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LABOUR & EMPLOYEES STATE INSURANCE DEPARTMENT

NOTIFICATION

The 4th July 2012

No. 5110—li-1 (B)-40/2005(Pt.)-L & ESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 27th March 2012 in I. D. Case No. 34 of 2005 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the Management of Executive Engineer, Puri Investigation Division, Puri and their Workman Shri Raj Kishore Sethi was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No.34 OF 2005

Dated the 27th March 2012

Present :

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

Between :

The Management of Executive Engineer,
Puri Investigation Division,
Puri. .. First Party—Management

And

Their Workman
Shri Raj Kishore Sethi. .. Second Party—Workman

Appearances :

None	.. For the First Party—Management
Shri T. Lenka, Advocate	.. For the Second Party—Workman

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 to this Court for adjudication vide Order No. 6296—li-1 (B)-40/2005-LE., dated the 25th July 2005.

“Whether the action of the management of Executive Engineer, Puri Investigation Division, Puri in terminating the services of Shri Raj Kishore Sethi, *alias* Bhagaban Sethi with effect from the 1st January 2002 is legal and/or justified ? If not, to what relief the workman Shri Sethi is entitled ?”

2. The case of the workman, in brief, as set out in his statement of claim is that after due selection procedure conducted by the management, he was appointed as semi-skilled worker on 1-1-1990 on a daily wage of Rs. 25 and was placed in the office of the Gop National Water Management Programme, Subdivision No. II, Baliana and worked under the Junior Engineer of the said subdivision. The workman has stated that he has been working continuously without any break from the date of his joining till the date of termination on 1-1-2002 and completed 240 days of continuous service in each year. Though the workman had worked under the management from 1-1-1992 to 30-6-2002, his monthly wages were not paid to him 1-1-2002 to 30-6-2002. When he demanded his wages before the management, the concerned subdivisional Officer informed that the management has already instructed not to make any payment to the workman on the ground that the services of the workman has no longer required by the management with effect from the 1st January 2002. Further according to the workman, at the time of termination of his service the management has not complied the provisions of Section 25-F of the Industrial Disputes Act, 1947, as such, the verbal order of termination is not sustainable in the eye of law. On the above backgrounds, the workman has prayed for his reinstatement in service with full back wages.

3. On the other hand, the management remained absent and ultimately set *ex parte* vide order, Dt. 18-11-2011.

4. In order to substantiate his plea, the workman has filed his evidence in the shape of affidavit and proved the copy of experience certificate, Dt. 20-3-2003, copy of Financial Rule Form No. II, copy of Letter No. 17281, Dt. 28-12-2009 and copy of Letter No. 39724, Dt. 16-12-2008 under the cover of Exts. 1 to 4 respectively.

5. In view of the unchallenged testimony of the workman and considering the documents filed, it is felt that he has genuine case and he is entitled to the reliefs claim.

6. Hence, it is Ordered :

That the action of the management of the Executive Engineer, Puri Investigation Division, Puri in terminating the services of Shri Raj Kishore Sethi, *alias* Bhagaban Sethi with effect from

the 1st January 2002 is neither legal nor justified. The workman Shri Sethi is entitled to be reinstated in service with 50% back wages. The management is directed to implement this Award within a period of one month from the date of its publication failing, the amount shall carry interest at the rate of 10% per annum till its realisation.

The reference is answered accordingly on *ex parte*.

Dictated and corrected by me.

S. A. K. Z. AHAMED
27-3-2012
Presiding Officer
Labour Court
Bhubaneswar

S. A. K. Z. AHAMED
27-3-2012
Presiding Officer
Labour Court
Bhubaneswar

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