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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 8th November 2011

No. 10021—li/1(B)-71/2003-LE.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 8rd September 2011 in Industrial Dispute Case No. 82 of 2003 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the Management of M/s Sujanpur Service Co-operative Society Ltd. and their workman Shri Radheshyam Biswal was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 82 OF 2003

Dated the 8th September 2011

Present :

S.A.K.Z. Ahamed,
Presiding Officer,
Labour Court, Bhubaneswar.

Between :

The management of .. First Party—Management
M/s Sujanpur Service Co-operative Society Ltd.

And

Their workman .. Second Party—Workman
Shri Radheshyam Biswal

Appearances :

For the First Party—Management .. None

For the Second Party—Workman himself .. Shri R. S. Biswal

AWARD

The Government of Orissa in exercise of powers conferred by sub-section (5) of Section 12, read with Clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act have referred the matter in dispute to this Court vide Order No. 12414—li/1(BH)-71/2003-LE., dated the 24th December 2003 of the Labour & Employment Department, Bhubaneswar for adjudication.

2. The terms of reference is as follows :

“Whether the action of the management of M/s Sujapur Service Co-operative Society in suspending Shri Radheshyam Biswal, Additional Secretary with retrospective effect from the 8th June 2000 and again discharging him from service with effect from the 27th February 2002 vide order No. 24, dated the 27th February 2002 is legal and/or justified ? If not, what relief he is entitled to ?”

3. The workman's case, in brief, as setout in his statement of claim is that he started his service under the management as Assistant Secretary with effect from the 1st July 1982 and subsequently got promotion to the post of Additional Secretary and remained in charge of cash counter of Mini Bank of the management with effect from the 1st October 1990. The committee of the management enhanced the salary of the workman. But when the management did not pay his enhanced salary, the workman complained before the Assistant Registrar, Co-operative Society, Jajpur who directed the management to pay the enhanced salary to the workman, but later on did not give him the enhanced salary. Thereafter the workman approached before the Cuttack Central Co-operative Bank, who also directed the management to pay the enhanced salary. But the management, all of a sudden on the 27th February 2002 suspended the workman with retrospective effect from the 8th June 2000 and also discharged him on the same day without any enquiry or show cause to him. Hence the workman has prayed for reinstatement in service with full back wages.

4. No written statement is filed nor any evidence is adduced from the side of the management to defy the claim of the workman. Further the management was set *ex parte* vide Order, dated the 1st July 2005.

5. No doubt, the claim of the workman remained unchallenged but at the same time before discussing the evidence of the workman it is pertinent to mention here that the workman was discharged from his job since the 27th February 2002 and he challenged the said order of the management before the Member, Co-operative Tribunal, Orissa, Bhubaneswar bearing Service Dispute Case No. 2/ 2003. The learned Member, Co-operative Tribunal on the 17th June 2005 set aside the order of discharge of the workman dated the 27th February 2002 and directed the management to reinstate the workman in service forthwith with all back wages. Against the order passed by the learned Member, Co-operative Tribunal, the management filed a review petition before the Member, Co-operative Tribunal and the same was also rejected by the said Court. Finding no other way out, the workman filed a writ application under Articles 226 and 227 of Constitution of India before the Hon'ble High Court of Orissa, Cuttack bearing W. P. (C) No. 11044

of 2009 for issuance of a direction to the management to implement the Order passed by the Member, Co-operative Tribunal in Service Dispute No. 2/2003 and accordingly the Hon'ble High Court of Orissa, Cuttack Pleaded to allow the petition of the workman and directed the management to comply the order of the Co-operative Tribunal vide its Order No. 8, dated the 13th May 2010. In view of the direction of the Hon'ble High Court of Orissa, Cuttack and unchallenged testimony of the workman the management has failed to pay the back wages from the 1st November 1998 to the workman but partially complied the order of the Hon'ble High Court of Orissa, Cuttack for reinstatement of the workman.

6. Hence it is ordered :

That the action of the management of Sujapur Service Co-operative Society in suspending Shri Radheshyam Biswal, Additional Secretary with retrospective effect from the 8th June 2000 and again discharging him from service with effect from the 27th February 2002 vide Order No. 24, dated the 27th February 2002 is neither legal nor justified. Since the workman has already been reinstated in service with effect from the 8th September 2010, he is only entitled to get full back wages from the 1st November 1998 to the 7th September 2010. The management is directed to pay the back wages of the workman forthwith from the date of its publication failing which the amount shall carry interest at the rate of 10% per annum till its realisation.

The reference is answered accordingly.

Dictated and corrected by me.

S. A. K.Z. AHMED
08-09-2011
Presiding Officer
Labour Court, Bhubaneswar

S. A. K.Z. AHMED
08-09-2011
Presiding Officer
Labour Court, Bhubaneswar

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