legal or justified one.

8. In the result, therefore, the Workman is held entitled to reinstatement in service forthwith and a compensation amount of Rs. 20,000/- (Rupees Twenty Thousand only) in lieu of back wages. The Management is directed to implement the Award within a period of two months from the date of its publication in the Official Gazette.

The reference is answered accordingly.

Dictated & corrected by me

P. C. Mishra, O.S.J.S. (Sr. Branch),
30-03-2009
Presiding Officer,
Industrial Tribunal,
Bhubaneswar.

P. C. Mishra, O.S.J.S. (Sr. Branch),
30-03-2009
Presiding Officer,
Industrial Tribunal,
Bhubaneswar.

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