

The Odisha Gazette

EXTRAORDINARY
PUBLISHED BY AUTHORITY

No. 1179 CUTTACK, TUESDAY, JULY 22, 2014 / ASADHA 31, 1936

LABOUR & EMPLOYEES STATE INSURANCE DEPARTMENT

NOTIFICATION

The 14th July 2014

No. 5560—IR (ID)-171/2012-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 11th June 2014 in I. D. Case No. 29 of 2013 of the Presiding Officer, Labour Court, Sambalpur to whom the industrial dispute between the Management of M/s Bimaldeep Minerals Pvt. Ltd., At/P.O. Bileipada, Dist. Keonjhar and its workman Shri Rabikanta Palei was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE COURT OF THE PRESIDING OFFICER
LABOUR COURT, SAMBALPUR
INDUSTRIAL DISPUTE CASE NO. 29 OF 2013

Dated the 11th June 2014

Present :

Shri Srikanta Mishra, LL.M.
Presiding Officer, Labour Court,
Sambalpur.

Between :

The Management of .. First Party—Management
M/s Bimaldeep Minerals Pvt. Ltd.,
At/P.O. Bileipada, Dist. Keonjhar.

And

Their workman .. Second Party—Workman
Shri Rabikanta Palei,
S/o Nilu Palei, At/P.O. Balibandha,
Via. Jhumpura, Dist. Keonjhar.

Appearances :

Shri Surendra Jha, Director .. For the First Party—Management

Self .. For the Second Party—Workman

AWARD

This award arises out of a reference made by the Government of Odisha, Labour & ESI Department under the power conferred by sub-section (5) of Section 12 read with Clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) (for short the "Act") vide order under Memo. No. 4264 (5), Dated the 2nd May 2013. The disputes involved under the Schedule of reference is as follows :—

“Whether the termination of services of Shri Rabikanta Palei, with effect from the 7th July 2011 by the management of M/s Bimaldeep Minerals Pvt. Ltd., At/P.O. Bileipada, Dist. Keonjhar by way of refusal of employment is legal and/or justified ? If not, what relief Shri Palei is entitled to ?”

2. The case of the second party workman as per his statement of claim is that he was appointed as Crusher Operator by the first party management in its Crusher Unit at Bileipada and continued as such till 7th July 2011 when all of a sudden, the management stopped him from duty. From that date he has not been gainfully employed anywhere-else. He approached the Assistant Labour Officer, Champua to intervene in the matter. The said officer admitted the dispute into conciliation but due to non-co-operation of the management, the matter could not be settled. On the basis of the failure report submitted by the Conciliation Officer-*cum*-A.L.O., Champua, the matter was referred to this Court for adjudication.

3. The management submitted the written statement wherein it denied the allegation of the second party. In the written statement, the first party admitted that the second party was employed as workman in the year 1999 but he was mostly remaining absent from duty for which the company suffered loss of production. According to the management, the workman without intimation remained absent and kept the tools & tackles with him and has raised the dispute to make illegal financial gain. The management alleges that it has lost faith and confidence on the second party due to his lack of integrity, honesty and trustworthiness and his continuance in service is detrimental to the peace, tranquility and working atmosphere of the industry. The management prayed to answer the reference in its favour considering the past service particulars of the workman.

4. The workman submitted a rejoinder in which he denied the allegation of keeping the tools with him as alleged by the management.

5. On the basis of the pleadings of the parties, the following issues have been settled :—

ISSUES

- (i) “Whether the termination of services of Shri Rabikanta Palei, with effect from the 7th July 2011 by the management of M/s Bimaldeep Minerals Pvt. Ltd., At/P.O. Bileipada, Dist. Keonjhar by way of refusal of employment is legal/or justified ?
- (ii) If not, what relief Shri Palei is entitled to ?”

6. The workman remained absent on several dates when the case was posted for hearing. The issues settled in this case can only be answered on the basis of evidence adduced by both the parties. But the workman did not adduce any evidence in support of his claim. In absence of evidence by the workman, the reference can not be answered in his favour. From the conduct of non-appearance of the second party workman, I feel he is not interested in the hearing of the case and is not prepared to prove the facts mentioned in his pleadings. In such circumstances, the reference needs be answered against the workman. Hence the award.

AWARD

The reference is answered on contest without cost. The second party workman has failed to prove that he was illegally terminated from service by the management with effect from the 7th July 2011. The termination of service of Shri Rabikanta Palei (workman) with effect from the 7th July 2011 by the management of M/s Bimaldeep Minerals Pvt. Ltd., At/P.O. Bileipada, Dist. Keonjhar by way of refusal of employment is neither illegal nor unjustified. The workman Shri Palei is not entitled to any relief in this case.

Dictated and corrected by me

SRIKANTA MISHRA
11-6-2014
Presiding Officer
Labour Court
Sambalpur.

SRIKANTA MISHRA
11-6-2014
Presiding Officer
Labour Court
Sambalpur.

By order of the Governor
M. NAYAK
Under-Secretary to Government