

The Odisha Gazette

EXTRAORDINARY
PUBLISHED BY AUTHORITY

No. 977 CUTTACK, TUESDAY, MAY 21, 2013 / BAISAKHA 31, 1935

LABOUR & EMPLOYEES STATE INSURANCE DEPARTMENT

NOTIFICATION

The 7th May 2013

No. 4481—li/1(BH)-24/1994(pt.)-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 12th November, 2012 in Industrial Dispute Case No. 205 of 1995 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the management of Baripada Spinning Mills, Kathapal, Baripada and the General Secretary, Baripada Spinning Mill Mazdoor Union was referred to for adjudication is hereby published as in the Schedule below :—

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 205 OF 1995

Dated the 12th November 2012

Present :

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

Between :

The Management of
Baripada Spinning Mills,
Kathapal, Baripada. First Party—Management

And

The General Secretary,
Baripada Spinning Mill Mazdoor Union. Second Party—Workman

Appearances :

Shri P. Mohanty For the First Party—Management

Shri J. Dalai For the Second Party—Workman

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. 9484—li-1(BH)-24/1994-LE., dated the 27th July 1995 :—

"Whether the action of the management of Baripada Spinning Mills, Kathapal, Baripada in reverting Shri Gobinda Chandra Sahu from regular post to Badli workman with effect from the 20th March 1993 is legal and justified ? If not, what relief he is entitled to ?"

2. The case of the workman, in brief, as set in the statement of claim filed by the General Secretary, Baripada Spinning Mill Mazdoor Union that the workman Shri Gobinda Chandra Sahu was appointed as Reeler/Winder with effect from the 27th September 1984 under the management and was illegally reverted on 20-3-1993 to a Badli workman for which the workman as well as the Union has protested before the management. According to him, the above action of the management is a stigma/punishment and without any proceeding and following the principles of natural justice, the action is illegal and the workman has prayed to set aside the above order of reversion and directed the management for absorption in his regular post with full back wages and consequential benefits.

3. On the other hand, the management appeared and filed written statement admitting that the workman was reverted from the regular post of Reeler/Winder to be a Badli workman with effect from the 20th March 1993. According to the management, the workman remained absent from duty unauthorisedly for a long period in every year for which he was warned by the management. The management has stated that by a letter, dated the 3rd August 1989, the workman was warned that disciplinary action will be taken against him if he commits misconduct of unauthorised absence in future. Further according to the management, despite several warnings the workman did not change his behaviour and continued to remain absent unauthorisedly from 15-3-1993 to 20-3-1993 for which the management was constrained to issue a show cause notice as to why he should not be reverted to the post of Badli workman. On these averments the management has prayed that the present dispute is devoid of any merit and is required to be dismissed.

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

ISSUES

(i) "Whether the action of the management of Baripada Spinning Mills, Kathapal, Baripada in reverting Shri Gobinda Chandra Sahu from regular post to Badli workman with effect from the 20th March 1993 is legal and justified ?

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

5. During the course of trial, both the parties remained absent and did not adduce any evidence in support of their respective cases. However, law is well settled that :—

"If a 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 record which is made 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 decide the reference basing on the pleadings of both the parties.

6. In the statement of claim, the workman has pleaded that he was illegally reverted without any proceeding and also without following the principles of natural justice. On the other hand, the management in its written statement admitted that the workman was reverted the post of a Badli workman for his unauthorised absence from duty frequently. The management though ascertained that several warnings were issued to the workman to change his attitude, but the workman failed to do so. The management in his written statement has clearly stated that in the warning letter, dated the 3rd August 1989 the workman was intimated that disciplinary action shall be taken if he commits misconduct of unauthorised absence in future. So when the management admitted the unauthorised absence is a misconduct, at the same time it is the duty of the management to follow the principles of natural justice. But the management without initiating any disciplinary action such as, domestic enquiry, the management has punished the workman by reverting from the post to a Badli workman which according to law is illegal and improper. So the management has violated the principles of natural justice while reverting the workman to a Badli workman. Therefore, the workman is entitled to get the reliefs claim.

7. Hence ordered :

That the action of the management of Baripada Spinning Mills, Kathapal, Baripada in reverting Shri Gobinda Chandra Sahu from regular post to Badli workman with effect from the 20th March 1993 is neither legal nor justified.

The reference is answered accordingly.

Dictated and corrected by me.

S. A. K. Z. AHAMED
12-11-2012
Presiding Officer
Labour Court, Bhubaneswar

S. A. K. Z. AHAMED
12-11-2012
Presiding Officer
Labour Court, Bhubaneswar

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