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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 23rd November 2011

No. 10465—1i/1(B)-56/2009(Pt.)-LE.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 20th October 2011 in Industrial Disputes Case No. 22 of 2009 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial disputes between the Management of M/s Krishi Rasayan (P) Ltd., Baliapanda, Puri and its Workman Shri Sudhansu Sekhar Tripathy was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 22 OF 2009

Dated the 20th October 2011

Present :

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

Between :

The Management of .. First Party—Management
M/s Krishi Rasayan (P) Ltd.,
Baliapanda, Puri.

And

Its Workman .. Second Party—Workman
Shri Sudhansu Sekhar Tripathy.

Appearances :

None .. For the First Party—Management

Shri Sudhansu Sekhar Tripathy .. For the Second Party—Workman himself

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. 8636-li/1 (B)—56/2009-LE., dated the 16th September 2009 of the Labour & Employment Department for adjudication.

2. The reference is as follows :

“Whether the action of the management of M/s Krishi Rasayan (P) Ltd., Baliapanda, Puri in terminating the services of Shri Sudhansu Sekhar Tripathy, workman with effect from the 22nd January 2007 is legal and/or justified ? If not, what relief Shri Tripathy is entitled to ?”

3. The case of the workman, in brief, as set out in his statement of claim is that he was engaged as a worker under the management with effect from the 7th June 2004 on a monthly salary of Rs. 1,665.00. After three months, his monthly salary was suddenly reduced to Rs. 1,365.00 without any reason. According to the workman, he was working as semi-skilled worker but the management paid his salary as unskilled worker for which, several times he requested the management for increase his salary but to no effect. He was continuously working under the management from 7-6-2004 to 20-1-2007. When on 22-1-2007 he went to join in his duty, the management did not allow him to work and gave a termination letter. Further according to the workman, at the time of termination of his service, no prior notice or notice pay and retrenchment compensation was paid to him as per the provisions of Industrial Disputes Act, 1947. After his termination, the management has engaged a new person in his place. So in this background, he has prayed for his reinstatement in service with full back wages and other service benefits.

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 appointment letter, xerox copies of representations, xerox copy of letter, Dt. 20-12-2005, xerox copy of memorandum of settlement, Dt. 27-12-2005, xerox copy of letter, Dt. 21-12-2006, xerox copy of termination letter, Dt. 20-1-2007 and the xerox copy of E.S.I. Card under the cover of Exts. 1 to 9 respectively.

6. The workman in his affidavit evidence has corroborated the facts as stated in his statement of claim. Since the management was 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.

7. On perusal of the documents it appears that the workman was appointed as worker under the management with effect from the 7th June 2004 under the cover of Ext. 1. The workman has deposed that all on a sudden the management terminated his service with effect from the 22nd January 2007 under the cover of Ext. 8. The W. W. 1 has further deposed that at the time of termination of his service, the management has neither served any prior notice nor paid any notice pay and retrenchment compensation. Thus the management has violated the provisions of Section 25-F of the Industrial Disputes Act, 1947 which is a mandatory and precondition one. Therefore, the workman is entitled to be reinstated in service.

8. As regards back wages, law is well settled that when the workman has 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 as discussed above, I am of the opinion that instead of granting full back wages, 50 % back wages will meet the ends of justice.

9. Hence Ordered :

That the action of the management of M/s Krishi Rasayan (P) Ltd, Baliapanda, Puri in terminating the services of Shri Sudhansu Sekhar Tripathy, workman with effect from the 22nd January 2007 is neither legal nor justified. The workman Shri Tripathy 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
20-10-2011
Presiding Officer, Labour Court
Bhubaneswar

S. A. K. Z. AHAMED
20-10-2011
Presiding Officer, Labour Court
Bhubaneswar

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