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LABOUR & E.S.I. DEPARTMENT

NOTIFICATION

The 24th May 2012

No. 4138—li/1(B)-111/2005 (Pt.)-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 26th April 2012 in Industrial Dispute Case No. 18 of 2006 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the Management of M/s Suryo Papers Ltd., Bhubaneswar and their workman Shri Bipra Behera, represented through Suryo Paper Ltd. Employees Union, Bhubaneswar was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 18 OF 2006

Dated the 26th April 2012

Present :

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

Between :

The Management of
M/s Suryo Papers Ltd.,
Bhubaneswar.

.. First Party—Management

And

Their Workman,
Shri Bipra Behera,
represented through Suryo Paper
Ltd., Employees Union,
Bhubaneswar.

.. Second Party—Workman

Appearances :

Shri M. K. Panda . . . For the First Party— Management

Shri R. K. Mandal . . . For the Second Party—Workman

AWARD

The Government of Odisha in the Labour & E.S.I. Department in exercise of powers conferred upon them by sub-section (5) of Section 12, read with Clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 have referred the following dispute to this Court for adjudication vide Order No. 1417—li/1 (B)-111/2005-LE., dated the 13th February 2006 :—

“Whether the action of the management of M/s Suryo Paper Pvt. Ltd., B-18, Industrial Estate, Rasulgarh, Bhubaneswar in dismissing Shri Bipra Behera, Jr. Machineman from service with effect from the 23rd August 2003 is legal and justified ? If not, what relief the workman is entitled to get ?”

2. The case of the workman, in brief, as set out in his statement of claim is that he initially joined in Card Board Box Industry at Bhubaneswar during January 1981 and made permanent on 7-10-1981. He was also promoted to the post of Junior Machineman with effect from April 1995. Thereafter the management of Card Board Box Industry was taken over by the present management along with liabilities and terms and conditions of the workers. On 7-1-2003 suddenly he was forced to work as Helper with one Laxmidhar Nayak, a Casual worker and accordingly he worked as such. On 8-1-2003 he has received his Suspension Order from the management on the ground of negligence in duty and the matter was enquired by Shri P. N. Panda, Asst, Manager of the management and he was removed from service with effect from the 23rd August 2003 without conducting proper enquiry and allowing him reasonable opportunity to defend his case. On these averments, the workman has stated that the removal of the workman from service is illegal, *mala fide* and against the provisions of the rules and prayed for reinstatement in service with full back wages.

3. On the other hand, the management appeared and filed written statement denying the claim of the workman. According to the management the workman was allowed to operate the punching machine rather he was operating the waxing machine of the management. Due to negligence of the workman and serious misconduct, the management placed the workman under suspension with effect from the 8th January 2003 pending enquiry. Thereafter the management appointed Shri P. N. Panda, Assistant Manager as Enquiry Officer to enquire into the allegations made against the workman. On 3-6-2003 the Enquiry Officer fixed the enquiry to 7-6-2003 under intimation to the workman as well as the management. After conclusion of the enquiry, the Enquiry Officer found the charges levelled against the workman have been proved and submitted the enquiry report to the management. The enquiry report was also supplied to the workman before inflicting the punishment. After being found guilty of the charges levelled against the workman by the Enquiry Officer, the management dismissed the service of the workman with effect from the 23rd August 2003. In these backgrounds, the management has prayed to answer the reference in negative.

4. In view of the above pleadings of the parties, the following issues are settled :—

ISSUES

- (i) “Whether the action of the management of M/s Suryo Paper Pvt. Ltd., B-18, Industrial Estate, Rasulgarh, Bhubaneswar in dismissing Shri Bipra Behera, Jr. Machineman from service with effect from the 23rd August 2003 is legal and justified ?
- (ii) If not, what relief the workman is entitled to get.”

5. In course of hearing, both the parties are absent and no steps taken. Perused the case record. On perusal of the case record, it appears that after receipt of reference the parties have filed their respective statement of claim and written statement. But subsequently they remained absent. During mid of the hearing, a joint compromise petition was filed and the same was rejected by this Court. In this view of the matter, I am of the view that the workman is not entitled to any claim as prayed for.

6. Hence Ordered :

That the action of the management of M/s Suryo Paper Pvt. Ltd., B-18, Industrial Estate, Rasulgarh, Bhubaneswar in dismissing Shri Bipra Behera, Jr. Machineman from service with effect from the 23rd August 2003 is legal and justified. The workman Shri Behera is not entitled to get any relief as prayed for.

The reference is answered accordingly.

Dictated and corrected by me.

S.A.K.Z. AHAMED
26-4-2012
Presiding Officer
Labour Court
Bhubaneswar

S.A.K.Z. AHAMED
26-4-2012
Presiding Officer
Labour Court
Bhubaneswar

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