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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 26th April 2010

No. 3378–li/1(S)-7/08-L.E.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the award, dated the 7th January 2010 in I.D. (C) Case No. 3 of 2009 of the Presiding Officer, Labour Court, Sambalpur to whom the Industrial Dispute between the Management of Divisional Forest Officer, Wild Life Division, Bamara, District Sambalpur and its Workman Shri Prahallad Raj was referred to for adjudication is hereby published as in the Schedule below :—

SCHEDULE

IN THE COURT OF THE PRESIDING OFFICER, LABOUR COURT
SAMBALPUR

I. D. CASE No. 3 OF 2009

Dated the 7th January 2010

Present :

Miss Sarojini Mahapatra, M.A., LL. B.
Presiding Officer,
Labour Court, Sambalpur.

Between :

The Management of
Divisional Forest Officer,
Wild Life Division, Bamara,
Dist. Sambalpur.

.. First-party Management

And

Its Workman,
Shri Prahallad Raj,
S/o. Late Bhikari Ch. Raj,
Vill. Govindpur,
P. O. Bamara, Dist. Sambalpur.

.. Second-party Workman

Appearances :

For the First-party Management	..	None
For the Second -party Workman	..	Self

AWARD

1. This matter arises out of the reference made by Government of Orissa, Labour & Employment Department conferred by sub-section (5) of Section 12 read with Clause (c) of sub-section (1) of Section 10 of the I. D. Act, 1947 (14 of 1947) in Memo No. 913 (4), Dt. 30-1-2009 for adjudication of the Schedule–

“Whether the termination of services of Shri Prahallad Raj, Driver by way of refusal of employment with effect from 16-10-2006 by the management of the D. F. O., Wild Life Division, Bamara is legal and/or justified ? If not, what is the relief and from which date the workman Shri Raj is entitled to ?”

2. The Second-party workman submitted the statement of claim and as per his case, he was working as a Driver under the First-party management since 25-1-2005. He was working as a Driver to the satisfaction of his superior in the management First-party. All on a sudden, the First Party management refused the service of the Second-party workman with effect from 16-10-2006 without assigning any reason. The action of the management amounts to illegal retrenchment.

3. Further, it is alleged that the Wild Life Division, Bamara is a State Government Establishment of the First-party is an Industry within the definition of Section 2 (j) of I. D. Act, 1947. His service was of continuous service which is defined U/s. 25-B of the Industrial Disputes Act, 1947.

The First-party management before retrenching the Second-party did not pay any retrenchment compensation nor notice pay to the Second-party and also did not observe the principles of “first come last go” and “last come first go”. So the Second-party workman claims that his retrenchment of service is illegal. So he prayed for an order that his retrenchment with effect from 16-10-2006 be declared as illegal and void *ab initio*. He also prayed for his reinstatement in his service along with back wages from the date of illegal termination of service, i.e., from 16-10-2006 till the date of award and for other reliefs.

4. The management has filed written statement stating that the Second-party workman Prahallad Raj was engaged on daily wages to drive the Government vehicle as and when required during the month. Xerox copies of some vouchers where payment has been made to the workman has furnished with the written statement. The workman did not come to drive Government vehicle with effect from 17-10-2006 at his own sweet will stating verbally that he will not perform the duty at the Government rate in arduous condition and on protection duty as and when required in day and night. He never returned to drive the Government vehicle. So another driver is engaged on daily wage basis to drive the Government vehicle. The Second-party workman with *mala fide* intention has represented seven months after vide his application, dated 22-5-2007 to engage him in driving the Government vehicle when another driver is engaged for this purpose. When the workman stopped to drive the Government vehicle on daily wage basis with effect from 17-10-2006, he was not called further to drive the Government vehicle. So the complaint petition filed by the workman may be rejected as prayed by the management.

5. The rejoinder filed by the Second-party workman denying the above fact made by the management First-party.

6. Thereafter, on repeated calls, the management did not turn up. So the management is set *ex parte* as per Order, dated 5-1-2010.

7. The workman has filed some documents in support of his case which are marked as Ext. W1 to W3. The workman himself has been examined as W.W. 1 Prahallad Raj.

8. It is alleged from the evidence of the workman that the First-party management has terminated him from his job. The workman was employed by the First Party management since 25-1-2005 as a Driver and as such, he was continuing till the date 16-10-2006. Further, it is alleged from the evidence that he was paid his wages by the First-party management on monthly basis. Moreover, he claims that he is a workman as defined under Section 2 (S) of the I. D. Act and the First-party is defined as an Industry within the definition of 2 (j) of the I. D. Act.

Admittedly, the workman has worked since dated 25-1-2005 and till the date of retrenchment, i.e. on 16-10-2006, the workman was on continuous service as a Driver under the management. The workman further claims that all on a sudden, the management refused the service of the workman on 16-10-2006 without assigning any reason thereon. So the workman claims that the action of the management amounts to illegal retrenchment. The workman has filed some documents, i.e., Ext. W1 is the letter on 7-10-2006 by Divisional Forest Officer, Bamara Wild Life Division addressing to Motor Vehicle Inspector, Sambalpur for major repair to Government Jeep (Tata Sumo) OR-16 A-0064 and copy forwarded to this workman Shri Prahallad Raj, Driver directing him to produce the said Jeep before M.V.I., Sambalpur immediately for his inspection and report. Ext. W2 is the letter on 26-12-2008 of the Divisional Forest Officer, Bamara Wild Life Division addressing to Range Officer, Bamara Wild Life Range for repairment of the Government vehicle and copy forwarded to Shri Prahallad Raj workman (Driver). Ext. W3 is the xerox copy of cash memo of Diesel and Lubricant purchased for the Government vehicle (54 cash memo.).

9. Admittedly, the workman was working as a Driver with effect from 25-1-2005 till 16-10-2006. It is alleged from the written statement filed by the management that the workman on his sweet will stopped the work. This contention made by the management can not be accepted since the management did not turn up to establish his own case. So the fact in issue as per the case of the workman that he was working as a Driver and rendered his service to the management since 25-1-2005 to 16-10-2006 based on the relevant facts and retrenched by the management without any reason which is trust worthy and believable. This fact stated by the workman is unchallenged as the management did not turn up to prove his case. As alleged all on a sudden, the First-party management refused the service of the workman on 16-10-2006 without assigning any reason. The action taken by the management amounts to illegal as because the First-party management did not observe the procedure laid down in Sections-25-F and 25-N of the Industrial Disputes Act, 1947. Besides that as alleged, the workman was not served one month notice nor he was offered wages for one month in lieu of notice. Moreover, the management did not pay any compensation to the workman. The workman also was not given a chance for reinstatement, if he stopped his work for some days. However, without assigning any good reason, the management refused the service of the workman amounts to illegal retrenchment. So the workman is entitled to get the relief. Hence, the following award.

AWARD

The reference schedule is answered *ex parte* against the management. The termination of service of Shri Prahallad Raj, Driver by way of refusal of employment with effect from 16-10-2006 by the management of the D.F.O., Wild Life Division, Bamara is not legal nor justified. So the workman is entitled to get the relief. The management is directed to reinstate the workman Shri Prahallad Raj as Driver in the management within two months from the date of publication of the Award in the Orissa Gazettee. The workman is not entitled to get his wages since the date of retrenchment, i.e., 16-10-2006 till the date of reinstatement in service

Dictated and corrected by me.

MISS SAROJINI MOHAPATRA
7-1-2010
Presiding Officer
Labour Court, Sambalpur.

MISS SAROJINI MOHAPATRA
7-1-2010
Presiding Officer
Labour Court, Sambalpur.

By order of the Governor

K. C. BASKE
Under-Secretary to Government