

The Orissa Gazette

EXTRAORDINARY
PUBLISHED BY AUTHORITY

No. 2519 CUTTACK, SATURDAY, NOVEMBER 19, 2011/KARTIKA 28, 1933

LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 8th November 2011

No. 10026—li/1(B)-28/2003-LE.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 15th October 2011 in Industrial Dispute Case No. 69 of 2003 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the Management of M/s Pasupati Ispat (P) Ltd., New Industrial Estate, Jagatpur, Cuttack and its workman Shri Amulya Pani, Moulder represented through Jagatpur Industrial Workers Union, Gosala Road, Cuttack was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 69 OF 2003

Dated the 15th October 2011

Present :

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

Between :

The management of M/s Pasupati Ispat (P) Ltd., New Industrial Estate, Jagatpur, Cuttack. First Party—Management

And

Its workman Mr. Amulya Pani, Moulder represented through Jagatpur Industrial Workers Union, Gosala Road, Cuttack. Second Party—Workman

Appearances :

For the First Party—Management	..	None
For the Second Party—Workman	..	Shri T. Lenka, Vice-President Shri S.N. Biswal, General Secretary

AWARD

The Government of Odisha 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, 1947 have referred the matter in dispute to this Court vide Order No. 11413—li/1(B)-28/2003-LE., dated the 27th November 2003 of the Labour & Employment Department, Bhubaneswar for adjudication.

2. The terms of reference is as follows :

“Whether the termination of services of Shri Amulya Pani, Ex-Moulder with effect from the 9th May 2002 by the management of M/s Pasupati Ispat (P) Ltd., Industrial Estate, Jagatpur, Cuttack is legal and/or justified ? If not, what relief is Shri Pani is entitled to ?”

3. The case of the workman, in brief, as set out in his statement of claim is that he joined as Moulder under the management since 1993 and worked sincerely and efficiently till the 9th May 2002 when his service was illegally terminated. He was covered under the E.S.I. and E.P.F. Scheme. Though the workman was working on piece rate basis for the moulding work, his piece rate was suddenly reduced from Rs. 1.20 to Rs. 0.80 per Kg. for which his salary was reduced when the workman complained the above matter to the management, the management bore a grudge on him and in a motivated manner all on a sudden terminated his service by way of refusal of employment with effect from the 9th May 2002. After his termination, the management has engaged a new person in his place. So according to the workman, the termination of his service by way of refusal of employment with effect from the 9th May 2002 is illegal, unjustified and motivated and also *mala fide*. The workman has further stated that at the time of termination of his service, the management has not followed the provisions of Section 25-F of the Industrial Disputes Act, 1947. On these averments, the workman has prayed for his reinstatement in service with full back wages.

4. The management was set *ex parte*.

5. In order to substantiate his plea, the workman has examined himself as W. W. 1 and proved documents such as, Xerox copy of E.S.I. Card, Xerox copy of e.P.F. Slip for the year 1999-2000 and 2001-2002 and Xerox copy of compliant petition dated the 27th May 2002 under the cover of Exts. 1 to 3 respectively.

6. The workman in his affidavit evidence has stated that he joined in his employment as Moulder under the management in 1993 and worked till the 8th May 2002 with sincerely, and efficiently. He was covered under E.S.I. and E.P.F. Scheme. He was working on piece rate basis at the rate of

Rs. 1.10 and Rs. 1.20 per Kg. and earning Rs. 800 per week. Suddenly without any intimation the management reduced the piece rate at the rate of Rs. 0.80 and compelled the workman to work accordingly. when he complained before the management, the management bore grudge against the workman and terminated his service by way of refusal of employment with effect from the 9th May 2002. Hence his termination by way of refusal of employment with effect from the 9th May 2002 is illegal, unjustified, motivated and also mala fide. Since the management was set ex parte, the evidence of the workman both oral and documentary remained unchallenged.

7. It is stated by the workman that no notice was served on him before he was termination and also notice pay and compensation was paid to him before refusal of employment by the management. Thus the management has contravened the provisions of Section 25-F of the

7. It is stated by the workman that no notice was served on him before he was terminated. Also notice pay or any compensation was paid to him before refusing employment by the management. Thus the management has contravend the provisions of Section 25-F of the Industrial Disputes Act, 1947 which is a mandatory and precondition one.

8. So on careful consideration of all the materials available in the case reord as discussed above and in view of the unchallenged testimony of the workman, I am of the view that the termination of service of the workman with effect from the 9th May 2002 by the management is neither legal nor justified. The workman is entitled to be reinstated in service.

9. Regarding back wages, admittedly when the workman had not worked for the management during the period in question and he has not proved by cogent evidence that he was not gainfully employed elsewhere, I am of the opinion that instead of granting full back wages, 50% back wages will meet the ends of justice in the instant case.

10. Hence ordered :

That the termination of services of Shri Amulya Pani, Ex moulder with effect from the 9th May 2002 by the managment of M/s Pasupati Ispat (P) Ltd., Industrial Estate, Jagatpur, Cuttack is illegal and unjustified. The workman Shri Pani is entitled to be reinstated in service with 50% back wages. The management is directed to implement the Award within a period of one month 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 *ex parte*.

Dictated and corrected by me.

S. A. K.Z. AHAMED
15-10-2011
Presiding Officer
Labour Court, Bhubaneswar

S. A. K.Z. AHAMED
15-10-2011
Presiding Officer
Labour Court, Bhubaneswar

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