

The Orissa Gazette

EXTRAORDINARY
PUBLISHED BY AUTHORITY

No. 889 CUTTACK, TUESDAY, JUNE 30, 2009/ASADHA 9, 1931

LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 5th June 2009

No. 5009—li/1(B)-109/2005-(Pt.)-L.E.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 30th March 2009 in Industrial Dispute Case No. 3 of 2006 of the Presiding Officer, Labour Court, Sambalpur to whom the Industrial Dispute between the Management of Crompton Greaves Ltd. T.S.T.P.P. Site Office, N.T.P.C. Ltd., At Deepsikha, Dist. Angul and Managing Director, M/s. Crompton Greaves Ltd., Bombay Mutual Building 232, N.S.C. Base Road, Chennai-600 001 and their workmen Shri Sunaram Mahakud and four others at N.T.P.C. Labour Colony (Munda Hunting) At Deepsikha, P. O. Kaniha, Dist. Angul and their workmen was referred to for adjudication is hereby published as in the Schedule below :—

SCHEDULE

IN THE COURT OF THE PRESIDING OFFICER, LABOUR COURT, SAMBALPUR

INDUSTRIAL DISPUTE CASE No. 3 OF 2006

Dated the 30th March 2009

Present :

Smt. Suchismita Misra, LL.M.,
Presiding Officer, Labour Court, Sambalpur.

Between :

1. The Management of Crompton Greaves Ltd., . . . First Party —Management
T.S.T.P.P., Site Office N.T.P.C. Ltd.,
At Deepsikha, Dist. Angul.
2. The Managing Director, M/s. Crompton
Greaves Ltd., Bombay Mutual Building,
232, N.S.C. Base Road, Chennai-600 001.

And

Their workmen Shri Sunaram Mahakud . . . Second Party—Workmen
and four others, At N.T.P.C. Labour Colony
(Munda Hunting), At Deepsikha,
P.O. Kaniha, Dist. Angul.

Appearances :

For the First Party —Management	..	None
For the Second Party —Workmen	..	Shri Sunaram Mahakud

AWARD

The Government of Orissa in the Labour & Employment Department have in exercise of power conferred upon them by sub-section (5) of Section 12 read with Clause (c) of the sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (for short “the Act”) referred the following disputes for adjudication by this Court.

“Whether the alleged retrenchment of twenty-nine contract labourers (Annx-B) by the management of M/s. Crompton Greaves Ltd., the contractor of N.T.P.C. Ltd./ T.S.T.P.P., Kaniha is a case of voluntary abandonment of services ? If not, what are the benefits the concerned workmen are entitled to ?”

2. The case of the second party workman as would appear from the statement of claim filed by them in this proceeding is that the second party workmen were employed by the first party management namely M/s. Crompton Greaves Ltd. on different dates commencing from the 16th January 2001 to the 20th March 2004 and they had rendered their services to the first party management to their (Managements) satisfaction till the date they were terminated i.e. from the 2nd January 2005. The second party workmen were engaged by the first party management on monthly wages basis. Therefore, they contended that their such retrenchment from the services by the first party management without assigning any reason for the same is highly illegal because the first party management while refusing their services w.e.f. the 2nd January 2005 did not observe the procedure laid down in Section 25-F and 25N of the Industrial Disputes Act 1947. They specifically averred in their claim statement that they had never abandoned their services voluntarily. Thus the second party workmen claim that their such retrenchment from services w.e.f. the 2nd January 2005 be declared as illegal and they be reinstated in their jobs immediately with full back wages.

3. The first party management have not filed their written statement in this case. They were set *ex parte* by order of this Court dated the 18th September 2007 as they did not appear and contest the case despite service of notice them through Regd. Post.

4. The substantiate their claim the second-party workmen examined their representative in this proceeding namely workman Shri Sunaram Mahakud who filed his evidence on affidavit in the Court on the 2nd January 2009. He categorically mentioned in his affidavit that he along with other workmen was engaged/employed by the first party management on monthly wages basis with effect from the 6th January 2001 and they were discharging their duties as required by the first party management. Then the first party management all of a sudden refused the services of second party workmen from the 2nd January 2005 without assigning any reason for the same. The first party management while terminating their services as aforesaid did not pay them any retrenchment benefits/compensation which they were legally entitled to get as per the provisions contained in the Industrial Disputes Act, 1947. In the circumstances, being refused to be employed/engaged by the first party management they

were compelled to suffer financial hardship. Thus they have claimed for their reinstatement in services with full back wages as well as other service benefits incidental thereto. Since the evidence of the second party workmen remained absolutely unchallenged and uncontroverted by the first party management, the facts deposed by the above named witness have to be accepted as true and correct.

As it is well established by the second party that they were workmen under the first party management during the period commencing from the 6th January 2001 to the 2nd January 2005 and they were thrown out of their jobs for no justifiable reason without being paid any compensation for their such retrenchment by the first party management, it has to be held that such termination of services of the second party workmen is not legal.

The management despite service of notice on them did not bother to appear before the Court and adduce evidence, if any, to prove that these workmen had actually abandoned their jobs in the establishment of the first party management. Therefore, since it has been amply proved by the second party workmen that the termination of their services by the first party management is illegal and unjustified and was done in violation of Section 25F of the Industrial Disputes Act, 1947, the first party management is bound to reinstate them in their jobs which they were doing at the time of their retrenchment with full back wages forth with.

Thus the reference is disposed of *ex parte* against the management but in the circumstances without cost. The second party workmen are to be reinstated by the first party management in their respective jobs within 30 (thirty) days of the publication of this Judgment in the *Orissa Gazette*. The management is to give for back wages to the workmen from the date of their removal till the date of their reinstatement.

Dictated and corrected by me.

SMT. SUCHISMITA MISRA
30-3-2009
Presiding Officer
Labour Court, Sambalpur

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30-3-2009
Presiding Officer
Labour Court, Sambalpur

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