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LABOUR & E. S. I. DEPARTMENT

NOTIFICATION

The 4th January 2014

No. 75—IR (ID)-102/2012-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 10th December 2013 in Industrial Dispute Case No. 49 of 2012 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the industrial dispute between the Management of Bhubaneswar Municipal Corporation, Bhubaneswar and their Workman Shri Sanjay Kumar Singh was referred to for adjudication is hereby published as in the schedule below :

SCHEDULE

IN THE INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 49 OF 2012

Dated the 10th December 2013

Present :

Shri P. K. Ray, O.S.J.S. (Sr. Branch),
Presiding Officer, Industrial Tribunal,
Bhubaneswar.

Between :

The Management of
Bhubaneswar Municipal
Corporation,
Bhubaneswar. First Party—Management

And

Its Workman Second Party—Workman
Shri Sanjay Kumar Singh,
C/o Rajendra Prasad Mohanty,
Ward No. 17, Bharatpur,
Near Kalinga Academy,
Bhubaneswar-3.

Appearances :

For the First Party—Management	. . None
For the Second Party—Workman	. . Shri S. K. Singh, Workman himself

A W A R D

This case has been instituted under Section 10(1) (d) of the Industrial Disputes Act, 1947 (for short, the 'Act') on a reference made by the Labour & E.S.I. Department of the Government of Odisha under Section 12(5) of the Act vide its Letter No. 8683—IR(ID)-102/2012-LESI., dated the 10th October 2012 with the following Schedule:—

“Whether the action of the management of M/s Bhubaneswar Municipal Corporation, Bhubaneswar in terminating the services of Shri Sanjay Kumar Singh, JCB Operator with effect from the 1st September 2009 is legal and/or justified ? If not, what relief Shri Singh is entitled to ?”

2. The case of the second party workman is that he was working as JCB Operator under the first party-management with effect from the 26th November 1997 till 31st August 2009 with a remuneration of Rs. 6,500 per month, but the first party- management without assigning any reason stopped his salary with effect from the August, 2007 and struck off his name from the Muster Roll with effect from the 1st September 2009. He has further stated that the workers junior to him are still continuing in their services under the first party -management. Hence, his termination without following the provisions of the Industrial Disputes Act, 1947 is contrary to law. Therefore, he has prayed for his reinstatement with all back wages.

3. Neither the first party-management has filed its written statement nor has contested the case. Hence it has been set *ex parte*.

4. The issues in this case are as follows :

ISSUES

- (i) “If the action of the management of M/s Bhubaneswar Municipal Corporation, Bhubaneswar in terminating the services of Shri Sanjay Kumar Singh, JCB Operator with effect from the 1st September 2009 is legal and/or justified ?
- (ii) to what relief, if any, Shri Singh is entitled to ?”

5. In support of his case the second party -workman besides his evidence filed in the form of an affidavit has filed documents marked Exts.1 to 5.

FINDINGS

6. *Issue Nos. (i)*—Besides evidence in affidavit in support of his claim statement, the documents marked Exts.1 to 5 on behalf of the second party- workman reveal that he has been discharging his duties since 26-11-1997 up to 31-8-2009 and has completed more than 240 days continues service in the preceding calendar year under the first party -management. In the aforesaid circumstances any termination requires compliance of the provisions of Section 25-F of the Industrial Disputes Act. In the absence of any counter there is nothing to presume that there has been compliance of

the afresaid provision by the first party-management. Hence, disengagement of the second party workman from service is bad in law.

7. *Issue Nos. (ii)*—In view of the finding on Issue No. (i) the second party -workman is entitled to engagement under the first party management forthwith and to get all his wages.

The reference is answered accordingly.

Dictated and corrected by me

P. K. RAY
10-12-2013
Presiding Officer
Industrial Tribunal
Bhubaneswar

P. K. RAY
10-12-2013
Presiding Officer
Industrial Tribunal
Bhubaneswar

By order of the Governor
N. BEHERA
Under-Secretary to Government