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LABOUR & E. S. I. DEPARTMENT

NOTIFICATION

The 24th April 2012

No. 3217—li/1(B)-10/2007-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 18th November 2011 in Industrial Dispute Case No. 32 of 2007 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the management of M/s. Radhanath Co-operative Press Ltd., Cuttack and its workman Shri Bankim Chandra Das was referred to for adjudication is hereby published as in the Schedule below :—

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 32 OF 2007

Dated the 18th November 2011

Present :

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

Between :

The Management of M/s. Radhanath .. First-party Management
Co-operative Press Ltd., Cuttack.

And

Its workman .. Second-party Workman
Shri Bankim Chandra Das.

Appearances :

NONE .. For the First-party Management

Shri B. C. Das .. For the Second-party Workman himself

AWARD

The Government of Odisha in exercise of the 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. 9294—li/1(B)-10/2007-L.E., dated the 2nd August 2007 of the Labour & Employment Department, Bhubaneswar for adjudication.

2. The terms of reference is as follows :—

"Whether the action of the management of M/s. Shri Radhanath Co-operative Press Ltd., Balubazar, Cuttack in dismissing Shri Bankim Ch. Das, Senior Compositor from service with effect from the 1st May 2006 vide letter No. 116, dated the 29th April 2006 is legal and/or justified ? If not, to what relief the workman Shri Das is entitled ?"

3. The case of the workman, in brief, as set out in his statement of claim is that he joined under the management as a Compositor with effect from the 1st July 1978. Thereafter he got promotion to the post of Senior Compositor. The workman along with other co-employees raised voice against the illegal work and mismanagement of the management. So the management bore grudge against him and stopped payment of salary for the months of April 2003 to November 2003. On the 16th December 2005 the management issued a charge-sheet upon the workman and after receipt of the said charge-sheet, he (workman) made a representation on the 22nd December 2005 for supplying of some documents. The workman after receipt of some of the documents submitted his reply on the 16th January 2006 to the charge-sheet denying all the charges levelled against him. Thereafter, the management appointed one Patrik DAlphonse as the Enquiry Officer to enquire into the charges levelled against the workman. After receipt of the letter from the Enquiry Officer, the workman attended the enquiry on the 8th February 2006 and made a representation to the Enquiry Officer regarding permission for assistance of one of his co-worker in the enquiry. But the Enquiry Officer did not take any step on that representation. Thereafter, the Enquiry Officer did not inform any date regarding the enquiry. But suddenly the workman received a letter, dated the 29th April 2006 from the management wherein it has been mentioned that the service of the workman has been dismissed with effect from the 1st May 2006. Before dismissal of the workman from service, the management has neither supplied the enquiry report to him nor any second showcause notice was given to him. Above all, the management has not paid the subsistence allowance to the workman during the period of his suspension. Therefore, according to the workman, the domestic enquiry conducted by the management was not fair and proper and no reasonable opportunity was afforded to the workman during the enquiry. So 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 the documents under the cover of Exts. 1 to 27.

6. The workman in his affidavit evidence has fully corroborated the facts stated in his statement of claim. Since the management has been set *ex parte* and the evidence both oral and documentary tendered by the workman have remained un-controverted, I have no option but to answer in affirmative in favour of the workman.

7. It is stated by the workman that the domestic enquiry conducted by the management against him was not fair and proper and also not in accordance with the principles of natural justice. The workman has also stated that no notice or notice pay and retrenchment compensation was paid to him before he was dismissed from service. 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, in my opinion, the workman is entitled to be reinstated in service with full back wages.

8. Hence it is Ordered :

That the action of the management of M/s. Shri Radhanath Co-operative Press Ltd., Balubazar, Cuttack in dismissing Shri Bankim Ch. Das, Senior Compositor from service with effect from the 1st May 2006 vide letter No. 116, dated the 29th April 2006 is neither legal nor justified. The workman Shri Das 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 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
18-11-2011
Presiding Officer
Labour Court, Bhubaneswar

S. A. K. Z. AHAMED
18-11-2011
Presiding Officer
Labour Court, Bhubaneswar

By order of the Governor
M. R. CHOUDHURY
Under-Secretary to Government