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LABOUR & ESI DEPARTMENT

NOTIFICATION

The 29th February 2012

No. 1634—IR-ID-9/2011—LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 12th January 2012 in Industrial Dispute Case No. 9/2011 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the industrial dispute between the Management of M/s Shree Jagannath Transport Co., Ratan Bazar, Dhenkanal and its Workman Shri Patitapaban Naik and others was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 9 OF 2011

Dated the 12th January 2012

Present :

Shri Raghubir Dash, o.s.j.s. (Sr. Branch),
Presiding Officer,
Industrial Tribunal,
Bhubaneswar.

Between :

Shri Santosh Kumar Agrawal, Proprietor,
M/s Shree Jagannath Transport Co.,
Ratan Bazar,
Dhenkanal-759013.

.. First Party—Management

And

Shri Patitapaban Naik,
S/o Late Meghanada Naik,
Vill. Jhargadia,
P.O. Gadasila,
P.S. Sadar,
Dist. Dhenkanal.

.. Second Party—Workmen

Shri Muralidhar Naik,
S/o Late Dandadhar Naik,
Vill. Jhargadia,
P.O. Gadasila,
P.S. Sadar,
Dist. Dhenkanal.

Shri Sudhakar Naik,
S/o Late Arakhita Naik,
Vill. Jhargadia,
P.O. Gadasila,
P.S. Sadar,
Dist. Dhenkanal.

Shri Nandakishore Naik,
S/o Late Manguli Naik,
Vill. Jhargadia,
P.O. Gadasila,
P.S. Sadar,
Dist. Dhenkanal.

Shri Babuli Naik,
S/o Arakhita Naik,
Vill. Jhargadia,
P.O. Gadasila,
P.S. Sadar,
Dist. Dhenkanal.

Shri Bhaskar Mallick,
S/o Bansidhar Mallick,
Vill. Tubhinali,
P.O. Sadasibapur,
P.S. Sadar,
Dist. Dhenkanal.

Appearances :

None . . . For First Party—Management

Shri Patitapaban Naik, . . . For Second Party—Workmen
Authorised Representative.

AWARD

The Government of Odisha in the Labour & Employment Department, in exercise of powers conferred upon them by sub-section (5) of Section 12 readwith Clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (14 Of 1947) for short the 'Act' have referred the following dispute for adjudication vide their Order No. 2321—ID-9/2011-LE., dated 8th March 2011.

“Whether the termination of Shri Patitapaban Naik and 5 others from service with effect from 1-10-2008 by the management of M/s Shree Jagannath Transport Co., At Ratan Bazar, Dhenkanal is legal and/or justified ? If not, to what relief they are entitled ?”

2. All the six workmen have filed a joint claim statement wherein they have pleaded that from 21-1-1994 to 1-10-2008 they had been working under M/s Shree Jagannath Transport Co., Dhenkanal. However, when their services were terminated the management did not pay retrenchment benefit to them. Therefore, retrenchment of the workmen is illegal and the management be directed to pay all the retrenchment benefits to the disputant-workmen.

3. Though notice was served on the first party, no appearance was made on its behalf for which the proceeding in the case is taken-up in the absence of the first party.

4. One of the workmen has adduced evidence by examining himself as W.W. No.1.

5. The witness examined on behalf of the workmen has stated on oath that the second party members had been working under the first party from the 21st January 1994 to 1st October 2008 with wages @ Rs. 1,040 per month. He has further stated that they were disengaged from such employment with effect from the 1st October 2008 but retrenchment benefits were not paid to them. He has exhibited employment cards of all the six workmen which are marked as Ext.1 series. The employment cards reflect that the second party members had been working under the first party since 21-1-1994, that they were engaged in unloading work from coal trucks and that they used to receive their wages on monthly basis.

6. There is nothing to disbelieve the sworn testimony of W.W. No.1. The first party has preferred not to contest the case. On the basis of the evidence available on record it is found proved that the second party members had been working under the first party from the 21st January 1994 till 1-10-2008 and when their services were terminated the retrenchment benefits under the Act were not paid to them. Since second party members had worked continuously under the first party for more than one year they are entitled to notice pay and retrenchment compensation as per the provisions contained in Section 25-F of the Act. Since the second party members do not claim for their reinstatement and back wages, it is held that each of the second party members is entitled to get one month's notice pay alongwith retrenchment compensation as contemplated under Section 25-F of the Act.

The first party is held liable to pay notice pay as well as retrenchment compensation in terms of Section 25-F of the Act and the amount should be paid to the second party members within two

months of the date of publication of the award in the Official Gazette failing which the first party shall be liable to pay interest @ 7% per annum on amount due from the date of the retrenchment till the date of actual payment.

The reference is answered accordingly.

Dictated & corrected by me.

RAGHUBIR DASH
12-1-2012
Presiding Officer
Industrial Tribunal
Bhubaneswar

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12-1-2012
Presiding Officer
Industrial Tribunal
Bhubaneswar

By order of the Governor
T. K. PANDA
Under-Secretary to Government