

The Orissa Gazette

EXTRAORDINARY
PUBLISHED BY AUTHORITY

No. 759 CUTTACK, TUESDAY, JUNE 9, 2009 / JAISTHA 19, 1931

LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 22nd May 2009

No. 4599—li/1(B)-175/1996-L. E.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 13th April 2009 in Industrial Dispute Case No. 146 of 2008 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the industrial dispute between the Management of the Chief Executive, M/s. Kalinga Acquatics Ltd., Sipasarubali, Puri and its Workman Shri Sudhansu Sekhar Nayak was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE NO. 146 OF 2008

Dated the 13th April 2009

Present :

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

Between :

The Chief Executive .. First Party—Management
M/s. Kalinga Acquatics Ltd.
Sipasarubali, Puri.

And

Shri Sudhansu Sekhar Nayak .. Second Party—Workman
S/o Shri Sambhunath Nayak
At Dhanipur, P.O. Mangalpur
Dist. Jajpur.

Appearances :

For the First-party—Management . . None

For the Second-party—Workman himself . . Shri Sudhansu Sekhar Nayak

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. 9492—li/1(B)-175/1996-L.E., dated the 31st July 1997, 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 action of the management of M/s Kalinga Acquatics Lts., Sipasarubali, Puri in terminating the services of Shri Sudhansu Sekhar Nayak, Driver with effect from the 8th July 1995 is legal and/or justified ? If not, what relief Shri Nayak is entitled to ?”

2. The case of the workman in brief is that he was working as a Driver under the first-party management with effect from the 11th April 1991 and was discharging his duties to the satisfaction of his authority. It is stated that with a hope to be made permanent under the management the workman was performing his duty although he was not being provided with Dearness Allowance, Travel Allowance, Provident Fund, Casual Leave and Privilege leave etc. It is alleged that while continuing so he was refused employment with effect from the 7th July 1995 without any prior notice or notice pay. It is stated that being satisfied with his work, the then Executive Officer, Mr. P. K. Das had sanctioned *ex gratia* payment for the year 1994-1995 in his favour and so also increased his salary. According to him, his refusal of employment amounts to termination of his service and the same being contrary to the provisions of the Industrial Disputes Act, he is entitled to reinstatement in service with full back wages.

3. Despite notice when the management neither appeared nor filed its written statement, it was set *ex parte* vide order No. 15, dated the 20th February 2001. The workman submitted his evidence on affidavit but did not chose to submit any documentary evidence in support of his claim.

4. Excepting his own statement given in the form of an affidavit, no documentary evidence is produced by the workman in support of his claim that he was working as a Driver under the management with effect from the 11th April 1991 till the 7th July 1995 and that his work during the period was continuous one. On the basis of the affidavit evidence of the workman alone, which is considered to be a self-serving document it cannot be held that he had rendered continuous service for more than 240 days under the management preceding the date of his refusal of employment and consequently he is entitled to the protection of the provisions of Section 25-F of the Industrial Disputes Act. In absence of any documentary proof the claim of the workman cannot be held to be justified. The claimant workman having failed to establish

his claim, it is held that the action of the management in terminating the services of the workman with effect from the 8th July 1995 can neither be said to be illegal nor unjustified. Hence, the workman is held not entitled to any relief in the present proceeding.

The reference is answered accordingly.

Dictated and corrected by me.

P. C. MISHRA
13-04-2009
Presiding Officer
Industrial Tribunal, Bhubaneswar

P. C. MISHRA
13-04-2009
Presiding Officer
Industrial Tribunal, Bhubaneswar

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