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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 23rd November 2011

No. 10455—IR(J)-1/2010(Pt.)-LE.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 16th September 2011 in Industrial Dispute Case No. 1 of 2010 of the Presiding Officer, Labour Court, Bhubaneswar to whom the Industrial Dispute between the Management of Orissa State Road Transport Corporation Ltd., Bhubaneswar Zone, Bhubaneswar and its workman Shri Rama Chandra Behera was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 1 OF 2010

Dated the 16th September 2011

Present :

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

Between :

The Management of Orissa State Road Transport Corporation Ltd., Bhubaneswar Zone, Bhubaneswar. First Party—Management

And

Its workman Shri Rama Chandra Behera Second Party—Workman

Appearances :

For the First Party—Management None

For the Second Party—Workman himself Shri R. C. Behera

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. 2060—IR(J)-1/2010-LE., dated the 12th March 2010 of the Labour & Employment Department, Bhubaneswar for adjudication.

2. The terms of reference is as follows :

“Whether the termination of services of Shri Rama Chandra Behera is legal and/or justified ? If not, what relief he is entitled to get ?”

3. The workman's case, in brief, as set out in his statement of claim is that after duly selected in an interview he was appointed as Driver on the 21st November 1977. While driving the bus of the management bearing No. ORU - 7934 met with an accident with a station wagon bearing No. ORU - 760 on the 13th March 1978 causing death of one person of station wagon and injuries to other persons. For the aforesaid accident a G. R. Case No. 644/1978 was started in the Court of the Chief Judicial Magistrate, Cuttack in which the judgment was delivered on the 8th September 1983 wherein the workman was acquitted from the alleged offences. But all of a sudden the management vide its Order dated the 28th May 1978 terminated the service of the workman with effect from the 28th May 1978 wherein it has been mentioned that the workman will get seven days pay in lieu of seven days notice. The workman has asserted not to have received any dues at time of his termination or prior to his termination and he did not face any domestic enquiry. After his termination some juniors (new persons) have been taken into service. So he has prayed for reinstatement in service with full back wages.

4. The management was set *ex parte*.

5. From the evidence of the workman, it comes out that he served under the management since the 21st November 1977 till the 28th May 1978. The workman has deposed that he has not received any monetary benefits from the management at time of termination of his service. At time of termination of his service the provisions of Section 25-F of the Industrial Disputes Act, 1947 have not been complied. He has covered the required period of continuous service. The oral evidence adduced by the workman also gets corroboration from the documentary evidence under the cover of Ext. 1 to 10. 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. 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 the facts and circumstances of this case, as discussed above, I am of the opinion that instead of granting full back wages, 50% back wages will meet the ends of justice.

6. Hence ordered :

That the termination of services of Shri Rama Chandra Behera is neither legal nor justified. The workman Shri Behera is entitled to be reinstated in service with 50% back wages. The management is directed to implement this Award within 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
16-09-2011
Presiding Officer
Labour Court, Bhubaneswar

S. A. K.Z. AHAMED
16-09-2011
Presiding Officer
Labour Court, Bhubaneswar

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