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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 11th February 2011

No. 1566—li/1(SS)-11/2007-LE.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 16th December 2010 in Industrial Dispute Case No. 13 of 2009 of the Presiding Officer, Labour Court, Sambalpur to whom the industrial dispute between the Management of SAIL Rourkela and their Workman Shri F. A. Khan, P. L. No. 873140 of R.C. (M) was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE COURT OF THE PRESIDING OFFICER, LABOUR COURT
SAMBALPUR

INDUSTRIAL DISPUTE CASE No. 13 OF 2009

Dated the 16th December 2010

Present :

Miss Sarojini Mahapatra, M.A., LL.B.,
Presiding Officer,
Labour Court,
Sambalpur.

Between :

The Management of SAIL,
Rourkela Steel Plant, Rourkela
represented by the Deputy General
Manager, Town Services Department,
SAIL, Rourkela Steel Plant,
Rourkela,
Dist. Sundargarh.

. . . First Party—Management

And

Their Workman . . . Second Party—Workman
 F. A. Khan, P.L. No. 873140 of R.C. (M)
 Department, represented through
 Kalinga Ispat Shramika Sangha,
 Rourkela, Qrs. No. A/555,
 Koelnagar,
 Rourkela.

Appearances :

(1) Shri L. K. Nayak, . . . For the First Party—Management
 Deputy Manager, (Law)

(2) Shri J. K. Dash,
 Senior Manager, (Law)

Shri N. P. Mohanty, . . . For the Second Party—Workman
 Authorised Representative

AWARD

This is arises out of the reference made by the Government of Orissa, Labour & Employment Department 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 (14 of 1947) in Memo. No. 8665, (4) dated the 16th September, 2009 for adjudication of the Schedule questions :

“Whether the action of the management of Rourkela Steel Plant in deducting penal house rent for Quarters No. A/188, Sector 15, Rourkela from the salary of Shri F.A. Khan, P.L. No. 873140, Technician of R.C. (M) Department with effect from June 2002 is legal and/or justified ? If not, what relief Shri Khan is entitled ?”

2. The case of the second party workman in brief stated as follows :—

Shri Firoj Ahmed Khan, the second party workman working as Technician, P.L. No. 873140 in the Repair and Construction Department of Rourkela Steel Plant (SAIL) Rourkela. He was paying normal rent of Rs. 31 and electricity charge of Rs. 184.50 per month against Qrs. No.H/485, Sector-15, Rourkela Steel Township, which was allotted in his favour. The Management of Rourkela Steel Plant started recovery Rs. 1,465 from the salary of June 2002 towards house rent and electricity charges. Thereafter he represented about the excess recovery of the house rent and electricity charges before Senior Manager, Accounts, Rent Cell, Deputy General Manager, Township Services Department and the Managing Director of the Rourkela Steel Plant (SAIL) on 24-7-2003, 7-9-2002 and 6-12-2005 respectively, but it was no avail. So, he raised this matter before the Deputy Labour Commissioner through the President of the Union, Kalinga Ispat Shramik Sangha. The Assistant General Manager, Town Services Department vide Letter No. TS/763-64 Dt. 4-3-2006 has accepted the fact that “on the basis of request of Vice-President, Kalinga Welfare Association, Qrs.No. A/188, Sector-15 was allotted for running a Kinder Garten School”. It is further alleged from the case of the second party workman that the Assistant General Manager, Town Services, Department of Rourkela Steel Plant vide his letter, Dt. 2-9-2006/4-10-2006 submitted report before the D.L.O.- *cum* -Conciliation Officer, Office of the Deputy Labour Commissioner that the Deputy

Manager (TS) NEA issued notice to the Vice-President, Kalinga Welfare Association, the allottee about the improper use of the Company's Qrs. A/188, Sector-15 for removal of unauthorised construction. The said quarter was allotted in the name of the Vice-President, Kalinga Welfare Association. The show cause notice and license deed were issued in the name of Shri A.K. Mishra, Vice-President, Kalinga Welfare Association. P. P. case has been initiated in the name of Shri A. K. Mishra, Vice-President, Kalinga Welfare Association. The first party management has illegally and arbitrarily deducted Rs. 1,250 in excess from the salary of the workman since June 2002 till the September 30th 2009 amounting to Rs. 1,10,000. So the second party workman made a prayer for an order directing the first party management to refund the excess deducted house rent and electricity charges total amounting to Rs. 1,10,000 in favour the second party workman and to withdraw the charge-sheet under reference No. 00043-TL-CMM/2008, Dt. 2-4-2008.

3. The first party management contested the case and filed written statement stating that the first party management has never deducted any penal house rent for the Qrs. No. A/188, Sector-15 from the salary of the second party workman and such the reference is bad, illegal and not maintainable. The second party is an office bearer of Kalinga Welfare Association (KWA) as well as the Secretary of a Registered Trade Union with the name as "Kalinga Ispat Shramik Sangha" (KISS). Both the organisations are under the supervision, control and advice of the second party workman. The second party workman before startings of the activity through the Kalinga Welfare Association was running a School in his residential quarter bearing No. H/485, Sector-15 allotted by the first party management for commercial purpose. He was compelled to shift the activity to another Qrs. No. A/188, Sector-15 after getting the same allotted in favour of organisation K.W.A. and he was an active member and office bearer. Quarters No. A/188, Sector-15 is a residential quarters which was allotted for a specific purpose. The second party workman utilising the said quarters by running several vocational institutions and illegally used the Company's quarters for commercial purpose which amounts to a misconduct as well as violation of rules. Complaints were received and on inspection, it was found that the said quarters is being used for running several vocational institutions such as Kalinga Art Centre, Kalinga Tailoring Centre, Kalinga Coaching Centre, Kalinga Library. The second party workman alongwith the office bearer of K.W.A. have constructed several structure by addition, alteration and modification of existing quarters illegally and contrary to the provisions of the licence granted.

Further it is alleged from the case of the first party management that the second party workman indulges himself with such commercial activities. During investigation it was found that the second party workman was running a Nursery School and Tailoring Centre with massive unauthorised construction made therein violating the House Allotment Rules, 1995 of the first party management. So, the allotment of the said quarters was cancelled and market rent was charged to the second party workman in accordance with the rules. The second party workman being aggrieved, filed a writ petition bearing W.P. (C) No. 3936 of 2000 before the Hon'ble High Court of Orissa and as per order Dt. 10-5-2000, the Hon'ble High Court directed to the second party workman not to run any School/Tailoring Centre in the quarters premises. The order of the first party management in cancelling the said allotment has been kept in abeyance until further order from the Hon'ble High Court and normal house rent and electricity charges are being deducted in respect of the Qrs. No. H/485, Sector-15 under occupation of the second party which is pending before the Hon'ble High Court. Although the Qrs. No. A/188, Sector-15 was allotted in favour of the Kalinga Welfare Association for running a KG School but the second party workman is the Office Bearer and active Member of that Association and he was running with the said School

and operating Coaching Centre, Tailoring Centre, Art Centre with massive extension made in the said premises without obtaining any permission from the first party management for which the allotment was cancelled and the occupation by the second party workman being unauthorised, the first party management deducted the market house rent from the salary of the second party as per rule until the premises is vacated. So, as per the case of the first party management the reference is bad and devoid of any merit and as such the appropriate Government referred the matter in a mechanical manner is not maintainable.

4. The rejoinder filed by the second-party workman stating that during pendency of the Industrial Disputes in this Court, the Deputy General Manager, R.C. (M) has illegally imposed punishment of reducing the basic pay of the second party workman from Rs. 7461 to Rs. 7033 (s-5) per month violating the provisions of Section 33 (1) a of the Industrial Disputes Act, 1947. So, the second party workman prayed for an order to refund the excess house rent and electricity charges recovered from the second party workman against the Qrs. No. A/188, Sector-15 alongwith the bank rate of interest, for quashing the illegal punishment Order Ref. No. RC(M)/5717, Dt. 10-10-2009, grant of promotion to higher post and restoration of seniority in service of the second party workman, whenever due, with retrospective effect.

5. Out of the rival pleadings of the parties, the following issues have been framed for adjudication :

ISSUES

- (i) "Whether the action of the management of Rourkela Steel Plant in deducting penal house rent for Qrs. No. A/188, Sector-15, Rourkela from the salary of F. A. Khan, P.L. No.873140, Technician of R.C. (M) Department with effect from June 2002 is legal and/or justified ?
- (ii) If not, what relief Shri Khan is entitled to ?"

6. Both the parties have filed their documents in support of their respective case. The second party workman has filed documents which has been marked Ext.W. 1 to Ext. W. 15. The first party management has filed documents which has been marked as Ext. M. 1 to Ext. M. 11.

7. On behalf of the second party workman two witnesses have been examined including the second party, W.W. 1 Anil Kumar Mishra, Retired R.S.P. employee, W.W. 2 Shri F. A. Khan, the second party workman. On behalf of the first party management Chandra Sekhar Mahapatra, Manager in Town Services Department, Town Services, Rourkela Steel Plant has been only examined as M.W.1.

FINDINGS

Issue No. i.—The second party workman Shri F. A. Khan is working as Technician, P. L. No. 873140, in the Repair and Construction Department of Rourkela Steel Plant (SAIL, R.S.P.). As alleged he was paying the normal house rent of Rs. 31 and electricity charges of approximate of Rs. 184.50 per month against Qrs. No. H./485, Sector-15 Rourkela Steel Township. As alleged the first party management started recovery of Rs. 1465, from his salary of June 2002, towards house rent and electricity charge. As per the office order Ext.M. 2 the Vice-President, Kalinga

Welfare Association, Rourkela has been granted license for a period of 11 (Eleven) months from the date of handing over the Qrs. No. A/188/1 Room, Sector-15, Rourkela 3 for the purpose of running Kinder Garten School as per the terms of the license executed by him. As per Ext. M. 3 the second party workman has made unauthorised constructions on the vacant land adjacent to Qrs. No. A/188, Sector-15 allotted in his favour without any permission from SAIL. R.S.P. violating the terms and conditions of the license deed. The second party workman as the General Secretary of Kalinga Welfare Association submitted the letter Ext.M. 4 to the Managing Director of Rourkela Steel Plant, Rourkela for renewal of license of Qrs. No, A/188, Sector-15 allotted to their Association for School purpose. Ext.M. 5 is the field inspection report submitted by H. Mishra, Deputy Manager (TS) NEA intimating that during the inspection it was found that the said organisation has made massive extra constructions around the allotted quarters utilising the total vacant land available there without obtaining any permission from any authority.

9. W.W.1 stated in his evidence that in the year 2000, he alongwith others formed an Association by name Kalinga Welfare Association situated in Qrs. No. A/555, Koelnagar, Rourkela-14. As per the evidence of W.W. 2, the second party workman, he represented about the excess recovering of house rent and electricity charges to the senior manager, A/c rent cell, Deputy General Manager, Township Services Department and the Managing Director of Rourkela Steel Plant (SAIL) on 24-7-2003, 7-9-2002 and 6-12-2005 respectively and the documents are filed marked Ext.W. 9 to Ext.W.11. He has further stated that the said quarter was allotted in the name of Vice President, Kalinga Welfare Association. The license deed was signed by Shri A. K. Mishra, the then Vice-President and the incumbent President of Kalinga Welfare Association as the licensee and Manager (TS) EA, SAIL, R.S.P. as the licensor. As the case of the second party workman, the management has been forcibly, illegally and arbitrarily deducted an amount of Rs. 1250 in excess from the salary of the workman since June 2002 and till May 2010 amounting to Rs. 1,20,000 deducted from his salary. The workman has filed the documents Ext.W. 1 to Ext. W. 15 in support of his case.

10. The first party management in order to prove the case, has filed the documents which are marked as Ext. M. 1 to Ext. M. 11. As per the case of M.W.1. (Manager in Town Services Department, Town Services, R.S.P., SAIL), the second party workman while working in Repair & Construction (Mech.) Department was allotted a Qrs. No. H/485 in Sector-15. He started running a School and Tailoring Centre in the aforesaid residential quarters for commercial purpose. Since the second party workman was using his allotted quarters other then the purpose, the said allotment was cancelled vide office order Dt. 12-2-2000 in terms of House Allotment Rules. Thereafter, the second party workman filed a writ petition before the Hon'ble High Court of Orissa bearing O.J.C. No. 3936/2000 challenging the order of cancellation. The Hon'ble High Court in an interim order Dt. 10-5-2000 (Ext.W.14) directed the second party workman not to allow any School and Training Centre to run in the said premises i.e. Qrs. No. H/485, Sector-15. Thereafter, the second party workman was allotted Qrs. No. A/188, Sector-15 in the name of Organisation/Association called Kalinga Welfare Association vide license Dt. 18-11-2000 (Ext. W.3) and office order Dt. 18-11-2000 (Ext.M.2) and also continued as per the previous activities in that quarters. He utilises the said premises by running several other vocational institutions for commercial purpose. So, the first party management received complaints from the nearby neighbourers regularly and inspected the Qrs. No. A/188, Sector-15 and it was found that the second party workman was running with Kalinga Art Centre, Kalinga Tailoring Centre, Kalinga Coaching Centre, Kalinga Library Centre and encroached the adjoining area of his quarters. Since the continuation of the said activities

by the second party workman was neither authorised nor permitted in the license deed, the first party management issues show cause notice vide letter Dt. 29-9-2001 i.e. Ext. M. 3. Accordingly, the first party management cancelled the allotment of Qrs. No. A/188, Sector-15 vide order Dt. 4-5-2002 and intimated the second party workman for recovery of the market rent as per the norms until the premises is vacated. It is pleaded by first party management that the first party management has no option but to recover the market rent (not penal rent) from the second party workman by taking a lenient view as per the House Allotment Rules.

11. The learned representative on behalf of the second party workman submitted that the allegation of the first party management against the second party workman are totally false and the second party workman has not involved in any massive construction on the disputed R.S.P. land. Further, the learned representative and behalf of the first party management submitted that the reference is not maintainable since the first party management has deducted the market house rent not the penal house rent for Qrs. No. A/188, Sector-15 from the second party workman. So, there is anomaly in this situation. As per law this Court cannot go beyond the reference. In my opinion there exists an Industrial Dispute between the parties and there can be better answer if the schedule reference is amended to the extent that "whether the action of the market house rent for quarters No. A/188, Sector-15, Rourkela from the salary of Shri F. A. Khan, P.L. No. 873140, Technician of R.C. (M) Department with effect from June 2002 is legal and or justified". So at the stage there is no need of explaining or thrashing the other points more. The market house rent is completely different from the penal house rent. The purpose will be better served if the appropriate Government will come up with amended reference. Hence the following award :

AWARD

The reference is answered on contest but without any cost with the conclusion that there is no dispute between the parties regarding deduction of penal house rent for Qrs. No. A/188, Sector-15 Rourkela from the salary of F. A. Khan, the second party workman.

Dictated and corrected by me.

S. MAHAPATRA
16-12-2010
Presiding Officer
Labour Court
Sambalpur

S. MAHAPATRA
16-12-2010
Presiding Officer
Labour Court
Sambalpur

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