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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 4th November 2011

No. 9975—li/1(B)-31/2008-LE.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 17th September 2011 in Industrial Dispute Case No. 5 of 2008 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the Management of M/s Biratunga Service Co-operative Society Ltd., Biratunga, Dist. Puri and its Workman Shri Manoranjan Patra was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 5 OF 2008

Dated the 17th September 2011

Present :

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

Between :

The Management of M/s Biratunga
Service Co-operative Society Ltd.,
Biratunga, Dist. Puri. First Party—Management

And

Its Workman Second Party—Workman
Shri Manoranjan Patra

Appearances :

For the First Party—Management None

For the Second Party—Workman himself Shri Manoranjan Patra

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, 1947 have referred the matter in dispute to this Court vide Order No. 6140—li/1(B)-31/2008-LE., dated the 27th May 2008 of the Labour & Employment Department, Bhubaneswar for adjudication.

2. The terms of reference is as follows :

“Whether the action of the management of Biratunga Service Co-operative Society Ltd., At/P.O. Biratunga, Dist. Puri in retrenching Shri Manoranjan Patra, Night Watcher from service with effect from the 1st May 2005 is legal and/or justified ? If not, what relief Shri Patra is entitled to ?”

3. The workman's case, in brief, as set out in his statement of claim is that he was appointed as Night Watcher under the management on the 29th November 1994. He has rendered his service sincerely and obediently and there was no stigma attached to his service career under the management. But all of a sudden the management retrenched his service with effect from the 1st March 2005 vide Order No. 88, dated the 28th February 2005. He has asserted not to have received any prior notice or notice pay and retrenchment compensation as per the provisions of Section 25-F of the Industrial Disputes Act. After his termination, one new person, namely Kasinath Kandy has been appointed by the management in his place. When the workman demanded minimum wages as prescribed by the Government, the management had illegally retrenched his service. So he has claimed to be reinstated in service with full back wages.

4. The management was set *ex parte*

5. The workman, in his affidavit evidence has stated that he was working as Night Watcher under the management with effect from the 29th November 1994. All of a sudden the management retrenched him from service with effect from the 1st March 2005. On or before the termination of his service, the management has not given one month's prior notice or one month's pay in lieu thereof and retrenchment compensation. After his termination the management had appointed a new person, namely Kasinath Kandy in his place. When he demanded to the management to pay the minimum wages as prescribed by the Government the management out of grudge terminated his service.

6. From the evidence of the workman, it comes out that he served under the management from the 29th November 1994 to the 28th February 2005. At time of his termination, the provisions of Section 25-F of the Industrial Disputes Act have not been complied. He has covered the required period of continuous service under the management. The oral evidence adduced by the workman also gets corroboration from the documentary evidence under the cover of Exts. 1 to 4 . Without any rebuttal evidence from the management side, there is no reason to disbelieve the sworn testimony

of the workman. So he is entitled to be reinstated in service. Regarding back wages, when the workman had not worked for the management during the period in question and he had not proved by cogent evidence that he was not gainfully employed elsewhere, payment of full back wages is not justified. However, on the facts and circumstances of the present case, instead of granting full back wages, 50% back wages will meet the ends of justice.

7. Hence ordered :

That the action of the management of Biratunga Service Co-operative Society Ltd., At/P.O. Biratunga, Dist. Puri in retrenching Shri Manoranjan Patra, Night Watcher from service with effect from the 1st March 2005 is neither legal nor justified. The workman Shri Patra is entitled to be reinstated in service with 50% back wages. The management is directed to implement this 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
17-9-2011
Presiding Officer
Labour Court, Bhubaneswar

S. A. K. Z. AHAMED
17-9-2011
Presiding Officer
Labour Court, Bhubaneswar

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