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LABOUR & E. S. I. DEPARTMENT

NOTIFICATION

The 28th June 2012

No. 5007—li/1(B)-59/2003(Pt.)-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 31st March 2012 in Industrial Dispute Case No. 4 of 2004 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the Management of H.P. Petrol Pump, Balugaon and its Workman Shri Gopal Maharana, Fuel Supplier was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 4 OF 2004

Dated the 31st March 2012

Present :

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

Between :

The Management of
H.P. Petrol Pump,
Balugaon. . . First-party—Management

And

Its Workman
Shri Gopal Maharana,
Fuel Supplier. . . Second-party—Workman

Appearances :

Shri C. S. Subudhi . . For the First-party—Management

Shri G. Maharana . . Second-party—Workman
himself.

AWARD

The Government of Odisha in the Labour & Employment Department in exercise of powers conferred upon them 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 following dispute for adjudication vide Order No. 160—li/1(B)-59/2003-LE., dated the 5th January 2004 :—

"Whether the termination of service of Shri Gopal Maharana with effect from the 25th October 1999 by the employer of M/s H.P. Petrol Pump, Balugaon is legal and/or justified ? If not, what benefits is Shri Maharana entitled to ?"

2. The case of the workman in brief, as set out in his statement of claim is that he was working as a Fuel Supplier under the management since 1984. From March, 1999 to October, 2000 the management has not paid his wages for which the workman along with other workers started cease work and agitated in front of the Petrol Pump of the management. However, on the intervention of local people, the management paid one month's salary at the rate of Rs. 25 per day. Thereafter again the management stopped paying salary to the workman. When the workman demanded to pay his arrear dues, the management became annoyed and terminated his service by way of refusal of employment with effect from the 25th October 1999. So, on these backgrounds, the workman has prayed for his reinstatement in service with full back wages.

3. On the other hand, the management appeared and filed written statement denying the allegation of the workman. According to the management, at no point of time the workman was working as an employee either as Fuel Supplier or as any other post. The workman is no way connected with the establishment of the management. Therefore, the management has stated that the present case filed by the workman is completely devoid of any merit and is liable to be dismissed.

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

ISSUES

- (i) Whether the termination of service of Shri Gopal Maharana with effect from the 25th October 1999 by the employer of M/s H.P. Petrol Pump, Balugaon is legal and/or justified ?
- (ii) If not, what benefits is Shri Maharana entitled to ?

5. In order to substantiate his plea, the workman has examined two witnesses altogether out of whom, W.W. 1 is the workman himself and W.W. 2 is his co-worker and proved the document such as, copy of F.I.R. under the cover of Ext. 1. On the other hand, though the management has appeared and cross-examined both the workman witnesses but did not adduce any evidence from its side.

FINDINGS

6. *Issue Nos. (i) and (ii)*—Both the issues are taken up together for the sake of convenience.

W.W. 1 in his affidavit evidence has fully corroborated the facts stated in his statement of claim. During cross-examination, the W.W. 1 (workman) has admitted that he has no document to show that he was appointed as Supplier of the alleged Petrol Pump. The workman has also admitted during his cross-examination that he has not filed any certified copy of the order of the Court showing about his appointment. W.W. 2 in his evidence has stated that he knows the workman as well as

the management. He was also working under the management along with the workman from 1982 to 2001 and was looking after the accounts work of the management. During cross-examination, W.W. 2 has admitted that he had no document to show that he was working under the management so also he has no document to show that the workman was also working under the management. W.W. 2 has also admitted that he has no money receipt showing receipt of his salary.

7. Except the oral evidence, the only document, i.e. Ext. 1 which is a F.I.R. filed by the workman wherein the workman was witness, but it does not disclose that the workman was working under the management. Above all, the statement recorded under Section 161 of Cr.P.C. by the police is not admissible in law. So only basing upon the statement recorded by the police that the workman was working under the management in absence of any documentary evidence filed by the workman during the course of hearing cannot be presumed that the workman was working under the management. Therefore, the workman has miserably failed to establish his case. So in absence of any documentary evidence, the claim of the workman that he was working under the management cannot be believable. So in view of the above discussion, I am of the view that the workman is not entitled to get any relief as prayed for.

8. Hence, it is ordered :

That the termination of service of Shri Gopal Maharana with effect from the 25th October 1999 by the employer of M/s H.P. Petrol Pump, Balugaon is legal and justified. The workman Shri Maharana 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
31-3-2012
Presiding Officer
Labour Court, Bhubaneswar

S. A. K. Z. AHAMED
31-3-2012
Presiding Officer
Labour Court, Bhubaneswar

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