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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 6th June 2009

No. 5046—li/1(B)-19/1995(Pt.)-LE.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 28th April 2009 in I. D. Case No. 103 of 2008 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the Industrial Dispute between the Management of the Managing Director, M/s IPITEX International Ltd., 52, Saheednagar, Bhubaneswar and Smt. Amiyabala Singh, C/o Shri N. K. Mohanty, (C.I.T.U.), 32, Ashoknagar, Bhubaneswar was referred for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 103 OF 2008

Dated the 28th April 2009

Present :

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

Between :

The Managing Director, . . . First Party—Management
M/s IPITEX International Ltd.,
52, Saheednagar,
Bhubaneswar.

And

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

Appearances :

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

Smt. Amiyabala Singh . . . 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. 18385—li/1(B)-19/1995-LE., dated the 18th December 1995, 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 action of the management of M/s IPITEX International Ltd., Bhubaneswar in dismissing the services of Smt. Amiyabala Singh, ex-Tailor with effect from the 19th August 1994 is legal and/or justified ? If not , to what relief Smt. Singh is entitled ?”

2. The case of the workman, Smt. Amiyabala Singh in short is that she was engaged as Tailor w.e.f. the 18th October 1982 on a monthly wage of Rs. 951 under the management of M/s IPITEX International Ltd., Bhubaneswar and continued as such till the 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 w.e.f. 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 unauthorisedly 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 the 27th July 1994 to the 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. In view of the pleadings of the parties, as aforesaid, the issues which emerge for consideration are—

ISSUES

- (i) “Whether the action of the management of M/s IPITEX International Ltd., Bhubaneswar in dismissing the services of Smt. Amiyabala Singh, ex-Tailor with effect from the 19th August 1994 is legal and/or justified ?
- (ii) If not, to what relief Smt. Singh is entitled ?”

5. In order to substantiate her case, the workman examined herself and proved the copy of her dismissal order which has been marked Ext. 1. 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 for no fault of her she was dismissed from service w.e.f. the 19th August 1994 and in that connection no enquiry was conducted against her nor she was ever charge-sheeted for any misconduct. She deposed that neither she was 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 to the workman stated that the factory is till running and she denied the suggestion of the management that the factory was closed after the 29th July 1994.

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 her defence. In absence of any evidence on the score, therefore, the action of the management in dismissing the workman from service w.e.f. 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 and corrected by me.

P. C. MISHRA
28-4-2009
Presiding Officer
Industrial Tribunal
Bhubaneswar

P. C. MISHRA
28-4-2009
Presiding Officer
Industrial Tribunal
Bhubaneswar

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