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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 23rd December 2011

No. 11670—li-1(J)-26/2005 (Pt.)-LE.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 13th September 2011 in I.D. Case No. 36 of 2006 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the Management of M/s Agency Marketing Co-operative Society Ltd., Tikabali and their Workman Shri Naresh Ch. Sahu was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 36 OF 2006

The 13th September 2011

Present :

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

Between :

The Management of M/s Agency Marketing Co-op. Society Ltd.,
Tikabali. .. First party—Management

And

Their Workman
Shri Naresh Ch. Sahu. .. Second party—Workman

Appearances :

None .. For the First party—Management

Shri N. K. Mohanty, Advocate .. For the Second party—Workman
Shri A. Mishra, Advocate

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. 3642-LE., Dt. 9-5-2006 of the Labour & Employment Department, Bhubaneswar for adjudication.

2. The terms of reference is as follows :

“Whether the refusal of employment by the Secretary, Agency Marketing Co-op. Society, Tikabali, Dist. Kandhamal to Shri Naresh Ch. Sahu, workman with effect from the 1st April 2001 is legal and/or justified ? If not, what relief Shri Sahu is entitled to ?”

3. The workman's case, in brief, as set out in his statement of claim is that as per letter No. 16, Dt. 18-10-1997 of the management, he joined as Sales Promoter on 5-11-1997 and continued as such till 31-3-1999. On 1-4-1999 the management disengaged him from service illegally and arbitrarily. Thereafter on the intervention of the Assistant Labour Officer, there was a settlement arrived between the parties on 6-12-1999 and accordingly the workman gave his joining report on 20-12-1999 along with the memorandum of settlement. But the management has only allowed the workman to sign in the attendance register from 15-6-2000 to 31-3-2001. Thereafter the management again did not allow the workman to perform his duty with effect from the 1st April 2001 and ultimately terminated his service. Therefore the workman has prayed for his reinstatement in service with back wages from 20-12-1999 to 14-6-2000 and from 1-4-2001 till his reinstatement.

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 documents such as, xerox copy of letter, Dt. 18-10-1997, xerox copy of joining report, Dt. 5-11-1997, xerox copy of memorandum of settlement, Dt. 6-12-1999, xerox copy of reappointment order, Dt. 13-6-2000 and the xerox copy of attendance registers from November, 1997 to November, 1998 and from January, 1999 to March, 1999 under the cover of Exts. 1 to 5 respectively.

6. The workman in his evidence has corroborated the facts as stated in his statement of claim. On perusal of the above documents it appears that the workman joined in his service as Sales Promoter as per Ext. 1 on 5-11-1997 under the cover of Ext. 2. Ext. 3 clearly discloses that there was a tripartite settlement between the parties and the Conciliation Officer-*cum*-Assistant Labour Officer, Bhubaneswar. Ext. 4 is the xerox copy of reappointment order issued by the management to the workman and Ext. 5 is the xerox copies of attendance registers.

7. On further perusal of Ext. 5, the attendance registers, it clearly shows that the workman had worked under the management from 20-12-1999 to 14-6-2000 but the management had not paid any wages to the workman. 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 termination. Thus the management has contravened the provisions of Section 25-F of the Industrial Disputes Act, 1947 which is a mandatory and precondition one. In the result, therefore, in my opinion, the workman is entitled to be reinstated in service with full back wages from 20-12-1999

to 14-6-2000 as per the settlement under the cover of Ext. 3. However, on the facts and circumstances of the present case, as the workman had not worked under the management for the period in question, I am of the opinion, 50% of back wages will meet the ends of justice in the instant case.

8. Hence Ordered :

That the refusal of employment by the Secretary, Agency Marketing Co-op. Society, Tikabali, Dist. Kandhamal to Shri Naresh Ch. Sahu, workman with effect from the 1st April 2001 is neither legal nor justified. The workman Shri Sahu is entitled to be reinstated in service with full back wages from 20-12-1999 to 14-6-2000 and 50% back wages from 15-6-2000. The management is directed to implement this Award within a period of one month from the date of its publication failing which, the amount shall carry interest at the rate of 10% per annum till its realisation.

The reference is answered accordingly *ex parte*.

Dictated and corrected by me.

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

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

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