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LABOUR & E. S. I. DEPARTMENT

NOTIFICATION

The 27th April 2013

No. 4075—li/1(BH)-5/2005 (Pt.)-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 18th September 2012 in I. D. Case No. 61/2005 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the Management of M/s Odean Cinema, Sahadev Khunta, Balasore and its Workman Shri Laxmidhar Bhuyan was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 61 OF 2005

Dated the 18th September 2012

Present :

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

Between :

The Management of M/s Odean .. First Party—Management
Cinema, Sahadev Khunta, Balasore.

And

Its Workman .. Second Party—Workman
Shri Laxmidhar Bhuyan

Appearances :

Shri B. K. Bhuyan .. For First Party—Management
Shri L. Bhuyan .. 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. 9291—li/1(BH)-9/2005-LE., dated the 29th October 2005 :—

"Whether the termination of services of Shri Laxmidhar Bhuyan, workman by the management of M/s Odean Cinema, Sahadev Khunta, Balasore with effect from the 17th September 2003 is legal and/or justified ? If not, what relief is Shri Bhuyan entitled to ?"

2. The case of the workman in brief, as set out in his statement of claim is that he was working under the management since, dated the 6th October 1989 and engaged in different types of work on a monthly salary of Rs. 4,000. During his service period the management withheld his salary for eight months and when the workman requested the management to pay a sum of Rs. 20,000 for his family requirement, the management turned a deaf ear and refused employment with effect from the 17th September 2003 without complying the provisions of Sections 25-F and 25-G of the Industrial Disputes Act, 1947. Therefore 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 admitting the engagement of the workman. But according to the management, the services of the workman was terminated on the ground of misconduct and following the principles of natural justice. The workman all of a sudden remained absent from duty with effect from the 28th November 2002 without any prior permission of the management and also repeated reminders, the workman neither turned up to join his duty nor explain the reasons for his unauthorised absence for such indefinite period for which he was asked to handover the charges of all statutory records, registers, documents etc. but the workman remained absent. So the management issue a show cause notice to the workman as to why disciplinary action should not be taken against him for such unauthorised absence. Even on receipt of the show cause the workman neither submitted any reply nor joined in his duty for which the management framed charges against him and thereafter a domestic enquiry was conducted against him and the Enquiry Officer proceeded the enquiry by following the principles of natural justice. Thereafter the Enquiry Officer submitted his report holding the workman guilty of the charges levelled against him. After receipt of the enquiry report, the management sent a copy of the same to the workman giving an opportunity for personal hearing and to submit his explanation, but the workman did not turn up. So after considering the gravity of misconduct committed by the workman, the management dismissed the workman from service with effect from the 17th September 2003. On these averments, the management has prayed to answer the reference in its favour.

4. In view of the above pleadings of the parties the following issues are settled;

ISSUES

"(i) Whether the termination of services of Shri Laxmidhar Bhuyan, workman by the management of M/s Odean Cinema, Sahadev Khunta, Balasore with effect from the 17th September 2003 is legal and/or justified ?

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

5. In order to substantiate his plea, the workman has examined himself as W. W. 1 and proved a petition along with settlement in Form 'K' under the cover of Ext. 1. On the other hand, the management neither adduce any evidence nor proved any document in support of its case.

6. W. W. 1 (workman) in his evidence has admitted that during pendency of this case, he has received all the benefits under the provisions of the Industrial Disputes Act, 1947. He has also deposed that a joint petition for compromise along with the settlement in Form 'K' under the cover of Ext. 1 has also been filed in this case. W. W. 1 has further deposed that since the matter has already been settled, he has no claim as prayed for.

7. So in view of the above admission of the workman in his evidence, I am of the opinion that the termination of services of the workman by the management with effect from the 17th September 2003 is legal and justified and the workman is not entitled to get any relief as prayed for.

8. Hence Ordered :

That the termination of services of Shri Laxmidhar Bhuyan, workman by the management of M/s Odean Cinema, Sahadev Khunta, Balasore with effect from the 17th September 2003 is legal and justified. The workman Shri Bhuyan is not entitled to get any relief as prayed for.

The reference is answered accordingly.

Dictated and corrected by me.

S. A. K. Z. AHAMED
18-9-2012
Presiding Officer
Labour Court, Bhubaneswar

S. A. K. Z. AHAMED
18-9-2012
Presiding Officer
Labour Court, Bhubaneswar

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