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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 20th February 2009

No. 1762—li/1(B)-98/2001(Pt.)-L. E.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 20th January 2009 in Industrial Dispute Case No. 283 of 2008 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the industrial dispute between the Management of M/s Globe Aluminium Industries (P) Limited, Old Industrial Estate, Jagatpur, Cuttack/Shri Ramesh Chandra Swain represented through Jagatpur Industrial Workers Union, Gosala Road, Nayabazar, Cuttack was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 283 OF 2008

Dated the 20th January 2009

Present :

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

Between :

The Managing Director,
M/s Globe Aluminium Industries (P)
Limited, Old Industrial Estate,
Jagatpur, Cuttack-754021. . . First Party—Management

And

Shri Ramesh Chandra Swain,
represented by the
General Secretary, Jagatpur
Industrial Workers Union,
Gosala Road, Nayabazar,
Cuttack-753004. . . Second Party—Workman

Appearances :

For First Party—Management	..	None
For Second Party—Workman himself	..	Shri Ramesh Chandra Swain

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. 3673—li/1(B)-98/2001-L.E., dated the 15th March 2002, 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 service of Shri Ramesh Chandra Swain, Helper with effect from the 5th May 2000 by the management of M/s Globe Aluminium Industries (P) Limited, Old Industrial Estate, Jagatpur, Cuttack is legal and/or justified ? If not, what benefits Shri Swain is entitled to get ?”

2. The case of the workman in brief is that initially he joined his employment under the management in the year 1987 as a Helper and while working so he met with an accident, which occurred in the factory itself causing injury to his right hand fingers. After treatment in the E.S.I. Cottage Hospital he approached the management and was again taken back to employment. It is pleaded that in the manner he continued under the employment of the management up to the 4th May 2000 and on the 5th May 2000 he was told that his services had been terminated. It is stated in the claim statement that even though the workman had rendered services under the management for a period of about 13 years, yet while terminating his service the management had neither given him any notice nor notice pay and compensation and moreover, no charge sheet was framed against the workman nor any enquiry was conducted as per the principles of natural justice while doing away with his job. Since in the accident the workman has lost three fingers of his right hand and is not able to find out any other suitable employment elsewhere, he has prayed for a direction to the management for his reinstatement in service with full back wages.

3. Despite notice the management neither appeared nor filed its written statement for which it was set *ex parte* vide Order No. 15, dated the 21st August 2004. In the *ex parte* hearing, the workman filed his affidavit evidence and has proved as many as nine documents which have been marked as Exts. 1 to 9.

4. In his uncontroverted evidence the workman has stated that he was under the employment of the management for a period nearing 13 years and his such employment was continuous one. It is also in his evidence that during the said period from 1987 till the 4th May 2000 his service was satisfactory and no charge was framed against him for any misconduct nor any enquiry was held and without any reason or rhyme he was refused of employment with effect from the 5th May 2000. In view of the evidence that the workman was continuously working under the management for a reasonable period, it was incumbent for the management to comply with the provisions of Section 25-F of the Industrial Disputes Act while refusing him employment. The non-compliance of the same by the management renders the termination of service of the workman as illegal and unjustified.

5. Now coming to the question of relief to which the workman is entitled, in view of his evidence that he is not gainfully employed elsewhere and after the accident he is not able to find out a suitable job in any other concern, it is thought appropriate to direct for his reinstatement in service and accordingly the management is directed to reinstate the workman in service forthwith and to pay him a lump sum amount of Rs. 10,000 (Rupees ten thousand only) towards back wages.

The reference is answered accordingly.

Dictated and corrected by me.

P. C. MISHRA
20-1-2009
Presiding Officer
Industrial Tribunal, Bhubaneswar

P. C. MISHRA
20-1-2009
Presiding Officer
Industrial Tribunal, Bhubaneswar

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