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LABOUR & EMPLOYEES STATE INSURANCE DEPARTMENT

NOTIFICATION

The 26th May 2012

No. 4217—li/1(B)-104/2005(Pt.)-L & ESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 27th October 2011 in I. D. Case No. 79 of 2005 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the Management of M/s Kochila Service Co-operative Society Ltd., Kochila, P.S. Mahakalapada, Dist. Kendrapara and its Workman Shri Sashi Bhusan Routray, ex Asst. Secretary was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 79 OF 2005

Dated the 27th October 2011

Present :

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

Between :

The Management of .. First Party—Management
M/s Kochila Service Co-operative
Society Ltd., Kochila, P.S. Mahakalapada,
Dist. Kendrapara.

And

Its Workman Shri Sashi Bhusan Routray, .. Second Party—Workman
Ex-Asst. Secretary.

Appearances :

None .. For the First Party— Management

Shri T. Lenka, Advocate } .. For the Second Party— Workman

Shri B. Satapathy, Advocate }

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. 9815—li/1(B)-104/2005-LE., dated the 17th November 2005 of the Labour & Employment Department, Bhubaneswar for adjudication.

2. The terms of reference is as follows :

“Whether the termination of services of Shri Sashi Bhusan Routray, Asst. Secretary by the management of M/s Kochila Service Co-operative Society Ltd., At/P.O. Kochila, via Mahakalapada, Dist. Kendrapara with effect from the 7th March 1999 is legal and/or justified ? If not, what relief he is entitled to ?”

3. The workman's, case in brief, as set out in his statement of claim is that he initially joined under the management as Assistant Secretary with effect from the 27th January 1982. While he was working continuing as such, the management with an ulterior intention framed charges on different grounds vide letter, Dt. 28-10-1998. Thereafter the management appointed Shri C. C. Pati (Sub-Assistant Registrar, Co-operative Society) as the Enquiry Officer to conduct an enquiry against the workman. But the management had not communicated any letter to the workman regarding appointment of the Enquiry Officer. Though there was an enquiry conducted against the workman, but the same was not fair and proper and not according to the principles of natural justice. During the enquiry, though the workman was present, the Enquiry Officer had not recorded his witnesses so also no witness was examined from the side of the management. But the Enquiry Officer has submitted his report to the management and basing on such enquiry report, the management terminated his service with effect from the 7th March 1999. So according to the workman, the enquiry conducted by the management was not fair and proper and the termination of his service is illegal. Therefore, the workman 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 the appointment letter, Dt. 26-1-1982, copy of Order No. 911, Dt. 14-2-1983, copy of office order communicated vide Memo. No. 3184, Dt. 7-5-1984, minutes of meeting, Dt. 14-9-1998, representation, Dt. 29-12-2000 and the copy of order, Dt. 13-5-2005 in Review Case No. 2/2004 under the cover of Exts. 1 to 6 respectively.

6. The workman in his affidavit evidence has stated that he was appointed as Assistant Secretary by the management with effect from the 27th January 1982 under the cover of Ext. 1. The said appointment of the workman as Assistant Secretary was approved till 31-12-1983 by the Assistant Registrar, Co-operative Societies, Kendrapara under the cover of Ext. 2. Thereafter vide Ext. 3, the service of the workman as Assistant Secretary was approved by the said Assistant Registrar until further order. Ext. 6 is the xerox copy of Review Case No. 2/2004 passed by the Presiding Officer, Assistant Auditor General of Co-operative Societies, Cuttack Circle-II, Cuttack wherein it has been held that the workman may be reinstated in service at an early date and also exempted the surcharged amount of Rs. 23,399.85 against the workman. But after the review order, the management did not

reinstate the workman. 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. From the oral and documentary evidence adduced by the workman it appears that the workman was working as Assistant Secretary under the management with effect from the 27th January 1982. It is contended by the workman that though the management had framed charges against him and appointed an Enquiry Officer who conducted an enquiry but the same was not fair and proper and no reasonable opportunity was given to him to defend his case properly. So from the unchallenged testimony of the workman, it is held that the domestic enquiry conducted by the management was not fair and proper. So the termination of service of the workman by the management with effect from the 7th March 1999 basing on the alleged enquiry report is neither legal nor justified. Therefore, the workman is entitled to be reinstated in service with full back wages.

8. Hence it is ordered :

That the termination of services of Shri Sashi Bhusan Routray, Assistant Secretary by the management of M/s Kochila Service Co-operative Society Ltd., At/P.O. Kochila, via Mahakalapada, Dist. Kendrapara with effect from the 7th March 1999 is illegal and unjustified. The workman Shri Routray is entitled to be reinstated in service with full 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
27-10-2011
Presiding Officer
Labour Court
Bhubaneswar

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27-10-2011
Presiding Officer
Labour Court
Bhubaneswar

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