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LABOUR & E.S.I. DEPARTMENT

NOTIFICATION

The 27th April 2013

No. 4085—li/1(B)-24/2005 (Pt)-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 18th December 2012 in Industrial Dispute Case No. 40 of 2005 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the Management of M/s Leo Pharma, B-27, Industrial Estate, Cuttack and its workman Shri Sudhakar Malla was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 40 OF 2005

Dated the 18th December 2012

Present :

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

Between :

The Management of
M/s Leo Pharma, B-27,
Industrial Estate,
Cuttack. . . First Party—Management

And

Its workman
Shri Sudhakar Malla . . Second Party—Workman

Appearances :

For the First Party—Management . . None

For the Second Party—Workman { Shri S. N. Biswal, General Secretary
Shri T. Lenka, Vice-President

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. 7242—li/1(B)-24/2005-LE., dated the 24th August 2005.

“Whether the action of the management of M/s Leo Pharma, B-27, Industrial Estate, Cuttack in terminating the employment of Shri Sudhakar Malla with effect from the 9th May 2003 is legal and/or justified ? If not, to what relief Shri Malla is entitled ?”

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 April 1986. But suddenly on 9-5-2003 the management paid Rs. 5,500 to the workman in a voucher stating therein that the said amount is towards notice pay and for the purpose of retrenchment. According to the workman, at that point of time he was getting Rs. 5,500 per month as his salary. The workman has stated that he was not a junior most employee of the management and many juniors to him are still in employment and are working and also he was not a surplus staff. At the time of termination of service of the workman, the management has not given any retrenchment compensation to him for which the order of termination is illegal and unjustified. Further, prior to termination of the workman from service, no explanation was called for any misconduct and also no enquiry was held against him. So on these averments the workman has prayed for his reinstatement in service with full back wages with service benefits.

3. On the other hand, in spite of valid notices, the opposite party neither appeared and filed written statement nor contested the present proceeding and ultimately set *ex parte* vide Order dated 13-9-2012.

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 his representation dated 19-5-2008, copy of wage register for the month of April 2002 and the copy of debit voucher dated 9-5-2003 under the cover of Exts.1 to 3 respectively.

5. The workman in his affidavit evidence has fully corroborated the facts stated in his statement of claim. So in view of the unchallenged testimony of W.W.1 and also considering the documents, i.e., Exts.1 to 3 and the claim of the workman, it is felt that the workman has a genuine case and he is entitled to the relief claim. Therefore, it is held that the action of the management in terminating the workman from service with effect from the 9th May 2003 is neither legal nor justified. Hence, the workman is entitled for reinstatement in service with full back wages. However, the management is at liberty to deduct the amount already paid on 9-5-2003 to the workman while calculating and paying his arrear back wages.

6. Hence Ordered :

That the action of the management of M/s Leo Pharma, B-27, Industrial Estate, Cuttack in terminating the employment of Shri Sudhakar Malla with effect from the 9th May 2003 is illegal and unjustified. The workman Shri Malla is entitled for reinstatement 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 *ex parte*.

Dictated and corrected by me.

S. A. K.Z. AHAMED
18-12-2012
Presiding Officer
Labour Court, Bhubaneswar

S. A. K.Z. AHAMED
18-12-2012
Presiding Officer
Labour Court, Bhubaneswar

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