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LABOUR & EMPLOYEES STATE INSURANCE DEPARTMENT

NOTIFICATION

The 28th October 2014

No. 8528—li/1(BH-I)-21/2003-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 25th August 2014 in Industrial Dispute Case No. 55 of 2004 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the Management of M/s Modern Rexin India Pvt. Ltd., Balgopalpur, Balasore and its workman Shri Bhagabat Kamila was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE COURT OF THE PRESIDING OFFICER, LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 55 OF 2004

Dated the 25th August 2014

Present :

Shri S. K. Sahoo, LL.B.,
Presiding Officer,
Labour Court,
Bhubaneswar.

Between :

The Management of . . . First Party—Management
M/s Modern Rexin India Pvt. Ltd.,
Balgopalpur, Balasore.

And

Its workman . . . Second Party—Workman
Shri Bhagabat Kamila
C/o Shri Hari Kamila,
At Nalapatna, P.O. Remuna,
Dist. Balasore.

Appearances :

None	. . For the First Party—Management
Shri Bhagabat Kamila	. . For the Second Party—Workman himself.

AWARD

This is a case instituted on the reference made by the Government of Odisha vide its Order No. 6209—li/l(BH)-1-21/2003-LE., dated the 17th July 2004 in exercise of the powers conferred under 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) and the reference is as follows :—

"Whether the termination of service of Shri Bhagabat Kamila with effect from the 16th September 2002 by the management of M/s Modern Rexin India Pvt. Ltd., Balgopalpur, Balasore is legal and/or justified ? If not, what relief is Shri Kamila entitled to ?"

2. The case of the second party workman is that he was appointed as an unskilled worker by the 1st party management in pursuance of the letter of appointment issued by the 1st party on the 24th August 1988. On the 16th September 2002 without any valid reason he was refused to continue in his employment. The 1st party management had appointed an Enquiry Officer who conducted the enquiry *ex parte*. During such enquiry the second party workman was not supplied with the required documents and sufficient opportunity was not given to him to defend himself. The second party was terminated from his service illegally. The approach of the second party workman to the 1st party management was in vain. The Conciliation Officer has forwarded the dispute raised by the workman to this Court for adjudication in the form of the present reference made by the Government of Odisha.

3. The 1st party management has filed its written statement but did not chose to contest the case as a result it was set *ex parte*.

4. The second party workman is examined as W.W. 1 and Exts. 1, 2 and 3 are marked on his behalf. Ext. 1 is the appointment letter, Ext. 2 is the E.P.F. slip and Ext. 3 is the wage slip. In his evidence the second party workman deposed that he was appointed by the 1st party management after a regular interview and he joined on the 25th August 1987 as an unskilled worker on a monthly wage of Rs. 350. He further deposed that on the 16th September 2002 he was illegally terminated from his service by the 1st party management basing on a domestic enquiry. It is also clear from his evidence that he was not supplied with some relevant documents and order was passed by the Enquiry Officer *ex parte*. Ext. 1 is the appointment letter, dated the 24th August 1988. On perusal of the Ext. 1 it is clear that the second party workman was appointed as an unskilled labourer under the 1st party management on the 24th August 1988. Ext. 2 the E.P.F. Slip shows that the second party workman was an employee under the 1st party in the year 2000. Ext. 3 shows that the second party has received a sum of Rs. 1,616.45 paise in toto as salary from the first party management in the month of September 2001. From the evidence on record it is clear that on the 20th August 1988 the second party workman was appointed as an unskilled worker by the 1st party management and continued as such till the 16th September 2002, when he was illegally terminated. In his affidavit evidence W.W. 1 has also clearly deposed that he was not provided with relevant documents and an *ex parte* order was passed by the Enquiry Officer. In spite of notice the 1st party management did not choose to contest the case although it has filed the written statement. The evidence of W.W. 1 is on oath and goes unchallenged. There is nothing to disbelieve his evidence. Hence, after analysing the evidence on record it is clear that the second party workman was illegally terminated

from his service by the 1st party management on the 16th September 2002. So, he is entitled for reinstatement along with compensation.

5. In view of my above finding, the first party management is directed to reinstate the second party workman in service forthwith and to pay him a sum of Rs. 1,00,000 (Rupees one lakh only) as compensation in lieu of back wages. The Award be implemented within a period of one month from the date of publication of the same in the Official Gazette failing which the second party workman is entitled to an interest at the rate of 10% per annum on the compensation.

The reference is answered accordingly.

Dictated and corrected by me.

S. K. SAHOO
25-08-2014
Presiding Officer
Labour Court, Bhubaneswar

S. K. SAHOO
25-08-2014
Presiding Officer
Labour Court, Bhubaneswar

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