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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 4th November 2011

No. 9980—li/1(B)-9/2008-LE.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 7th September 2011 in Industrial Dispute Case No. 6 of 2009 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the Management of M/s L & T Ltd., E. C. C. Division, a Contractor Establishment working under M/s Jindal Stainless Ltd., Kalinga Nagar, Jajpur Road and their workman Shri Bilas Kumar Biswal was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 6 OF 2009

Dated the 7th September 2011

Present :

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

Between :

The Management of . . . First Party—Management
M/s L & T Ltd., E. C. C. Division, a contractor
Establishment working under M/s Jindal Stainless Ltd.,
Kalinganagar, Jajpur Road, Jajpur.

And

Their Workman . . . Second Party—Workman
Shri Bilas Kumar Biswal

Appearances :

For the First Party—Management . . . None

For the Second Party—Workman himself . . . Shri B. 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, 1947 have referred the matter in dispute to this Court vide Order No. 2763—li/1(B)-9/2008-LE., dated the 17th March 2009 for adjudication.

2. The terms of reference is as follows :

“Whether the action of the management of M/s L & T Ltd., E. C. C. Division, a contractor establishment, working under M/s Jindal Stainless Ltd., Kalinga Nagar, Jajpur Road, Jajpur in terminating the services of Shri Bilas Kumar Biswal by way of refusal from employment with effect from the 11th May 2007 is legal and/or justified ? If not, what relief Shri Biswal is entitled to ?”

3. The workman's case, in brief, as set out in his statement of claim is that he joined as Electrical Helper under the management on the 18th July, 1989 on a daily wage of Rs. 20. Thereafter he was promoted to the post of Assistant Electrician on a daily wage of Rs. 60 and subsequently his daily wage was increased from time to time and also he was transferred to different places under the management. While working at Jajpur unit of the management due to union activity, all of a sudden on the 11th May, 2007 he was refused to enter into the gate premises of the management and thereby terminated his service. At the time of employment, he has neither given three months notice in writing indicating the reasons for retrenchment nor paid wages in lieu of such notice. Therefore, according to the workman, the termination is illegal and unjustified and he 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 certain documents under the cover of Exts. 1 to 7.

6. In his affidavit evidence, the workman has corroborated the facts as stated in his statement of claim. Since the management has been set *ex parte* and the evidence both oral and documentary tendered by the workman have remained unchallenged. I have no option but to answer in affirmative in favour of the workman.

7. It is stated by the workman that no three month's notice prior to termination has been given to him. Also notice pay or any compensation was paid to him before refusal of employment by the management. So the management has contravened the provisions of Section 25-F of the Industrial Disputes Act which is a mandatory and precondition one.

8. So on careful consideration of all the materials available in the case record and in view of unchallenged testimony of the workman, I came to the finding that the action of the management in terminating the services of the workman by way of refusal from employment with effect from the 11th May, 2007 is neither legal nor justified. So, the workman is entitled to be reinstated in service. However, 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. But on careful consideration of facts and circumstances of this case, 50% back wages will meet the ends of justice.

9. Hence ordered :

That the action of the management of M/s L & T Ltd., E. C. C. Division a contractor establishment, working under M/s Jindal Stainless Ltd., Kalinga Nagar, Jajpur Road, Jajpur in terminating the services of Shri Bilas Kumar Biswal by way of refusal from employment with effect from the 11th May, 2007 is illegal and unjustified. The workman Shri Biswal is entitled to be reinstatement in service with 50% back wages. The management is directed to implement this Award within a period of two months 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
7-09-2011
Presiding Officer
Labour Court, Bhubaneswar

S. A. K.Z. AHAMED
7-09-2011
Presiding Officer
Labour Court, Bhubaneswar

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