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LABOUR & EMPLOYEES STATE INSURANCE DEPARTMENT

NOTIFICATION

The 17th December 2012

No. 10420—li-1(B)-50/2006-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 13th September 2011 in Industrial Dispute Case No. 54 of 2006 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the Management of the Badamulabasanta Service Co-operative Society Ltd., Badamulabasanta, District Kendrapara and its Workman Shri Ajoy Kumar Pradhan, ex Assistant Secretary was referred to for adjudication is hereby published as in the Schedule below :—

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 54 OF 2006

Dated the 13th September 2011

Present :

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

Between :

The Management of
the Badamulabasanta Service
Co-operative Society Ltd.,
Badamulabasanta,
Dist. Kendrapara.

.. First Party—Management

And

Its Workman
Shri Ajoy Kumar Pradhan,
Ex Assistant Secretary.

.. 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 exercise of powers conferred 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 matter in dispute to this Court vide Order No. 4816—li-1(B)-50/2006-LE., dated the 17th June 2006 of the Labour & Employment Department, Bhubaneswar for adjudication.

2. The terms of reference is as follows :

"Whether the dismissal of service of Shri Ajoy Kumar Pradhan, Assistant Secretary of M/s Badamulabasanta Service Co-operative Society Ltd., Badamulabasanta with effect from the 19th February 2000 vide Order No. 93, dated the 14th December 2004 of the Secretary of this Society is legal and/or justified ? If not, to what relief he is entitled ?"

3. The workman's case, in brief, as set out in his statement of claim is that he initially joined as Assistant Secretary under the management with effect from the 14th May 1991 on a monthly salary of Rs. 350. On 28-2-2000 he was placed under suspension by the management and on 9-3-2000 the charges were framed against him. The workman submitted his explanation to the charges on 22-3-2000. The management again framed additional charges vide Letter No. 31, dated the 6th January 2001 and the workman submitted his explanation to the additional charges on 9-1-2001 denying all the charges. Subsequently a surcharge case bearing No. 25/2001 was instituted by the management against him before the Assistant Auditor-General, Co-operative Society, Cuttack Circle-II wherein the workman was exonerated and directed by the authorities to the management to pay all the arrear salary of the workman. But the management did not pay any wage to the workman. Finding no other alternative, the workman raised an industrial dispute before the labour authority and when the conciliation was going on, the management served the dismissal order dated the 14th December 2004 to the workman which he received on 22-12-2004. According to the workman, there was no enquiry conducted by the management against him. On these averments, the workman has prayed for his reinstatement in service with full back wages.

4. The management was set *ex parte*

5. In order to substantiate his plea, the workman has examined himself as W.W.1 and proved certain documents marked as Exts. 1 to 13. On perusal of the above documents it clearly shows that the workman was appointed as Assistant Secretary under the cover of Ext. 1. He was placed under suspension with effect from the 19th February 1999 under the cover of Ext. 2. Ext. 3 is the xerox copy of charges framed against the workman. The workman submitted his explanation to the charges under the cover of Ext. 4. The management again served additional charges on 6-1-2001 under the cover of Ext. 5. The workman submitted his explanation to the additional charges on 19-1-2001 under the cover of Ext. 6. Ext. 7 is the xerox copy of the representation of the workman regarding payment of subsistence allowance. Ext. 8 is the xerox copy of letter dated the 6th April 2004 of the Deputy Registrar, Co-operative Society to the management for consideration of the case of the workman regarding his reinstatement in service. Ext. 9 is the xerox copy of the Order of the Assistant Auditor-General of Co-operative Societies, Cuttack wherein it has been ordered

by the authority that the arrear salary of the workman as due should be disbursed by the management. Ext. 10 is the xerox copy of the dismissal order of the workman. Ext. 11 is the xerox copy of representation of the workman to the management after his dismissal.

6. So now on careful consideration of all the documents available in the case record as discussed above and since the management has been set *ex parte* and the evidence both oral and documentary tendered by the workman have remained uncontroverted, I have no option but to answer in affirmative in favour of the workman. It is stated by the workman that no notice or notice pay and retrenchment compensation was paid to him on or before the date of his dismissal from service, by the management. Thus the management has contravened the provisions of Section 25-F of the Industrial Disputes Act, 1947 which is a mandatory and pre-condition one. In the result, therefore, in my opinion, the workman is entitled to be reinstated in service with full back wages.

7. Hence Ordered :

That the dismissal of services of Shri Ajoy Kumar Pradhan, Assistant Secretary of M/s Badamulabasanta Service Co-operative Society Ltd., Badamulabasanta, District Kendrapara with effect from the 19th February 2000 vide Order No. 93, dated the 14th December 2004 of the Secretary of this Society is neither legal nor justified. The workman is entitled to be reinstated in service with full back wages. The management is directed to implement this Award within a period of one month from the date of this Order, failing which, the amount shall carry interest at the rate of 10% per annum till its realisation.

The reference is answered accordingly.

Dictated and corrected by me.

S. A. K. Z. AHAMED
13-9-2011
Presiding Officer
Labour Court, Bhubaneswar

S. A. K. Z. AHAMED
13-9-2011
Presiding Officer
Labour Court, Bhubaneswar

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