

The Odisha Gazette

EXTRAORDINARY
PUBLISHED BY AUTHORITY

No. 1126 CUTTACK, TUESDAY, JUNE 5, 2012/JAISTHA 15, 1934

LABOUR & E. S. I. DEPARTMENT

NOTIFICATION

The 21st May 2012

No. 3945—li/1(B)-44/2006(Pt.)-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 31st October 2011 in Industrial Dispute Case No. 62/2006 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the management of M/s. Cos Board Industries Ltd., N. I. E., Jagatpur, Cuttack and their workmen Shri Gadadhar Samal and 3(three) Others represented through Cos Board Industries Shramika Union was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 62 OF 2006

Dated the 31st October 2011

Present :

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

Between :

The Management of M/s. Cos Board .. First-party Management
Industries Ltd., Jagatpur, Cuttack.

And

Their Workmen Shri Gadadhar Samal .. Second-party Workmen
and 3 others represented through
Cos Board Industries Shramika Union.

Appearances :

None .. For the First-party Management

Shri B. Satpathy, President .. For the Second-party Workmen

Shri S. N. Biswal, Working President

AWARD

The Government of Odisha in exercise of the 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. 4851–li/1(B)-44/2006-L.E., dated the 17th June 2006 of the Labour & Employment Department, Bhubaneswar for adjudication.

2. The schedule of reference is as follows :

"Whether the refusal of employment to M/s. Gadadhar Samal, Manoj Kumar Samal, Anakar Sethy and Saroj Kumar Rout (represented by the Cos Board Shramik Union with effect from the 27th August 2005 by the management of Cos Board Industries Ltd., Phase II, New Industrial Estate, Jagatpur, Cuttack is legal and/or justified ? If not, to what relief they are entitled to ?"

3. The case of the workmen, in brief, is that they were working as Maintenance Helper under the management continuously on a monthly salary of Rs. 1,800.00. While they were working as such, suddenly the management forced them to work under the contractor from August 2005 to which they protested. So the management became annoyed and refused employment with effect from the 27th August 2005. At the time of refusal of employment, no prior notice or notice pay and retrenchment compensation was paid to them. They have also stated that neither any charge was framed against them nor domestic enquiry was initiated for any misconduct. So in this back ground, the workmen have prayed for their reinstatement in service with full back wages.

4. The management was set *ex parte*

5. In order to substantiate their plea, one witness has examined as W. W. 1 on behalf of the workmen and proved the copy of E. S. I. Card, petition, dated 7th September 2005, letter, dated the 17th October 2005 under the cover of Exts. 1 to 5 respectively.

6. The W. W. 1 in his affidavit evidence has fully corroborated the facts stated in their statement of claim. Since the management has been set *ex parte* and the evidence both oral and documentary tendered by W. W. 1 have remained unchallenged, I have no option but to answer in affirmative in favour of the workman.

7. It is stated by the workmen that no notice was served on them before they were terminated. Also no notice pay or any compensation was paid to them before refusal of employment by the management. Thus the management has contravened the provisions of Section 25-F of the Industrial Disputes Act 1947 which is a mandatory and pre-condition one. In the result, therefore, in my opinion, the workmen are entitled to be reinstated in service.

8. Regarding back wages, when the workmen had not worked for the management during the period in question and they had not proved any cogent evidence that they were not gainfully employed elsewhere, in my view, instead of granting full back wages, 50% back wages will meet the ends of justice in this case.

9. Hence Ordered :

That the refusal of employment to S/Shri Gadadhar Samal, Manoj Kumar Samal, Anakar Sethy and Saroj Kumar Rout represented by Cos Board Shramik Union with effect from the 27th August 2005 by the management of Cos Board Industries Ltd., Phase-II, New Industrial Estate, Jagatpur, Cuttack is neither legal nor justified. The above named workmen are entitled to be reinstated in service with 50% back wages. The management is directed to implement the 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
31-10-2011
Presiding Officer
Labour Court, Bhubaneswar

S. A. K. Z. AHAMED
31-10-2011
Presiding Officer
Labour Court, Bhubaneswar

By order of the Governor
M. R. CHOUDHURY
Under-Secretary to Government