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LABOUR & EMPLOYEES STATE INSURANCE DEPARTMENT

NOTIFICATION

The 31st January 2014

No. 775—IR-(ID)-41/2011-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 23rd December 2013 in I. D. Case No. 11 of 2012 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the industrial dispute between the Management of Principal, Vyas Nagar College, Jajpur Road, Dist. Jajpur and their workman Kumari Sanjukta Sahoo was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE NO. 11 OF 2012

Dated the 23rd December 2013

Present :

Shri P. K. Ray, o.s.j.s. (Sr. Branch),
Presiding Officer, Industrial Tribunal,
Bhubaneswar.

Between :

The Management of .. First Party—Management
The Principal, Vyas Nagar College,
Jajpur Road, Dist. Jajpur.

And

Its workman, .. Second Party—Workman
Kumari Sanjukta Sahoo,
At Mathasahi, P.O. Bandhadiha,
Via Brahmabarada, Dist. Jajpur.

Appearances :

Shri Kamadev Tripathy, Advocate .. For the First Party—Management

Shri S. K. Das, Advocate .. For the Second Party—Workman

AWARD

This case has been instituted under Section 10 (l) (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. 1620—IR (ID)-41/2011-LESI., dated the 29th February 2012 with the following Schedule :—

“Whether the termination of services of Kumari Sanjukra Sahoo, Matron by the Management of Vyas Nagar College, Jajpur Road, Jajpur with effect from the 11th July 2008 is legal and/or justified ? If not, what relief Kumari Sanjukta Sahoo is entitled to ?”

2. The case of the second party workman is that the first party management is a College in Jajpur District since long. The College has got three Hostels for accommodations of the outside students, two for gents and one for ladies which are supervised by the Superintendent and Deputy Superintendent. Matron, Cook and other staffs are under the administrative control of the first party management. Thus, it is an “industry”. The second party workman who is a physically disabled and a poor woman was initially engaged by the first party management as a Matron on 16-12-2002 and attached to the office of the Superintendent, Women’s Hostel functioning under the first party management starting with a salary of Rs. 700 per month which was enhanced in phases to Rs. 1000 per month.

It is stated that the main work of the workman is clerical in nature and she usually helps in cooking food for the students, attends telephone calls, maintains the in and out register for the students and visitors. She has been discharging her duties continuously without any interruption from her initial date of joining till termination. Since she demanded for enhancement of her salary and raised objection to the discrimination, the management terminated her service by way of refusal of employment on 11-12-2008 without any reason and in violation of the provisions of the Industrial Disputes Act, 1947. Hence, on her complaint ultimately the State Government has made the present reference for adjudication.

3. The first party management in its written statement refuting the allegations made by the second party workman has stated that she was appointed as a casual workman and not Matron. During her tenure of engagement on different allegations of the staff and boarders of the Women’s Hotel on different dates when the Superintendent of the Women’s Hostel of the first party management issued letter to her she remained absent unauthorizedly and did not receive the same. Ultimately since on a notice to show cause issued to her fixing 5-8-2008 for her reply when she did not appear, the Superintendent of the Hostel terminated her engagement. After receipt of the termination letter the second party submitted an application before the Assistant Labour Officer, Jajpur before whom the Superintendent of the Women’s Hostel produced all the records but without considering the same the A.L.O. concluded the conciliation and submitted his failure report to the Government. In the aforesaid circumstances, the first party management has prayed to reject her claim.

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

ISSUES

- (i) Whether the termination of services of Kumari Sanjukta Sahoo, Matron, by the management of Vyas Nagar College, Jajpur Road, Jajpur with effect from the 11th July 2008 is legal and/or justified ?
- (ii) If not, what relief Kumari Sanjukta Sahoo is entitled to ?

5. In support of her case while the second party workman examined herself as W.W. No. 1 and filed documents marked Exts. 1 to 5 the first party management examined three witnesses and filed documents marked Exts. A to F.

FINDINGS

6. *Issue Nos. (i) & (ii)*—On behalf of the second party workman it has been pleaded that the first party is an “industry” and the second party is a “workman” under the Industrial Disputes Act, 1947. The word “industry” has been defined in Section 2 (j) of the Industrial Disputes Act, 1947. In Bangalore Water Supply and Sewerage Board *Vrs.* A. Rajappa, reported in 1978 (1) LLJ 349, the Hon’ble Supreme Court illustrated three tests to satisfy the definition of “industry” namely, (i) systematic activity, (ii), organized by co-operation between employer and employee and/or (iii) for the production and distribution of goods and services calculated to satisfy human wants and wishes (not spiritual and religious but inclusive of material things or services geared to celestial bliss, i.e., Making, on a large scale, Prasad of food).

On perusal of the records it is found that the College Hostel is being managed out of the dues paid by the boarders by the Superintendent and Deputy Superintendent of the Hostel. There is no staffing pattern for the Hostel. The engagement of workers and their continuance for management of the Hostel depends upon the option of the students for Hostel accommodation and the strength of boarders. Since the Rules and Regulations of the College do not prescribe any staff strength for the Hostel, it is not a systematic activity, rather a casual one, which the second party at the time of her engagement is supposed to know the same from the very nature of its activities. Therefore, it may not be proper to hold that the Hostel of an Educational Institution is an “industry”.

7. Even if it is considered as an “industry”, the claim of the second party that she was engaged as a Matron and her service has been terminated illegally has been refuted by the first party. Her service was terminated due to non-compliance of the show cause notice issued to her vide Exts. D series followed by her long absence from duty. On scrutiny of the Rules and Regulations, it is found that there is no such staffing pattern as Matron though she was engaged as per the requirements of the boarders. There are series of evidence on record relating to her unsatisfactory performance including the complaints of the boarders of the Ladies Hostel affecting the discipline and their safety and security for which she was asked to explain the same. The aforesaid material are sufficient to disengage the second party, specifically in respect of Women’s Hostel where safety, security and discipline are the principal factors. Therefore, it would not be proper on the part of this Tribunal to interfere on such decision taken by the Committee when her performance is unsatisfactory.

8. In view of the aforesaid discussions I am not inclined to entertain the claim of the second party in respect of the reliefs sought for by her. Accordingly, the claim is rejected.

The reference is answered accordingly.

Dictated and corrected by me.

P. K. RAY
23-12-2013
Presiding Officer
Industrial Tribunal
Bhubaneswar

P. K. RAY
23-12-2013
Presiding Officer
Industrial Tribunal
Bhubaneswar

By order of the Governor

N. BEHERA
Under-Secretary to Government