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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 3rd January 2012

No. 35—IR-ID-114/2010—LE.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 23rd November 2011 in Industrial Dispute Case No. 74/2010 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the industrial dispute between the management of Director, M/s Text Book Production & Marketing, Bhubaneswar and its workman Smt. Basanti Das, represented by the Bhubaneswar Industrial Worker's Union was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 74 OF 2010

Dated the 23rd November 2011

Present :

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

Between :

The Management of the
Director, M/s Text Book
Production & Marketing,
Bhubaneswar.

.. First Party—Management

And

Smt. Basanti Das, represented,
through Bhubaneswar,
Industrial Worker's Union,
Plot No. 32, Ashok Nagar,
Bhubaneswar.

.. Second Party—Workman

Appearances :

Smt. Prativa Sahoo, . . . For the First Party—Management
Personnel Officer.

Shri N. K. Mohanty, . . . For the Second Party—Workman herself
Authorised Representative.

AWARD

This is a reference under Section 10 of the Industrial Disputes Act, 1947 (for short, the 'Act') made by the Government of Odisha in the Labour & Employment Department vide their Order No. 8499-ID-114/2010-LE., dated 4-10-2010. The Schedule of reference runs as follows—

“Whether the action of the management of Director, M/s Text Book Production & Marketing, Bhubaneswar in terminating the services of Smt. Basanti Das, daily wage worker with effect from 22-9-2008 is legal and/or justified ? If not, what relief Smt. Das is entitled to ?”

2. Facts relevant for the purpose of the Schedule of reference as narrated in the claim statement are that the second party had been working as a casual workman under the first party with effect from 8-3-1999 and continuously worked as such till 21-9-2008. On 22-9-2008 her service was terminated by way of refusal of employment. According to the second party, some casual workers who are junior to her, are still under the employment of the first party.

4. In her affidavit evidence the second party has stated that she had been working as a Peon in the establishment of the first party with a consolidated pay of Rs. 2100 per month. She has further stated that on 17-9-2009 when she came to attend to her duties the first party did not allow her to come inside the office to sign the Attendance Register. In order to show that she was working in the establishment of the first party, the second party has exhibited one office order which is marked Ext.1. Ext.1 is a copy of the office order, dated 19-10-2004 from which it can be ascertained that the second party was working as a D.L.R. and under the order she was transferred and posted to work in the office of the first party N.A.C. attached to the Executive Officer of the N.A.C.

5. The averments made in the claim statement are not refuted by the first party who opted not to contest the claim by filing written statement. The sworn testimony of the second party can not be discarded on any ground. It is to be accepted that the second party had been working continuously under the first party from 1-8-2000 till denial of employment to her with effect from the 17-6-2009. Such denial amounts to retrenchment. The management of the first party does not appear to have complied with the provisions contained in Section 25-F of the Act. Therefore, the retrenchment is illegal. It is also to be accepted that the retrenchment was effected by the management being aggrieved that the second party had taken steps to get compensation under the Workmen's Compensation Act. Therefore, the denial of employment to her is not justified.

6. In the result, it is held that the retrenchment of the second party is neither legal nor justified.

The second party got employment under the Rehabilitation Assistance Scheme. She had rendered continuous service for about eight years. The management seems to have taken a vindictive action against her. Therefore, this Tribunal is of the considered view that the second party should be reinstated in service with full back wages.

The reference is answered accordingly in favour of the second party workman. The management to reinstate the second party in service with full back wages within a period of two months of the date of publication of the Award in the Official Gazette.

Dictated & corrected by me.

RAGHUBIR DASH
15-12-2011
Presiding Officer
Industrial Tribunal
Bhubaneswar

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15-12-2011
Presiding Officer
Industrial Tribunal
Bhubaneswar

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