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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 17th February 2009

No. 1586—li/1(B)-96/2006(Pt)-L. E.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 26th December 2008 in I. D. Case No. 90 of 2006 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the Management of President/Secretary, Puri Co-operative Beedi Karmi Sangha (Azad Beedi Factory), At Dolamandap Sahi, Puri and its Workman Shri Baidhar Behera was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 90 OF 2006

Dated the 26th December 2008

Present :

Shri M. R. Tripathy,
Presiding Officer, Labour Court,
Bhubaneswar.

Between :

The Management of the President/
Secretary, Puri Co-operative Beedi
Karmi Sangha (Azad Beedi Factory),
At Dolamandap Sahi, Puri. . . First Party—Management

And

Its Workman . . . Second Party—Workman
Shri Baidhar Behera

Appearances :

Shri J. Dash, Secretary	.. For the First Party— Management
Shri Baidhar Behera	.. The Second Party— Workman himself

AWARD

The Government of Orissa in exercise of powers conferred by sub-section (5) of Section 12, read with clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 referred the dispute between the parties to this Court for adjudication vide Order No. 11278, dated the 20th December 2006 of Labour & Employment Department, Orissa, Bhubaneswar.

2. The schedule of reference is as follows :

“ Whether the action of the management of the Puri Co-operative Beedi Karmi Sangha (Azad Beedi Factory), At Dolamandap Sahi, Puri in terminating the services of Shri Baidhar Behera, Beedi Roller(Home Worker), with effect from the 1st June 2004 is legal and/or justified. If not, what relief Shri Behera is entitled to ?”

3. The case of the workman may be briefly stated as follows :

The management is a Co-operative Society registered under the provisions of the Orissa Co-operative Societies Act, 1961. The management has a Beedi Factory at Puri known as Azad Beedi Factory. For the purpose of production and marketing the management has engaged some workers in their establishment. He was also engaged as a Beedi worker two years prior to his termination from service which took place on the 12th June 2004. The management was supplying the raw materials for the purpose of rolling and manufacturing the Beedi and was paying a sum of Rs. 27 towards rolling of 1,000 numbers of Beedi to each worker. While he was working in the management as stated above he filed an application on the 27th March 2004 before the Collector-*cum*-District Magistrate for issuance of an identity card in his favour under the scheme formulated by Ministry of Labour, Government of India. His application was forwarded to the District Labour Officer, Puri for necessary action. After receipt of his application, the District Labour Officer, Puri issued notice to both the parties and the management through its Secretary, Shri Padmanav Behera appeared before the District Labour Officer, Puri on the 10th June 2004. Shri Behera assured to take necessary steps for issuance of a Identity Card in his favour and advised him to apply in writing to the management with a copy to the District Labour Officer, Puri. Accordingly he applied to the management for issuance of an Identity Card and sent a copy to the District Labour Officer, Puri. Thereafter the management without assigning any reason arbitrarily refused employment to him with effect from the 12th June 2004. Hence he raised an industrial dispute before the District Labour Officer, Puri which ultimately ended in failure and the reference was made by the Government as said earlier.

4. The management in the written statement has submitted that this Court has no jurisdiction to try the case in view of the provisions of Orissa Co-operative Societies Act. The

management has submitted the fact that it is a Co-operative Society registered under the provisions of Orissa Co-operative Societies Act, 1961, but at same time the management has taken the plea that it has got no Beedi Factory at Puri. the management has denied the claim of the workman that he was engaged as a Beedi Worker to roll Beedi since more than two years prior to his alleged termination with effect from the 12th June 2004. According to the management, the workman is not member of the Co-operative Society and is an outsider. Supply of raw materials to the workman has also been denied by the management. According to the management there having no relationship of employer and employees between the management and the workman, the provisions of Industrial Disputes Act, 1947 are not applicable. The workman was not a member of their Society as such not entitled to get any benefit available to other Beedi workers. As such the management was not under obligation to issue an Identity Card to him. The management has further denied that Padmanav Behera (since dead) has no authority to make any commitment to the workman. According to the management the District Labour Office, Puri had taken away the signature of Padmanav Behera on same writing the contents of which was not known to Shri Behera and therefore on the basis of the said writing the workman is not entitled to claim any relief. Accordingly the management has submitted to reject the claim of the workman.

5. In view of the aforesaid materials, the following issues were settled.

ISSUES

- (i) Whether the action of the management of the Puri Co-operative Beedi Karmi Sangh (Azad Beedi Factory), At Dolamandap Sahi, Puri in terminating the services of Shri Baidhar Behera, Beedi Roller (Home Worker) with effect from the 12th June 2004 is legal and/or justified ?
- (ii) If not, what relief Shri Behera is entitled to ?

FINDINGS

6. *Issue Nos. (i) and (ii)* —Both the issues are taken up together for the sake of convenience.

7. During course of argument the representative of the management argued Azad Beedi Factory is an unit of Puri Co-operative Beedi Karmi Sangha which is a registered Co-operative Society and according to the bye-law of the Society only the members of the Society are entitled to work in the abovesaid Beedi Factory. He has further stated that no outsider is allowed to work in the Beedi Factory and the Secretary has no special power to give employment to any person. The Society is being managed by Board of Management, so the claim made by the workman that he was working as a Beedi Worker in the Azad Beedi Factory is baseless. In reply the workman submitted that he was engaged as a Beedi Worker in the Azad Beedi Factory in the month of January 2002 and he was getting wages at the rate of Rs. 27 to manufacture of 1000 numbers of Beedi. But during cross-examination he has admitted that no appointment letter was issued in his favour by the management. He was orally engaged by Shri Padmanav Behera, ex-Secretary of the Society. He has further admitted that at the time of receiving wages the officials of the Society were not obtaining his signature. He has further admitted that Azad Beedi Factory is a Co-operative Society. Since he has admitted that Azad Beedi Factory is a Co-operative Society and no appointment letter was

issued in his favour to work in the management and also because it is argued by the representative of the management that no outsider is allowed to work in the said Society, so let us now to examine the bye law of the society filed by the management. Ext. B is the xerox copy of the bye-law of the management. According to Clause 2(Ka) (1) of the bye-law the Society was formed for the purpose of supplying raw materials to the members of the Society at concessional rate to enable the members to manufacture Beedi. It is further provided in the bye-law that only the persons who are permanent resident of Puri area and aged more than 18 years are entitled to become members of the Society. There is nothing in the bye-law that any one can make a claim to become a member of the Society. Admittedly the workman is not a member of the Society. He was orally engaged by one Shri Padmanav Behera, ex-Secretary of the Society who is dead but in the bye-law there is no provision empowering the Secretary to appoint an outsider as a Beedi worker of the Society. The authorised representative of the management has filed the wage register of the Society marked as Ext. A in which he (M.W.1) and other Beedi workers have signed. The signature of the workman is nowhere found in Ext. A. The said register has been maintained from the 2nd April 2003 to 31st March 2004 and it is claimed by the workman that he was working in the Beedi Factory from January 2002 to 12th June 2004 but neither his name find place in the register nor his signature is found in any page of wage register. Rather it is admitted by the workman that at the time of receiving wages the management was not obtaining his signature, which can hardly be believed. The management is a registered Society. So it cannot be believed that without obtaining the signature of the workman the management was paying wages to him. It is stated by the workman that he was orally engaged by Shri Padmanav Behera but admittedly Shri Behera is dead. The workman has not examined any other person to prove that he has actually engaged by Shri Behera even through according to the bye-law of the Society he was not entitled to do the work of Beedi Worker in the Azad Beedi Factory.

8. The workman has failed to prove that he was working as a Beedi Worker in the management factory and therefore, the question of termination of his service by the management does not arise. The workman is not entitled to get any relief in this case from the management. Accordingly both the issues are answered.

The reference is answered accordingly.

Dictated and corrected by me.

M. R. TRIPATHY
26-12-2008
Presiding Officer
Labour Court, Bhubaneswar.

M. R. TRIPATHY
26-12-2008
Presiding Officer
Labour Court, Bhubaneswar.

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