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LABOUR & E. S. I. DEPARTMENT

NOTIFICATION

The 14th December 2012

No. 10349—li/I(BH-I)-13/2003-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 1st September 2012 in Industrial Dispute Case No. 64 of 2003 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the Management of M/s Ispat Alloys. Ltd., Balgopalpur, at present Balasore Alloys Ltd., Balgopalpur, Balasore and its Workman Shri Ashok Kumar Choudhury was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 64 OF 2003

Dated the 1st September 2012

Present :

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

Between :

The Management of . . . First Party—Management
M/s Ispat Alloys Ltd.,
Balgopalpur, at present Balasore
Alloys Ltd., Balgopalpur,
Balasore.

And

Its Workman
Shri Ashok Kumar Choudhury . . . Second Party—Workman

Appearances :

Shri S. K. Mohanty	..	For the First Party—Management
Shri A. K. Choudhury	..	Second Party—Workman himself

AWARD

The Government of Odisha in the Labour & Employment Department in exercise of the 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. 9644—li/l(BH-I)-13/2003-L.E., dated the 1st October 2003.

"Whether the dismissal of services of Shri Ashok Kumar Choudhury by the management of erstwhile M/s Ispat Alloys Ltd., at present Balasore Alloys Ltd., Balgopalpur, Balasore with effect from the 13th July 2001, is legal and/or justified ? If not, what relief Shri Choudhury is entitled to ?"

2. The case of the workman, in brief, as set out in his statement of claim is that he was working under the management since 1993. On the 1st October 2000 the management placed the workman under suspension and subsequently a charge-sheet was communicated to him alleging certain misconducts. Thereafter the management conducted a domestic enquiry and subsequently dismissed the workman from service with effect from the 13th July 2001. According to the workman, the enquiry conducted by the management was not fair and proper and he has not committed any misconduct as alleged. Therefore, the workman has prayed for his reinstatement in service with full back wages.

3. On the other hand, the management appears and filed written statement admitting the engagement of the workman. But according to the management, the second party Shri Choudhury was not a workman within the meaning of Section 2(s) of the Industrial Disputes Act, 1947. He was the officer-in-charge of the management's Diesel General Power Plant. The workman was engaged as a trainee with effect from the 11th October 1998. Thereafter, the management appointed as an Officer with effect from the 11th October 1994 on probation for a period of six months. Thereafter he was confirmed in service as a Junior Engineer with effect from the 10th April 1995. Charges were framed against the workman for the alleged misconduct and subsequently a domestic enquiry was conducted by an independent person being an Advocate. In the domestic enquiry, the workman was allowed to represent by a co-employee of his choice. According to the management, all reasonable opportunities were afforded to the workman during the enquiry. Therefore, according to the management, the domestic enquiry was conducted fairly and properly. In these averments, the management has prayed that the reference is answered in favour of the management.

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

ISSUES

- (i) "whether the dismissal of services of Shri Ashok Kumar Choudhury by the management of erstwhile M/s Ispat Alloys Ltd., at present, Balasore Alloys Ltd., Balgopalpur, Balasore with effect from the 13th July 2001 is Legal and/or Justified ?

(ii) If not, what relief is Shri Choudhury entitled to ?"

5. During the course of hearing of this case, the workman remained absent and has not adduced any evidence. On the other hand, though the management has filed affidavit evidences in favour of Pramod Kumar Ash, Sandip Kumar Bhattacharya and Pradeep Kumar Kar and filed certain documents but did not examined the above witnesses. Law is wellsettled that :-

"If a workman remains absent, it becomes the duty of the Tribunal to consider the claim statement filed by the workman as well as the written statement filed by the management and any other record which is made availabel to the Labour Court and it should answer the point of dispute referred to it on merit."

So, in view of the above settled principle of law, now this Court have to answer the point of dispute referred to this Court on merit.

6. On perusal of statement of claim filed by the workman and written statement as well as certain cocuments filed by the management, it appears that while the workman was working, he was placed under suspension, charge sheet was framed and a domestic enquiry was conducted for the alleged misconduct. The workman has pleaded that the domestic enquiry conducted by the management was not fair and proper. But at the same time, he has not proved the same in any manner. On the other hand, the management filed the documents, which clearly reveals that the procedure adopted by the management while conducting the domestic enquiry against the workman appears to be fair and proper. As the workman has not proved anything in this case regarding his dismissal as illegal and unjustified, I am of the opinion that the dismissal of services of the workman by the management with effect from the 13th July 2001 is legal and justified and the workman is not entitled to get any relief as prayed for.

7. Hence Ordered :-

That the dismissal of services of Shri Ashok Kumar Choudhury by the management of erstwhile M/s Ispat Alloys Ltd., at present Balasore Alloys Ltd., Balgopalpur, Balasore with effect from the 13th July 2001 is legal and justified. The workman Shri Choudhury is not entitled to get any relief as prayed for.

The reference is answered accordingly.

S. A. K. Z. AHAMED
1-9-2012
Presiding Officer
Labour Court, Bhubaneswar

S. A. K. Z. AHAMED
1-9-2012
Presiding Officer
Labour Court, Bhubaneswar

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