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LABOUR & E.S.I. DEPARTMENT

NOTIFICATION

The 5th July 2012

No. 5190—li/1(B)-52/2006 (Pt.)-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 25th May 2012 in Industrial Dispute Case No. 63 of 2006 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the Management of Balasore Alloys Ltd., Balgopalpur and their Workman Shri Sunil Sarkar was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR
INDUSTRIAL DISPUTE CASE No. 63 OF 2006
Dated the 25th May 2012

Present :

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

Between :

The Management of
Balasore Alloys Ltd.,
Balgopalpur.

.. First Party—Management

And

Their Workman,
Shri Sunil Sarkar

.. Second Party—Workman

Appearances :

Sk. Jahed

.. For First Party— Management

Shri S. Sarkar

.. For 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 to this Court for adjudication vide Order No. 4930—li/1 (B)-52/2006-LE., dated the 19th June 2006.

“Whether the dismissal of the workman Shri Sunil Sarkar, Plant Assistant from services by his employer, i.e., the management of Balasore Alloys Ltd. (Formerly, Ispat Alloys, Ltd.), vide Order No. 1713, dated the 12th/13th July 2001 is legal and/or justified ? If not, what relief Shri Sarkar is 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 Plant Assistant under the management since 28-9-1998 and was confirmed in service on 7-11-1998. He was illegally and arbitrarily dismissed from service on 13-7-2001. During his service period, the management due to agitation by some workers in front of the Company Office and also strike, the workman was placed under suspension on 28-9-2000. Thereafter the management conducted a domestic enquiry. The Enquiry Officer without giving any opportunity and without hearing of his innocence, submitted the enquiry report and basing on the enquiry report he was dismissed from service. He has further stated that while dismissing his service, the management has not followed the principle of natural justice for which he 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 allegations of the workman. The management admitted that the workman was working as a Plant Assistant on probation for a period of six months with effect from the 1st January 1998. Thereafter the service of the workman was confirmed on 1-7-1998. Charges were framed for the incident led by the workman which took place from 28-9-2000 to 4-10-2000. The workman along with others in a concerted manner assembled in front of the administrative building of the factory, leaving workspot without permission of the authority. The workman was also found to be instigating other employees to leave their workspot and in consequence of the instigation there was complete disruption in the operation of the factory and its production, and causing heavy loss to the management for which the management issued a show cause-*cum*-suspension order on 30-9-2000. No explanation was submitted by the workman to the aforesaid show cause-*cum*-suspension order. Therefore, a domestic enquiry was conducted into charges framed against the workman by an independent person and observing all the formalities and the principles of natural justice, dismissal order was passed and the same was communicated to the workman. In these averments, the management has prayed that the workman is entitled to any relief.

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

ISSUES

- (i) “Whether dismissal of the workman Shri Sunil Sarkar, Plant Assistant from services by his employer, i.e., the management of Balasore Alloys Ltd. (Formerly, Ispat Alloys Ltd.), vide Order No. 1713, Dt. 12/13-7-2001 is legal and/or justified ?
- (ii) If not, what relief Shri Sarkar is entitled to ?”

5. In spite of several adjournments, the workman remained absent whereas, the management has examined its Assistant V.P.H.R. & I.R. as M.W..1 and proved the documents under the cover of Exts. A to P.

6. Perused the affidavit evidence of M.W.1 as well as the connecting documents filed by him. In view of the unchallenged testimony of the management, I am of the opinion that the dismissal of the workman from his service by the management with effect from the 12th/13th July 2001 is legal and justified and the workman is not entitled to any relief.

7. Hence ordered :

That the dismissal of the workman Shri Sunil Sarkar, Plant Assistant from services by his employer, i.e., the management of Balasore Alloys Ltd. (Formerly, Ispat Alloys Ltd.), vide Order No. 1713, Dt. 12/13-7-2001 is legal and justified. The workman Shri Sarkar is not entitled to any relief as prasyed for.

The reference is answered accordingly.

Dictated and corrected by me.

S.A.K.Z. AHAMED
25-5-2012
Presiding Officer
Labour Court
Bhubaneswar

S.A.K.Z. AHAMED
25-5-2012
Presiding Officer
Labour Court
Bhubaneswar

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