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LABOUR & EMPLOYEES STATE INSURANCE DEPARTMENT

NOTIFICATION

The 13th May 2013

No. 4664—li/1(B)-21/2007-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 28th February, 2013 in Industrial Dispute Case No. 31 of 2007 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the Management of M/s. Trident Hilton (Oberoi), Nayapalli, Bhubaneswar and their Workman Shri Maheswar Barik was referred to for adjudication is hereby published as in the Schedule below :—

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 31 OF 2007

Dated the 28th February 2013

Present :

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

Between :

The Management of . . . First Party—Management
M/s. Trident Hilton (Oberoi),
Nayapalli, Bhubaneswar.

And

Their Workman . . . Second Party—Workman
Shri Maheswar Barik.

Appearances :

None . . . For the First Party—Management
Shri M. Barik . . . Second Party—Workman himself

AWARD

The Government of Odisha in the Labour & Employment Department in exercise of powers conferred upon them 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 following dispute to this Court for adjudication vide their Order No. 9289—li-1(B)-21/2007, dated the 2nd August 2007 :—

"Whether the action of the management of the Trident Hilton (Oberoi), Bhubaneswar in refusing employment to Shri Maheswar Barik (Job Trainee and Apprentice) with effect from the 16th May 2002 is legal and/or justified ? If not, what relief Shri Barik is entitled to ?"

2. The case of the second party workman, in brief, as set out in his statement of claim is that he was appointed as a Trainee in Food and Beverages on 15-6-1995 under the first party management and after completion of the training on 14-12-1996, he was posted in the same post as a regular employee and continuously worked till 16-5-2002 without any break. According to the workman on 7-5-2002, he proceeded on leave with due permission of the authority of the management for 10 days as his marriage was fixed on 9-5-2002 and after availing leave when he reported for duty on 16-5-2002, he was not allowed to join in his duty and was told by the officer of the management that the services of the workman were no more required. Further according to the workman at the time of such refusal of employment, he was not given any prior notice or notice pay in lieu therefor and also retrenchment compensation as required under Section 25-F of the Industrial Disputes Act, 1947. On these back drops, the workman has prayed for his reinstatement in service with full back wages and other service benefits including continuity of service.

3. On the other hand, inspite of valid notices, the management neither appeared and filed written statement nor contested the present proceeding. Hence, the first party management was set *ex parte* vide Order, dated the 8th February 2013.

4. In the *ex parte* hearing in order to substantiate his plea, the workman has examined himself as W.W.1. The workman though earlier had filed bunch of documents along with his statement of claim, but those documents have not been proved during the course of hearing.

5. In his affidavit evidence, the workman has fully corroborated the facts stated in his statement of claim.

From the evidence of the workman, it comes out that he served under the management since the 15th June 1995 till the 16th May 2002. At the time of termination of service of the workman, the provisions of Section 25-F of the Industrial Disputes Act, 1947 have not been complied by the management. He has covered the required period of continuous service. The oral evidence adduced by the workman also gets corroboration from the documents filed by him alongwith his statement of claim. Without any rebutal evidence from the side of the management, there is no reason to disbelieve the sworn testimony of the workman. So the workman is entitled to be reinstated in service with full back wages.

11. Hence, ordered :

That the action of the management of the Trident Hilton (Oberoi), Bhubaneswar in refusing employment to Shri Maheswar Barik (Job Trainee and Apprentice) with effect from the 16th May

2002 is neither legal nor justified. The workman Shri Barik is entitled for reinstatement in service with full back wages. The management is directed to implement this Award within a period of two months from the date of its publication, failing 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
28-2-2013
Presiding Officer
Labour Court, Bhubaneswar

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28-2-2013
Presiding Officer
Labour Court, Bhubaneswar

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