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LABOUR & EMPLOYEES STATE INSURANCE DEPARTMENT

NOTIFICATION

The 27th January 2014

No. 643—IR(ID)-100/2012-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 24th December 2013 in Industrial Dispute Case No. 10 of 2013 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the industrial dispute between the Management of M/s Jindal Stainless Ltd. and their Contractor M/s O. & M. Solution Pvt. Ltd. and their Workmen represented through the President, Jindal Stainless Contract Labour Union was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE NO. 10 OF 2013

Dated the 24th December 2013

Present :

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

Between :

The Management of
The Executive Director,
M/s Jindal Stainless Ltd.,
Kalinga Nagar Industrial Complex,
Dist. Jajpur-755 026.

.. First Party—Management No. 1

The General Manager, . . . First Party—Management No. 2
 M/s O. & M. Solution Pvt. Ltd.,
 C/o M/s JSDL, KNIC,
 Dist. Jajpur, Odisha.

And

Their Workmen . . . Second Party—Workmen
 represented through
 the President,
 Jindal Stainless Contract Labour
 Union, At Sapagadia,
 P.O. Ferro Chrome Project,
 Dist. Jajpur-755 019..

Appearances :

None . . . For the First Party—Management No. 1
 Shri S. K. Dash, Authorised . . . For the First Party—Management No. 2
 Representative.

 Shri B. Mohanty, Authorised Representative . . . For the Second Party—Workmen

AWARD

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. 703—IR (ID)-100/2012-LESI,, dated the 28th January 2013 with the following schedule :—

"Whether the termination of services of Shri Balaram Pal and Sk. Abdul Kadir, Contract Labourers by the management of M/s O. & M. Solutions Pvt. Ltd. and the management of M/s Jindal Stainless Ltd. by way of seizure of their gate passes is legal and/or justified ? If not, what relief these workmen are entitled to ?"

2. The case of the second party workmen is that they were working as Riggers under different contractors of M/s Jindal Stainless Ltd. since 2005 and lastly employed by M/s O. & M. Solutions (P) Ltd., a contractor of M/s Jindal Stainless Ltd. with effect from the 7th April 2009. Suddenly on Dt. 16-03-2012, their gate passes were seized by the management of M/s Jindal Stainless Ltd. and they were not allowed to enter into the factory premises, thereby they were refused employment with effect from the 16th March 2012 without any prior notice or intimation. Since the aforesaid act of the first party management was in contravention of the provisions of Section 25-F of the Industrial Disputes Act, 1947, they raised the present dispute which ultimately the State Government referred the same for adjudication by this Tribunal.

3. The first party management No. 2 in its written statement admitting about the engagement of both the workmen in M/s Jindal Stainless Ltd. stated that both of them were performing their duties till the 16th March 2012 but with effect from the 17th March 2012 they remained absent without any intimation or leave applications. It has come to know about the allegation of seizure of gate passes only after it received letter from the Assistant Labour Commissioner, Jajpur Road vide its Letter No. 1512(2)-ALC., dated the 19th March 2013. Further, it is stated that neither any action was taken against the second party workmen nor their services were terminated. But in the meantime, the contract period has already been over with the contractor and it has got no responsibility for their re-employment. However, it has asserted to settle the financial issue, if any, of the second party workmen.

4. The issues framed in this case are as follows :—

ISSUES

- (i) "Whether the termination of services of Shri Balaram Pal and Sk. Abdul Kadir, Contract Labourers by the management of M/s O. & M. Solutions Pvt. Ltd. and the management of M/s Jindal Stainless Ltd. by way of seizure of their gate passes is legal and/or justified ?
- (ii) If not, what relief these workmen are entitled to ?"

5. In support of their case while the second party workmen examined themselves as W.W. No. 1 and W.W. No. 2 and filed documents marked Exts. 1 to 210, none of the first party members turned up to adduce any evidence or contest the case. Hence, they have been set *ex parte*.

FINDINGS

6. *Issue Nos. (i) and (ii)*—The second party workmen in order to substantiate their claim have filed affidavits which remained unchallenged in the absence of any contest by the first party members. Therefore, their statements to the effect that the seizure of their gate passes amounts to termination remain undisputed. In this case, there is no dispute that the second party workmen were engaged under the first party management No. 1 through different contractors since 2005 and lastly through first party management No. 2 since 2007. In view of the undisputed position, the presumption would be that they have worked continuously for more than 240 days in the preceding calendar years and any refusal/termination of their employment requires compliance of the provisions of Section 25-F of the Industrial Disputes Act, 1947. Section 25-F of the Industrial Disputes Act, 1947 envisages one month's prior notice or notice pay in lieu of the same and payment of compensation. The first party management No. 2 in its written statement clearly expressed that the contract between the first party management No. 1 with first party management No. 2 having been over it is prepared to settle the financial issues, if any, with the second party workmen. In this

case neither the second party workmen nor the first party management nor the conciliation failure report disclose about the monthly remuneration of the second party workmen. In the aforesaid circumstances, considering the minimum wages of a labourer, the first party management No. 1 is directed to pay a compensation of Rs. 30,000 (Rupees thirty thousand) only to each of the second party workmen within a period of two months of the date of publication of the Award in the Official Gazette.

The reference is answered accordingly.

Dictated and corrected by me.

P. K. RAY
24-12-2013
Presiding Officer
Industrial Tribunal
Bhubaneswar

P. K. RAY
24-12-2013
Presiding Officer
Industrial Tribunal
Bhubaneswar

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