

The Odisha Gazette

EXTRAORDINARY
PUBLISHED BY AUTHORITY

No. 404 CUTTACK, TUESDAY, MARCH 12, 2013/FALGUNA 21, 1934

LABOUR & E.S.I. DEPARTMENT

NOTIFICATION

The 26th February 2013

No. 1912—li/1(B)-34/2005-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 18th October 2012 in Industrial Dispute Case No. 21 of 2005 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the Management of M/s Swagat Engineering, B-13, Phase-I, Industrial Estate, Jagatpur, Cuttack and its workman Shri Ramakanta Dhir, ex-Welder -Fitter was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 21 OF 2005

Dated the 18th October 2012

Present :

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

Between :

The Management of M/s Swagat Engineering, B-13, Phase-I, Industrial Estate, Jagatpur, Cuttack. . . First Party—Management

And

Its workman Shri Ramakanta Dhir, ex-Welder-Fitter. . . Second Party—Workman

Appearances :

For the First Party—Management . . None

For the Second Party—Workman himself . . R. K. Dhir

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 matter in dispute to this Court for adjudication vide Order No. 5563—II/1(B)-34/2005-LE., dated the 2nd July 2005.

“Whether the termination of services of Shri Ramakanta Dhir, Welder-Fitter by the management of M/s Swagat Engineering, B-13, Pahase-I, New Industrial Estate, Jagatpur, Cuttack with effect from the 7th July 2001 is legal and/or justified ? If not, to what relief Shri Dhir is entitled ?”

2. The case of the workman, in brief, as set out in his statement of claim is that he was working as a Welder -Fitter with effect from 22nd December 1993 on a monthly salary of Rs. 2,300 till 7-7-2001 with best satisfaction of the management without any allegation. When the workman claimed for enhancement of his wages and payment of minimum wages as fixed by the State Government from time to time, he was assured for permanent absorption in service. But all of a sudden without absorbing in permanent cadre, terminated the service of the workman on 7-7-2001 by way of refusal of employment without giving any written order and also without following the principles of natural justice as provided under Section 25-F of the Industrial Disputes Act, 1947. According to the workman, the second party is a workman under Section 2(s) of the Industrial Dispute Act, 1947 and the establishment of the management is an industry as defined in Section 2(j) of the Industrial Disputes Act, 1947. On these back grounds, the workman has prayed for his reinstatement in service with full back wages.

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 25-9-2012.

4. In the *ex parte* hearing, in the order to substantiate his plea, the workman has examined himself as W.W.1 and proved the copy of letter dated 17-8-2001 of the Union, copy of notices of Assistant Labour Officer and District Labour Officer and copy of note sheet of District Labour Officer from 18-8-2001 to 27-7-2005 under the cover of Exts.1 to 3 respectively.

5. In view of the unchallenged testimony of W.W.1, it is clear from the documents that the workman was working as Welder -Fitter under the management and while terminating the services by way of refusal of employment, no one month prior notice or notice pay in lieu thereof and retrenchment compensation was paid to him. Hence the management has clearly violated the mandatory provisions of Section 25-F of the Industrial Disputes Act, 1947. Therefore, the termination of service of the workman by the management with effect from the 7th July 2001 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 service of Shri Ramakanta Dhir, Welder-Fitter by the management of M/s Swagat Engineering, B-13, Phase-I, New Industrial Estate, Jagatpur, Cuttack with effect from 7-7-2001 is illegal and unjustified. The workman Shri Dhir is entitled to be reinstated in service with full back wages. The management is directed to implement this Award within 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
18-10-2012
Presiding Officer
Labour Court, Bhubaneswar

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18-10-2012
Presiding Officer
Labour Court, Bhubaneswar

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