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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 3rd January 2011

No. 30—li/1-(B)-100/1996-LE.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 16th October 2009 in I.D. Case No. 145 of 2008 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the industrial disputes between the Management of M/s Prajatantra Prachar Samiti, Cuttack-753 002 and its workman Shri Jogendra Sahoo, C/o General Secretary, Cuttack Press Workers Union, Cuttack was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE NO. 145 OF 2008

The 16th October 2009

Present :

Shri P. C. Mishra, O.S.J.S. (Sr. Branch),
Presiding Officer, Industrial Tribunal,
Bhubaneswar.

Between :

M/s Prajatantra Prachar Samiti, .. First-party—Management
Cuttack-753002.

And

Shri Jogendra Sahoo, .. Second-party—Workman
C/o General Secretary,
Cuttack Press Workers Union,
Cuttack.

Appearances :

None .. For First-party—Management

Shri Jogendra Sahoo .. Second-party—Workman himself

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. 8467—li (B)/1-100/1996-LE., Dt. 19-7-1997 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-LE., Dt. 4-4-2008.

“Whether the termination of the services of Shri Jogendra Sahoo, Driver w.e.f. Dt. 16-11-1994 by the management of M/s Prajatantra Prachar Samiti, Cuttack is legal and/or justified ? If not, to what relief Shri Sahu is entitled ?”

2. The case of the workman in short is that being employed as a Driver under the management since Dt. 11-3-1986, the workman was confirmed as a permanent employee on Dt. 1-9-1990. It is stated that while continuing so the workman was placed under suspension on Dt. 18-12-1993 on the ground of his causing an accident of the Jeep on Dt. 15-12-1993 and was asked to show cause for the incident. It is stated that in the explanation though the workman explained the matter detailly and brought to the notice of the management that the accident was not due to his negligence but due to mechanical failure, yet the management without conducting any enquiry into the matter and in gross violation of the principles of natural justice terminated his employment vide order Dt. 18-11-1994 and all his subsequent representations in the matter having been proved futile, he raised a dispute through the Press Workers’ Union which ultimately culminated into the present reference. According to the workman, his termination from service is an arbitrary action of the management and thus the same is not only illegal but also unjustified. He has therefore, prayed for his reinstatement in service with full back wages. It is in the claim statement that after termination of his employment the workman has not been gainfully employed elsewhere.

3. The management filed its written statement stating therein *inter alia*, that two occasions the workman for his negligent driving caused accident of the office vehicle resulting loss and damage to the property of the management. It is stated that as the workman admitted about the accident. It was not at all necessary to conduct a formal disciplinary enquiry and accordingly the punishment of termination of service imposed on the workman needs no interference.

4. On the basis of the pleadings of the parties, the following issues have been framed :—

ISSUES

- (1) Whether the termination of services of Shri Jogendra Sahoo, Driver w.e.f. Dt. 16-11-1994 by the Management of M/s Prajatantra Prachar Samiti, Cuttack is legal and/or justified ?
- (2) If not, to what relief Shri Sahu is entitled ?

5. In course of hearing the management did not participate for which it was set *ex parte* vide order No. 64, Dt. 18-8-2009. In the *ex parte* hearing the workman tendered his evidence on affidavit and filed and proved documents which have been marked as Exts. 1 to 7.

6. In respect of an order involving adverse or penal consequence like loss of livelihood there must be a thorough investigation into the misconducts committed by a workman, inasmuch as, the employee against whom disciplinary action is sought to be taken must be given a charge sheet ; evidence against him must be recorded in his presence and he must be given an opportunity to rebut the evidence. No such procedure, as indicated above, has been adopted by the management in the instant case. Rather, the evidence of the workman tendered in the form of an affidavit, which remained unassailed, disclosed that despite his continuance as a Driver under the management

since 1986 and his confirmation as such as per Ext. 1, the management put him under suspension as per Ext. 2 and subsequently terminated his service vide Ext. 7 without considering his explanations, Exts. 3 and 5 and so also his representations, Exts. 6 and 6/1. The allegations levelled against the workman that due to his careless and negligent driving the office vehicle met with an accident on Dt. 15-12-1993 causing heavy financial loss to the Institution was required to be enquired into by the management on receiving explanation as per Ext. 3 from the workman. Instead of conducting an enquiry into the misconduct alleged, the management did away with the job of the workman. The aforesaid action of the management being inconsistent with the principles of natural justice cannot be said to be either legal or justified. Hence, while holding the action of the management to be illegal as well as unjustified, this Tribunal directs for reinstatement of the workman in service forthwith. Since it has been pleaded as well as substantiated by the workman in his evidence on affidavit that from the date of his termination he is not gainfully employed elsewhere, he is held entitled to a compensation of Rs. 10,000 (Rupees ten 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
16-10-2009
Presiding Officer
Industrial Tribunal
Bhubaneswar

P. C. MISHRA
16-10-2009
Presiding Officer
Industrial Tribunal
Bhubaneswar

By order of the Governor
P. K. PANDA
Under-Secretary to Government