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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 4th June 2010

No. 4638–li/1-(BH)-17/2008-L.E.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 4th January 2010 in Industrial Dispute Case No. 6 of 2009 of the Presiding Officer, Labour Court, Sambalpur to whom the industrial dispute between the management of M/s Bharatpur Colliery Employees Co-operative Stores Ltd., Nehru Satabdi Nagar, South Balanda (Talcher), Dist. Angul and its workmen Shri Deepak Kumar Pradhan, Shri Saroj Kumar Biswal and Shri Bamdev Behera 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. 6 OF 2009

Dated the 4th January 2010

Present :

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

Between :

The Management of
M/s Bharatpur Colliery Employees,
Co-operative Stores Ltd.,
Nehru Satabdi Nagar.
South Balanda (Talcher),
Dist. Angul.

.. First-party Management

And

Its Workmen

.. Second-party Workmen

1. Shri Deepak Kumar Pradhan,
At Badasingada,
Nehru Satabdi Nagar,
Bharatpur,
P.O. South Balanda, Talcher,
Dist. Angul.
2. Shri Bamadev Behera,
Vill. Patharkhunta,
P.O. Muktaposi,
Kamakshyanagar,
Dist. Dhenkanal.
3. Shri Saroj Kumar Biswal,
Vill. Dasara,
P.O. Dasara,
P.S. Colliery,
Dist. Angul.

Appearances :

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

AWARD

1. This matter arises out of the reference made by the 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 Industrial Disputes Act, 1947 (14 of 1947) in Memo No. 3592 (5), dated 15-4-2009 for adjudication of the question scheduled below :—

“Whether the termination of Shri Deepak Kumar Pradhan, Shri Bamdev Behera, Shri Saroj Kumar Biswal with effect from 3-8-2007 by the management of M/s. Bharatpur Colliery Employees Consumer Co-operative Stores Ltd., Nehru Satabdi Nagar, Bharatpur, Post South Balanda, Dist, Angul is legal and/or justified ? If not, what relief the workmen are entitled to ?”

2. The case of the second-party workmen stated as follows :—

Shri Deepak Kumar Pradhan, Bamdev Behera and Saroj Kumar Biswal were engaged as Clerks under the management of Bharatpur Colliery Employees Consumer Co-operative Stores Ltd., N.S. Nagar, Bharatpur, Angul from dated 1-7-2000, 27-5-1998 and 31-3-2001 respectively. Their appointments were duly resolved by the Executive Committee of the Co-operative Society. As per instruction of the management Society they have deposited an amount of Rs. 10,000 as a security deposit to the Co-operative Society to confirm their appointment. The security money still

deposited with the management. Initially they were paid Rs. 1000 and subsequently they were paid Rs. 1200 P.M. by the first-party management. They requested the management for several times to enhance their wages but the management did not listen to them. So they filed a complaint petition before the District Labour Officer, Talcher to enforce the matter. After getting notice from the District Labour Officer, Talcher, the management retaliated and arbitrarily terminated the workmen from service with effect from dated 3-8-2009 illegally. The workmen approached the Assistant Registrar, Co-operative Society, Talcher who enquired over the matter but it was in vain.

The workmen prayed for an order declaring the termination as illegal as well as prayed for an order to reinstate them with their full back wages from the date of their termination.

3. In spite of issuance of notice the management did not turn up nor took any step. So the management is set *ex parte* as per order dated 8-12-2009.

4. The above schedule question is left for consideration.

5. The workmen such as Deepak Kumar Pradhan examined as W.W. 1, Bamadev Behera examined as W.W. 2 and Saroj Kumar Biswal examined as W.W. 3. They have filed documents in support of their case.

6. The workmen second-party challenged their termination as illegal on the following grounds— (1) Neither any notice nor any payment towards the termination has been paid by the management under Section 25 (F) of the I. D. Act. (2) terminal benefits and other unpaid legal dues were not paid by the management before effecting termination. (3) No seniority list of workmen are maintained before effecting termination under law. (4) No permission has been taken from the Government before effecting termination. (5) The termination has not been done in connection with Section 25-F of the I. D. Act. So the workmen/second-party challenged their termination as illegal.

7. They have filed the documents Ext. W. 1 is the xerox copy of the termination order of Shri Deepak Kumar Pradhan. Ext. W.2 is the xerox copy of minutes book. Ext. W.3 is the xerox copy of the termination order of Shri Bamadev Behera. Ext. W.4 is the xerox copy of letter dated 28-8-2007. Ext. W. 5 is the xerox copy of termination order of Shri Saroj Kumar Biswal. Ext. W.6 is the xerox copy of letter dated 28-8-2007.

8. It is alleged from the evidence of W.W. 1 that he was working as a Clerk in the management Society registered under Co-operative Society Act since 23-7-2000. He has deposited cash of Rs. 10,000 security money being directed by the Society. All the workmen claim that they were terminated by the first-party management on 3-8-2007. Ext. W. 1 is the termination order dated 24-6-2007 against Deepak Kumar Pradhan, Ext. W. 3 is the termination order issued on dated 24-8-2007 against Bamadev Behera, Ext. W. 5 is the termination order dated 24-8-2007 against Saroj Kumar Biswal. The management also intimated the above second-party workmen in the letter that they were creating disturbance in the management Society. So the management took decision in their meeting to terminate all the workmen from their service. Subsequently, the

management has intimated in writing to all the workmen to take their salaries and back wages from the management. It is alleged from the evidence from all the witnesses that they have not taken their salaries and deposited amount from the management. This fact would be clear if the management could have filed written statement and evidence in support of the case of the management. It is the common evidence from all the witnesses/workmen that the management terminated them on 3-8-2007. Bamadev Behera W.W. 2 (workman) stated in his evidence that he is occupying the management quarters at Nehru Satabdi Nagar, Bharatpur under Bikrampur P.-S. W.W. 2 Bamadev Behera was also working as a Clerk in the management Society, W.W. 3 was working as a Clerk in the management Society. As alleged from the evidence of these workmen Deepak Pradhan, Bamadev Behera and Saroj Kumar Biswal that they started their work in the Co-opertive Society being engaged by the management, with effect from 1-7-2000, 27-5-1998 and 31-3-2001 respectively. Since the management has not turn up the evidence and the documents led by the second-party workmen are unchallenged. They have rendered service in the Co-opertive Society since long. Besides that the management also allotted one quarters in favour of Bamadev Behera. However, there is no reason to disbelieve the evidence and documents filed by the second-party workmen. The second-party workmen are now running with unemployment and they have prayed for their reinstatement in the Co-operative Society. In view of such facts and circumstances, as the evidence led by the second-party workmen are unchallenged, they are entitled to get relief. Hence, the following Award :

A W A R D

The reference is answered *ex parte* in favour of the second-party workmen and against the management but without any cost. The termination of Shri Deepak Kumar Pradhan, Shri Bamadev Behera, Shri Saroj Kumar Biswal with effect from 3-8-2007 by the management of M/s Bharatpur Colliery Employees Consumer Co-operative Stores Ltd., Nehru Satabdi Nagar, Bharatpur, P.O. South Balanda, Dist. Angul is illegal and unjustified. So the management directed to reinstate the above three second-party workmen in their previous respective jobs within two months from the date of the publication of the Award in the *Orissa Gazette*.

Dictated and corrected by me.

Miss S. MAHAPATRA
4-1-2010
Presiding Officer
Labour Court
Sambalpur

Miss S. MAHAPATRA
4-1-2010
Presiding Officer
Labour Court
Sambalpur

By order of the Governor

K. C. BASKE

Under-Secretary to Government

Education for All