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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 26th March 2009

No. 3215—li/1(B)-75/2000 (Pt.)-L. E.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 20th February 2009 in Industrial Dispute Case No. 219/2008 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the industrial dispute between the Management of President, Gobardhanpur Service Co-operative Society Ltd., At/P. O. Gobardhanpur, Dist. Jajpur and their workman Shri Sankarsan Rout was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 219 OF 2008

Dated the 20th February 2009

Present :

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

Between :

The President, .. First Party —Management
Gobardhanpur Service Co-operative
Society Ltd., At/P. O. Gobardhanpur,
Dist. Jajpur.

And

Shri Sankarsan Rout, .. Second Party—Workman
S/o. Late Sukdev Rout,
Vill./P. O. Chitri, P. S. Tamaka,
Dist. Jajpur.

Appearances :

None	.. For first Party—Management
Shri Sankarsan Rout	.. Second Party—Workman himself.

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. 9142-li/1 (B)-75/2000-LE., dated the 6th July 2000 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-LE., dated the 4th April 2008.

“Whether the termination of services of Shri Sankarsan Rout, Assistant Secretary, w.e.f. the 12th May 1999 by way of refusal of employment by the President, Gobardhanpur Service Co-operative Society Ltd., Gobardhanpur, Jajpur is legal and/or justified ? If not, what benefit Shri Rout is entitled to get ?”

2. The case of workman in short is that being engaged as Assistant Secretary under the management, he performed his duty continuously for period from the 1st July 1979 till the 11th May 1999 and with effect from the 12th May 1999 he was refused employment without any reason or rhyme. He alleges that while refusing him employment the management had neither given him one month's notice nor notice pay and compensation nor his termination was as a consequence of his involvement in any misconduct. According to him, he having rendered service continuously for more than twenty years under the management, he was entitled to the protection envisaged under the Industrial Disputes Act and for non-compliance of the same the action of the management is illegal as well as unjustified. In the circumstance, he has prayed for his reinstatement in service with full back wages.

3. Despite notice the management neither appeared nor filed its written statement and as such, it was set *ex parte* vide order No. 6 dated the 3rd November 2001. The workman submitted his evidence on affidavit and brought on record documents which have been marked as Exts. 1 to 3/2.

4. The case of the workman is found to have been well substantiated in evidence which he has filed in the form of an affidavit. Further, the documentary evidence filed and proved in the case, Exts. 1 to 3/2, goes to indicate that the workman was under the employment of the management and there being no rebuttal evidence available on record that the workman was not employed continuously and thus he was not entitled to claim the protection of the Industrial Disputes Act, it is held that his refusal of employment from service w.e.f. the 12th May 1999 by the management amounts to 'retrenchment' within the meaning of Section 2(oo) of the Industrial Disputes Act and consequently the same is illegal for non-compliance of Section 25-F of the Industrial Disputes Act.

5. The workman, in the circumstance is held entitled to reinstatement in service forthwith. He is however, not entitled to any back wages in absence of any pleadings to the effect that from the date of his termination till today he was not gainfully employed elsewhere.

The reference is answered accordingly.

Dictated and corrected by me.

P. C. MISHRA
20-2-2009
Presiding Officer
Industrial Tribunal, Bhubaneswar

P. C. MISHRA
20-2-2009
Presiding Officer
Industrial Tribunal, Bhubaneswar

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