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LABOUR & E. S. I. DEPARTMENT

NOTIFICATION

The 6th March 2013

No. 2301—li/1(BH-I)-5/2007-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 19th January 2013 in I. D. Case No. 36/2007 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the Management of Executive Officer, Baripada Debottar, Baripada and its Workman Shri Harihar Panda was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 36 OF 2007

Dated the 19th January 2013

Present :

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

Between :

The Management of Executive .. First Party—Management
Officer, Baripada Debottar, Baripada.

And

Its workman .. Second Party—Workman
Shri Harihara Panda.

Appearances :

Shri S. R. Kanungo, Advocate .. For First Party—Management
Shri Harihara Panda .. 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 its Order No. 9392—li/1(BH-1)-5/2007-LE., dated the 7th August 2007.

"Whether the termination of services of Shri Harihara Panda, Pujaka-cum-Cook with effect from 1st January 2001 by the Executive Officer, Baripada Debottar, Baripada is legal and justified ? If not, to what relief Shri Panda is entitled ?".

2. The case of the workman in brief, as set out in his statement of claim is that he was working as Pujak-cum-Cook since the death of his father from 21st November 1987. But the management has illegally retired and relieved from service vide its Memo. No. 12960 dated the 29th December 2000. According to the workman, as per Election Identity Card, his date of birth is the 15th April 1955 and as such he is to retire from service after completion of 60 years of age i. e. on the 30th May 2015. On these averments, the workman 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 claim of the workman. According to the management, the temple is not an "industry" as defined in Section 2 (j) of the Industrial Disputes Act, 1947 so also the second-party was not a "workman" as defined in Section 2 (s) of the Industrial Disputes Act, 1947. Above all, the management has categorically denied the averments made in the statement of claim filed by the workman.

4. In view of the above pleadings of both the parties, the following issues have been settled :

ISSUES

(i) "Whether the termination of services of Shri Harihara Panda, Pujak-cum-Cook with effect from 1st January 2001 by the Executive Officer, Baripada Debottar, Baripada is legal and justified ?

(ii) If not, to what relief Shri Panda is entitled ?"

5. During the course of hearing, inspite of valid notices, neither the parties have adduced any evidence nor proved any document in support of their cases.

6. Law is well settled that :

"XXX. In a given case, if the workman remains absent, it becomes the duty of the Tribunal to consider the claim statement filed by the workman as well as the written statement filed by the management and any other records which is available to the Labour Court and it should answer the point of dispute referred to it on merit".

So, in view of the above settled position of law, now this Court has to answer the reference basing on the pleadings of both the parties. Neither the party has filed a single piece of paper to substantiate their claims.

7. The workman in his statement of claim has stated that he was working as Pujak-cum-Cook under the management and he was illegally retired prematurely and relieved with effect from the 29th December 2000. As the date of birth of the workman is the 15th April 1955 and he is to retire after completion of 60 years of age on the 30th April 2015. On the other hand, the management has strongly objected the claim of the workman and stated that the management is not an industry and the second-party was not a workman as defined in Sections 2 (j) and 2 (s) of the Industrial Disputes Act, 1947 respectively. Neither the party has filed a single piece of paper to substantiate their stand. So without any document, the reference cannot be answered in favour of the workman.

The reference is answered accordingly.

Dictated and corrected by me.

S. A. K. Z. AHAMED
19-1-2013
Presiding Officer
Labour Court, Bhubaneswar

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Presiding Officer
Labour Court, Bhubaneswar

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