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LABOUR & EMPLOYEES STATE INSURANCE DEPARTMENT

NOTIFICATION

The 29th December 2012

No. 10841—IR-(ID)-110/2011-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 25th October 2012 in I. D. Case No. 14 of 2011 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the Management of M/s Bhabani Security Agency, At Bagurai, P.O. Madhab Nagar, Dist. Bhadrak and their workman Shri Gangadhar Sahoo was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE NO. 14 OF 2011

Dated the 25th October 2012

Present :

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

Between :

The Management of .. First Party—Management
M/s Bhabani Security Agency,
At Bagurai, P.O. Madhab Nagar,
Dist. Bhadrak.

And

Their workman, .. Second Party—Workman
Shri Gangadhar Sahoo.

Appearances :

None	.. For the First Party—Management
Shri G. Sahoo	.. 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 Order No. 11338— IR (ID)-110/2011-LE., dated the 15th December 2011.

“Whether the termination of Shri Gangadhar Sahoo, ex-Security Guard from services with effect from the 23rd January 2011 by Shri Akshyay Kumar Das, the Managing Director, M/s Bhabani Security Agencies, At. Bagurai, Post Madhab Nagar, Dist. Bhadrak by way of refusal of employment is legal and/or justified ? If not, what benefit Shri Sahoo is entitled to get ?”

2. The case of the workman, in brief, as set out in his statement of claim is that he initially appointed as Security Guard on 1-2-2008 and was posted at District Headquarter Hospital, Bhadrak. While working as such, the management terminated his service by way of refusal of employment with effect from the 23rd January 2011. According to the workman, the management without following the mandatory provisions of Section 25-F of the Industrial Disputes Act, 1947 has illegally terminated his service. The management has also not initiated any enquiry by following the principles of natural justice. The management has also retained some junior employees while terminating the services of the workman. In these backgrounds, the workman has prayed to answer the reference in favour of the workman directing for reinstatement in service with full back wages and other service benefits.

3. On the other hand, in spite of valid notices, the management neither appeared and filed written statement nor contested the present proceeding and ultimately the management was set *ex parte* vide order, dated the 10th May 2012.

4. In the *ex parte* hearing, in order to substantiate his plea, the workman has examined himself as W.W. 1 and proved the copy of letter, dated the 8th March 2010 of the District Labour Officer, Bhadrak, copy of letter, dated the 12th December 2010 and 8th October 2008 of the management, copy of payment statement and copy of representation, dated the 2nd February 2011 under the cover of Exts. 1 to 5 respectively.

5. In view of the unchallenged testimony of W.W. 1, it is manifest from the documents i.e. Exts. 1 to 5 that the workman was working as Security Guard under the management for a period of 240 days in twelve calendar months preceding to the date of termination and while terminating his service by way of refusal of employment no one month prior notice or notice pay in lieu thereof and retrenchment compensation was paid to him. So the management has violated the mandatory

provisions of Section 25-F of the Industrial Disputes Act, 1947. Therefore, the termination of the workman from service with effect from the 23rd January 2011 by the management by way of refusal of employment is neither legal nor justified. So the workman is entitled to be reinstated in service with full back wages.

6. Hence Ordered :

That the termination of Shri Gangadhar Sahoo, ex-Security Guard from services with effect from the 23rd January 2011 by Shri Akshyay Kumar Das, the Managing Director, M/s Bhabani Security Agency, At Bagurai, P.O. Madhab Nagar, Dist. Bhadrak by way of refusal of employment is illegal and unjustified. The workman Shri Sahoo is entitled to be reinstated in service with full back wages.

The reference is answered accordingly *ex parte*.

Dictated and corrected by me.

S. A. K. Z. AHAMED
25-10-2012
Presiding Officer
Labour Court
Bhubaneswar

S. A. K. Z. AHAMED
25-10-2012
Presiding Officer
Labour Court
Bhubaneswar

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