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LABOUR & E. S. I. DEPARTMENT

NOTIFICATION

The 17th November 2012

No. 9430—IR(ID)-84/2010-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 28th September, 2012 in Industrial Dispute Case No. 49/2010 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the industrial dispute between the Management of M/s. Penthapal Service Co-operative Society Ltd., AT/PO-Penthapal, Dist. Kendrapara & its workman Shri Santosh Kumar Roul was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE NO. 49 OF 2010

Dated the 28th September 2012

Present :

Shri Raghubir Dash, O.S.J.S. (Sr. Branch)
Presiding Officer, Industrial Tribunal,
Bhubaneswar.

Between :

M/s. Penthapal Service

Co-operative Society Ltd., . . . First Party—Management
At/Post Penthapal,
Dist Kendrapara.

And

Shri Santosh Kumar Roul, . . . Second Party—Workman
S/o. Ramachandra Roul,
Village Balikira, Post Dandisahi,
Dist Kendrapara.

Appearances :

NONE . . . For the First Party—Management

Shri Santosh Kumar Roul. . . For the Second Party—Workman himself

AWARD

The Government of Odisha in their Labour & E. S. I. Department, exercising power conferred upon them by Section 12(5) read with Section 10(1) (d) of the Industrial Disputes Act, 1947 (for short, the Act), have referred the following dispute to this Tribunal for adjudication vide their Order No. 6796—ID-84/10 /LE, dated 16th August, 2010.

“Whether the termination of service of Shri Santosh Kumar Roul, Peon by his employer of M/s. Penthapal Service Co-operative Society Ltd, with effect from the 26th March 2008 is legal and/or justified ? If not, what relief Shri Roul is entitled to ?”

2. The case of the Second party, in short is that he had been working in Penthasala Service Co-operative Society Ltd. (the First party/Society) as a peon as per Resolution No. 3 dated 20th August 2000 passed by the Board of the Society and he was continued as such till the 26th March 2008. However, for the reasons best known to the Society he was denied employment with effect from 27th March 2008 without any notice and without any departmental enquiry. Therefore, challenging the termination of his services as illegal he has claimed for reinstatement with back wages.

3. Despite of service of notice the Management has not filled its written Statement. As the Management failed to file written Statement and subsequently did not appear before this Tribunal to take part in the proceeding it has been set *ex parte*.

4. The Second party has examined himself as W. W. No. 1 and has exhibited documents marked Exts.1 to 4.

5. It is to be decided as to whether the termination of service of the Second party by the First party with effect from the 26th March 2008 is legal and/or justified and if not, what relief he is entitled to.

6. In his affidavit evidence the Second party has reiterated the stand he has taken in his claim statement. His affidavit evidence to the effect that he had worked as a peon from the year 2000 till the date of his retrenchment cannot be disbelieved in absence of any challenge thereto.

7. To support his contention the Second party has proved a copy of the Board Resolution dated the 20th August 2000 (Ext.2) showing that the Second party was given employment in the Society in the post of a peon with monthly salary of Rs. 1200 Ext. 3 is a copy of the forwarding letter

signed by the Secretary of the Society addressed to the Assistant Registrar of Co-operative Societies, Kendrapara Circle forwarding a copy of the Board's Resolution giving appointment to the Second party. The conciliation failure report which has been received from the State Government alongwith the Schedule of reference reflects that during the conciliation proceeding the Secretary of the Society had appeared and taken the stand that the General Body of the Society had passed a Resolution on the 15th March 2004 to remove the Second party from employment on the ground of different misconducts. The Workman's plea that no domestic enquiry was conducted before termination of his service cannot be disbelieved in absence of any evidence from the other side who was opted not to take part in this proceeding.

8. On the basis of the evidence adduced by the Second party it is to be held that his service was terminated w.e.f. the 26th March 2008 without following the procedure laid down u/s 25 F of the Act in without taking up any disciplinary proceeding on charges of any misconduct. Therefore, the impugned retrenchment is found to be illegal and unjustified. Consequently, the Second party is held entitled to be reinstated with full back wages.

The reference is answered accordingly.

Dictated and corrected by me.

RAGHUBIR DASH
28-09-2012
Presiding Officer
Industrial Tribunal,
Bhubaneswar.

RAGHUBIR DASH
28-09-2012
Presiding Officer
Industrial Tribunal,
Bhubaneswar.

By order of the Governor
J. DALANAYAK
Under-Secretary to Government