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LABOUR & E.S.I. DEPARTMENT

NOTIFICATION

The 3rd June 2013

No. 5205—li/1(B)-24/2006(Pt)-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 14th January 2013 in Industrial Dispute Case No. 12 of 2007 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the Management of M/s Birla Tyres, At/P.O. Chhanpur, Dist. Balasore and their workman Shri Naresh Kumar Rout Das referred to for adjudication is hereby published as in the Schedule below :—

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 12 OF 2007

Dated the 14th January 2013

Present :

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

Between :

The Management of . . . First Party—Management
M/s Birla Tyres,
At/P.O. Chhanpur,
Dist. Balasore.

And

Their workman . . . Second Party—Workman
Shri Naresh Kumar Rout

Appearances :

For the First Party—Management . . . Shri T. K. Giri, Manager, HR.

For the Second Party—Workman himself . . . Shri N. K. Rout.

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 its Order No. 1659—li/1(B)-24/2006-LE., dated the 24th February 2007 :—

“Whether the action of the management of M/s Birla Tyres, Balasore is not allowing duty to Shri Naresh Kumar Rout, Tyre Builder, with effect from the 21st October 1994 with a plea of voluntary abandonment of service is legal and/or justified ? If not, what relief Shri Rout, the workman is entitled to?”

2. The case of the workman, in brief, as set out in his statement of claim is that he had been working under the management of Tyre Building section since 5-8-1991 and subsequently confirmed in the service with effect from the 6th November 1992. According to the workman, while in duty during night shift on 20-10-1994 he met with an accident for which his left hand got seriously damaged and admitted in the E.S.I. Hospital. Thereafter, he was referred to the District Headquarters Hospital for operation of his left hand and again he was referred to S.C. B. Medical College Hospital, Cuttack for better treatment. After recovery he made a prayer to the management to give adequate compensation and also prayed for posting in another department with light job. But the management turned a deaf ear and did not allow him to work. Finding no other alternative, the workman has raised the present dispute wherein he has prayed for his reinstatement in service with full back wages.

3. On the other hand, the management appeared and filed written statement denying the plea of the workman. According to it, the workman was working in Tyre Building section as a Tyre Builder, but he was in habit of remaining absent from his duty unauthorisedly for which several warnings and show cause notice were issued to him. But the workman did not change his attitude rather he made a representation on 29-8-1995 to the management wherein he has mentioned that he was feeling weakness for which he had requested the management to consider his case sympathetically and transfer him to other department and also allow him to do some light job since the plea taken by the workman was false and fabricated, his request was not considered. However, the management directed the workman to join in his duty immediately without any delay. But the workman did not care to carry out the order of the authority of the management despite several letters issued to him for joining in his duty. Lastly, the management sent series of letters by registered post with A.D. advising him to report for duty immediately failing which it will be presumed that he has no more interest to serve under the management and also it will be deemed that the workman has voluntarily abandoned the service of his own accord. After waiting for a long period, it was left with no other option then to take decision in striking off the name of the workman from the muster roll of the factory with effect from 23-8-1997 on the ground of voluntary abandonment from service. Thereafter on 5-8-2002 the workman submitted an application before the Senior President of the management requesting him to pay him full and final legal dues. On these averments, the management has prayed to answer the reference in favour of the management.

4. In view of the above pleadings of both the parties, the following issues are settled :—

ISSUES

- (i) “Whether the action of the management of M/s Birla Tyres, Balasore is not allowing duty to Shri Naresh Kumar Rout, Tyre Builder, with effect from the 21st October 1994 with a plea of voluntary abandonment of service is legal and/or justified ?
- (ii) If not, what relief Shri Rout, the workman is entitled to?”

5. During the course of hearing, in spite of valid notices the workman neither examined himself nor proved any document in support of his case. On the other hand, the management has examined its Manager (P) as M.W.1 and proved the documents such as, series of copy of letters and the copy of the Order, dated 2-7-2009 of the Hon’ble High Court of Orissa, Cuttack passed in W.P.(C) No. 9065 of 2009 under the cover of Exts. A to R respectively.

FINDINGS

6. *Issue Nos. (i) & (ii)*—Both the issues are taken up together for the sake of convenience.

In the present case, the workman has taken the stand that due to his accident during the working hour in the factory of the management his left hand was damaged for which as per advise of the doctor, he made several request to the management to give him light job in other department, but the management turned a deaf ear and ultimately did not allow him to work with effect from the 21st October 1994. But at the same time, the workman has not adduced any evidence in support of his case and also not filed a single piece of paper to establish the above facts. On the other hand, the management urged that the workman was in habit of remaining absent unauthorisedly for which several warnings and show cause notice were issued to him. But in spite of warnings and how cause notice, the workman did not turn up for duty. After waiting for a long period, finding no other alternative, the management had decided to strike off his name from the muster roll with effect from the 23rd August 1997 on the ground of voluntary abandonment from service. To substantiate the above plea, the management has proved series of letters issued to the workman which clearly show that after giving sufficient opportunities to the workman to join in his duty, the workman had taken the decision of striking off the name of the workman from the muster roll of the management with effect from the 23rd August 1997 on the ground of voluntary abandonment from service.

7. So on careful consideration of all the materials available in the case record as discussed above, I am of the opinion that the action of the management is not allowing duty to the workman with effect from the 21st October 1994 with a plea of voluntary abandonment of service is legal and justified. The workman is not entitled to get any relief as prayed for. Both the issues are answered accordingly.

8. Hence Ordered :

That the action of the management of M/s Birla Tyres, Balasore is not allowing duty to Shri Naresh Kumar Rout, Tyre Builder with effect from the 21st October 1994 with a plea of voluntary abandonment of service is legal and justified. The workman Shri Rout is not entitled to any relief.

The reference is answered accordingly.

Dictated and corrected by me.

S. A. K.Z. AHAMED
14-1-2013
Presiding Officer
Labour Court, Bhubaneswar

S. A. K.Z. AHAMED
14-1-2013
Presiding Officer
Labour Court, Bhubaneswar

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