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LABOUR & E. S. I. DEPARTMENT

NOTIFICATION

The 13th March 2014

No. 2389—IR-(ID)-89/2012-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 31st January 2014 in Industrial Dispute Case No. 11 of 2013 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the industrial dispute between the Management of Cuttack Municipal Corporation, Cuttack and their workman Shri Dillip Kumar Parija 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 2013

Dated the 31st January 2014

Present :

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

Between :

The Management of
Cuttack Municipal Corporation,
Cuttack.

.. First Party—Management

And

Their workman
Shri Dillip Kumar Parija,
S/o Bishnu Charan Parija,
At Garada Bazar,
P.O. Chandini Chowk,
P.S. Lalbag, Dist. Cuttack.

.. Second Party—Workman

Appearances :

Shri B. K. Dash, Auth. Rept.

.. For the First Party—Management

Shri D. K. Parija

.. For the Second Party—Workman himself

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. 740—IR(ID)-89/2012-LE., dated the 28th January 2013 with the following schedule :—

“Whether the dismissal of services of Shri Dillip Kumar Parija, N.M.R. workman with effect from the 23rd March 2010 by the Municipal Commissioner, Cuttack Municipal Corporation, Cuttack is legal and/or justified ? If not, what relief Shri Parija is entitled to ?”

2. The case of the second party workman is that he was working as an N.M.R. continuously for a period of eighteen years to the utmost satisfaction of his authorities. Being satisfied with his performance Shri S. K. Lohani, IAS, the then Commissioner, Cuttack Municipal Corporation promoted him as Dealing Assistant of the Grievance Section. While working as such on Dt. 19-6-2010 he arrived at office at 10.A.M. By that time the Grievance Cell was closed. The workman asked Alekh Parida, Peon to obtain the key and to open the same. Since there was substantial delay in opening the grievance cell, he made a representation to the Commissioner. The Commissioner, thereafter instructed the officer concerned to open the cell and asked the second party workman to go to the grievance cell. Then the Grievance Cell Officer along with his Peon alleged the Commissioner against the workman on which the Commissioner sent for him. As there was little delay on the way he found the Commissioner at his sight and the Commissioner screamed in a loud voice. Thereafter the Commissioner on the instigation of the Grievance Cell Officer lodged an FIR and dismissed him without conducting any enquiry. Hence, on the basis of the complaint lodged before the Labour Machinery this reference has been made to this Tribunal for adjudication of the dispute.

3. The first party management in its written statement refuting the claim of the second party workman about his satisfactory performance and promotion has stated that the workman while working in the Citizen Working Centre in the office of the first party management did not attend office in time nor discharged his duties properly. He misbehaved the Commissioner and physically attempted to assault him. When the Mayor, Cuttack Municipal Corporation intervened the workman also abused him in unparliamentary language for which on the basis of the FIR lodged by the Commissioner, Purighat P.S. Case No. 27 of 2010 corresponding to GR Case No. 336 of 2010 in the Court of the S.D.J.M., Cuttack (S) was registered against him for which he was arrested by the Police and subsequently released by the learned S.D.J.M., Cuttack. On the basis of the show cause notice issued to the second party workman, the workman submitted his explanation on Dt. 22-3-2010 begging unconditional apology. After receipt of the show cause an enquiry was conducted against him and basing on the enquiry report his service has been dispensed with effect from the 24th March 2010. Challenging the said dismissal the second party workman approached the Hon'ble High Court in W.P. (C) No. 11638 of 2010 which was dismissed. Hence, the case of the second party workman is not maintainable and is liable to be rejected.

4. The second party workman filed a rejoinder reiterating his stand taken in the claim statement.
5. In the aforesid premises, the issues framed in this case are as follows :—

ISSUES

- (i) “Whether the dismissal of service of Shri Dillip Kumar Parija, N.M.R. workman with effect from 23rd March 2010 by the Municipal Commissioner, Cuttack is legal and/or justified ?
- (ii) If not, what relief Shri Parija is entitled to ?”

6. In support of their respective case, the second party working besides examining himself has filed documents marked Exts.1 to 8 but the first party management has not adduced any evidence.

FINDINGS

7. *Issue Nos. (i) & (ii)*—In this case the second party workman has challenged his dismissal from service. He has admitted in course of his cross examination by the first party management that he approached the Hon’ble High Cort in W.P. (C) No. 11638 of 2010 which was ultimately disposed of on Dt. 7-8-2012. The claim of the second party workman is that he has approached the Hon’ble High Court of Orissa for review of the aforesaid order. Irrespective of such position once there is an order of the Hon’ble High Court declining to intervene in the order of dismissal of the second party workman this Tribunal does not have any jurisdiction to entertain the present claim of the second party workman on the basis of any reference made by the State Government.

8. Accordingly, this case is disposed of being not maintainable.

The reference is answered accordingly.

Dictated and corrected by me.

P. K. RAY
31-1-2014
Presiding Officer
Industrial Tribunal
Bhubaneswar

P. K. RAY
31-1-2014
Presiding Officer
Industrial Tribunal
Bhubaneswar

By order of the Governor
R. K. NANDA
Under-Secretary to Government