

The Odisha Gazette

**EXTRAORDINARY
PUBLISHED BY AUTHORITY**

No. 367 CUTTACK, WEDNESDAY, FEBRUARY 19, 2014 / MAGHA 30, 1935

LABOUR & EMPLOYEES STATE INSURANCE DEPARTMENT

NOTIFICATION

The 10th February 2014

No. 1136—IR(ID)-2/2014-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 18th December 2013 in Industrial Dispute Case No. 60 of 2011 of the Presiding Officer, Industrial Tribunal, Bhubaneswar wherein the industrial dispute between the Management of Director, the Management of Text Book Production & Marketing (T.B.P.M.), Bhubaneswar and its workmen represented through the President, Text Book Press Mazdoor Sangha, Bhubaneswar was filed by the above-mentioned President under Section 2-A(2) of the I. D. Act, 1947 for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 60 OF 2011

Under Section 2-A(2) of the I. D. Act, 1947

Dated the 18th 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 Director,
The Management of Text Book
Production & Marketing (T.B.P.M.),
Satyanagar, Bhubaneswar.

And

Its Workmen . . . Second Party—Workmen
 represented through the President,
 Text Book Press Mazdoor Sangha,
 Plot No. 32, Ashok Nagar,
 Bhubaneswar.

Appearances :

Shri C. Rout, Personnel Officer . . . For the First Party—Management
 Shri N. K. Mohanty, Auth. Representative . . . For the Second Party—Workmen

AWARD

1. This application under Section 2-A(2) of the Industrial Disputes Act, 1947 has been filed challenging the disengagement of the second party workmen with a prayer to reinstate them in service with full back wages.

2. The case of the second party Union is that after submission of the charter of demands for regularisation of services of the second party members apprehending termination of service of 28 workmen it had filed a complaint before the District Labour Officer, Bhubaneswar on dated the 5th April 2011 with copy to the first party management. On receipt of the said copy the first party management without considering the request made by the second party workmen in violation of the provisions of the Industrial Disputes Act terminated the services of 16 workmen without notice on the 6th June 2011. Since the second party workmen raised a complaint before the Conciliation Officer on the aforesaid action of the first party management again it has refused employment to 11 Nos. of workmen with effect from the 12th July 2011 during the pendency of the conciliation proceeding. Though the second party Union requested the first party management for their reinstatement with copy to the labour machinery the first party management did not respond to the same.

It is stated that the 28 Nos. of workmen have been working under the first party management for the last fifteen to twenty years. They have no source of income to maintain their family. Though about 233 posts are lying vacant for last several years, the first party management did not fill up the said posts intentionally to harass the present workmen. Hence, they have filed this case.

3. The first party management in its written statement challenging the maintainability of the case has stated that in order to dispose accumulated work like loading, unloading, stacking, folding of printed papers, store materials and N. T. Books as per the authorisation of the State Government vide G.O. No. 12609, dated the 14th May 1966, the Director, Text Book Production & Marketing, Bhubaneswar engaged some outside labourers called as "seasonal voucher paid workers" on daily wage basis from time to time when required. No work order is issued to the workers. The engagement of the workers is subject to availability of work and those workers are disengaged after completion of the work. The first party management admitting the pendency of the charter of

demands since the 3rd August 2009 has stated that the present workmen are engaged as seasonal voucher paid workers on daily wage basis to clear up some accumulated works during the season period. They are engaged in loading, unloading of text books during the season period for which neither any order of engagement nor any order of termination have been issued to them. The conciliation proceeding pending before the Assistant Labour Officer, Bhubaneswar is no way related with the case of the present workmen as their work is seasonal in nature. Therefore, the aforesaid action of the first party management neither is a violation of Section 33 of the Industrial Disputes Act nor they are entitled to any relief sought for in the present proceeding.

4. In the aforesaid premises, the issue framed is as follows :

ISSUES

- (i) "Whether the action of the management in terminating the services of 28 Nos. of workmen on the 6th June 2011 and on the 12th July 2011 is legal and/or justified ? If not, to what relief the 28 workmen are entitled ?"

5. In order to substantiate their respective case while the second party workmen adduced evidence of W.W. No. 1 and filed documents marked Exts. 1 to 11/h, the first party management examined one witness and filed documents marked Exts. A to D.

FINDINGS

6. *Issue No. (i)*—The claim of the second party Union is that the 27 workmen in respect of whom this case has been filed have been illegally terminated in two phases, i.e., 16 workmen on the 6th June 2011 and 11 on the 12th July 2011 in contravention of the provisions of the Industrial Disputes Act, 1947. The stand of the first party management is that the said 27 workmen are seasonal workers, neither they are appointed at any point of time nor their services have been terminated. They are engaged as per seasonal requirement. Even they have been engaged after filing of this case as and when required. On scrutiny of the evidence on record it is found that W.W. No. 1 in his affidavit in evidence in Para. 26 stated of their own about their engagement even in the year 2013. Besides the M.W. No. 1 consistently speaking about seasonal engagement of the second party workmen specifically denied about any termination and clarifies that their engagement being seasonal in nature from inception, their non-engagement for the rest of the period of a year cannot be treated as termination nor their is any violation of the provisions of law nor they are entitled to any relief on that account.

The second party workmen have not produced any document in support of their regular appointment. Rather their evidence on record supports the case of the first party management that they are seasonal workers and they have not been disengaged nor performed their work continuously for 240 days in any of the preceding calendar year except in respect of Ranjan Kumar Rath in the year 2000 and 2006, Jagannath Muduli in the year 2000, Sukanta Kumar Swain, Nisakar Das and Tulu Behera in the year 2006. Therefore, their nature of engagement being seasonal one, the allegation of termination of their services in two phases on the 6th June 2011 and the 12th July 2011 is not correct.

7. In view of the finding that there has been no termination of service of the second party workmen, they are not entitled to any relief in the present proceeding.

The case is disposed of accordingly.

Dictated and corrected by me.

P. K. RAY
18-12-2013
Presiding Officer
Industrial Tribunal
Bhubaneswar

P. K. RAY
18-12-2013
Presiding Officer
Industrial Tribunal
Bhubaneswar

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