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LABOUR & E. S. I. DEPARTMENT

NOTIFICATION

The 14th March 2013

No. 2709—li/1(B)-44/2008-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 8th February 2013 in I. D. Case No. 8/2008 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the Management of M/s Kalinga Hardware Store, Jajpur Road and their workman Shri Budhiram Murmu was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 8 OF 2008

Dated the 8th February 2013

Present :

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

Between :

The Management of M/s Kalinga
Hardware Store, Jajpur Road. . . First Party—Management

And

Their workman . . . Second Party—Workman
Shri Budhiram Murmu

Appearances :

Shri Shyamlal Agarwal . . . For the First Party—Management
Shri B. Murmu . . . For the 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. 5972—II/1(B)-44/2008-LE., dated the 26th May 2008 :—

"Whether the action of the employer of M/s Kalinga Hardware Store, Jajpur Road, Jajpur in refusing the employment to Shri Budhiram Murmu (Salesman) with effect from the 7th May 2007 is legal and/or justified ? If not, to what relief Shri Murmu 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 Salesman under the management since 1990 to the 7th May 2007 continuously without any break on a monthly Salary of Rs. 2,500. According to the workman, after working 17 years of continuous service, the management without any rhyme and reason and also without complying the provisions of Section 25-F of the Industrial Disputes Act, 1947 has illegally terminated by way of refusal of employment with effect from the 7th May 2007. On these averments, the workman has prayed for his reinstatement in service with full back wages and other service benefits.

3. On the other hand, the management appeared and filed written statement admitting that the workman was engaged to work as a Salesman under it and he was receiving monthly Salary of Rs. 2,400 till March 2007. According to the management, all of a sudden with effect from the 28th April 2007 the workman remained absent from duty unauthorisedly without any intimation and since thereafter did not turn up to resume his duty under the management and thereby he voluntarily abandoned his employment with effect from the 28th April 2007. 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, following issues are settled :—

ISSUES

- (i) "Whether the action of the employer of M/s Kalinga Hardware Store, Jajpur Road, Jajpur in refusing employment to Shri Budhiram Murmu (Salesman) with effect from the 7th May 2007 is legal and/or justified ?
- (ii) If not, what relief Shri Murmu is entitled to ?"

5. In order to substantiate his plea, the workman has examined himself as W.W. 1 and proved the copy of complaint petition of the workman under the cover of Ext. 1. On the other hand, though the management has appeared and filed written statement but subsequently remained absent and did not take part in the hearing in spite of sufficient opportunities were given to him.

FINDINGS

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

In his affidavit evidence, the workman has stated that he was working as Salesman under the management on a monthly Salary of Rs. 2,500. During tenure of his employment, the workman was neither charge-sheeted nor any enquiry was initiated against him for any misconduct by the management. On the 7th May 2007 when he reported for duty and requested for his unpaid arrear wages and other legal dues, the management verbally terminated his service by way of refusal of employment. Since the management has not been cross-examined the workman and also did not adduce any evidence, the evidence of the workman both oral and documentary remained uncontroverted.

7. It is stated by the workman that no notice was served on him before he was terminated. Also notice and any compensation was not paid to him before refusal of employment by the management. Thus, the management has contravened the provisions of Section 25-F of the Industrial Disputes Act, 1947 which is a mandatory and pre-condition one.

8. So, on careful consideration of all the materials available in the case record as discussed above and in view of the unchallenged testimony of W. W. 1, I came to the finding that the action of the management in refusing employment to the workman with effect from the 7th May 2007 is illegal and unjustified. Hence, the workman is entitled for reinstatement in service with full back wages.

9. Hence Ordered :

That the action of the employer of M/s Kalinga Hardware Store, Jajpur Road, Jajpur in refusing employment to Shri Budhiram Murmu (Salesman) with effect from the 7th May 2007 is neither legal nor justified. The workman Shri Murmu is entitled to be reinstated 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.

Dictated and corrected by me.

S. A. K. Z. AHAMED
8-2-2013
Presiding Officer
Labour Court, Bhubaneswar

S. A. K. Z. AHAMED
8-2-2013
Presiding Officer
Labour Court, Bhubaneswar

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