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LABOUR & E. S. I. DEPARTMENT

NOTIFICATION

The 9th April 2014

No. 3250—IR-(ID)-13/2014-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 12th March 2014 in Industrial Dispute Case No. 21 of 2013 of the Presiding Officer, Industrial Tribunal, Bhubaneswar wherein the industrial dispute between the Management of M/s COS Board Industries Ltd., New Industrial Estate, Jagatpur, Cuttack -21 and its Workmen Shri Sarat Kumar Sahoo and 37 others represented through COS Board Industries Shramik Union was filed by the above Union under Section 2-A(2) of I.D. Act, 1947 for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE NO. 21 OF 2013

Dated the 12th March 2014

Present :

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

Between :

The Management of COS Board Industries Ltd.,
New Industrial Estate,
Jagatpur, Cuttack-21. First Party—Management

And

Its Workmen Shri Sarat Kumar Sahoo & 37 others represented through COS Board Industries Shramik Union, Jagatpur, Cuttack. Second Party—Workmen

Appearances :

None	. . For the First Party—Management
Shri T. Lenka, Auth. Rept.	. . For the Second Party—Workmen

A W A R D

This application under Section 2-A(2) of the Industrial Disputes Act, 1947 has been filed for reinstatement of the second party workmen with full back wages, consequential service benefits and cost of the proceeding.

2. The case of the second party workmen is that they were given employment under the first party management since 1996 onwards and there are more than 500 workers working under the first party management. But the first party management did not cover all the workmen under the ESI and EPF Scheme nor provide them any leave salary, national and festival holidays, uniform, overtime dues etc. When the second party workmen requested for the aforesaid benefits out of grudge the first party management refused employment with effect from the 3rd July 2012 for which they raised a dispute before the first party management with a notice to the labour authorities. On the notice issued by the District Labour Officer, Cuttack the first party management entered into a bipartite discussion with the second party workmen and the Union representatives and came to a settlement on 28-7-2012. As per the said bipartite settlement the second party workmen were reinstated in service with effect from the 1st August 2012 and performed their duties till 14-11-2012 but during the said period the first party management did not pay their wages nor annual bonus or overtime dues. On 20-10-2012 the first party management locked the main gate of the factory till 15-11-2012. On 15-11-2012 the first party management opened the gate but did not allow the second party workmen to enter inside the factory premises. Further the first party management with the help of some antisocials threatened and prevented their entry into the factory premises for which they lodged an FIR at Jagatpur Police Station. Hence, the second party workmen again raised a dispute through their trade union on 17-11-2012 with a notice to the District Labour Officer, Cuttack. As the labour machinery did not take proper steps within a period of two months they have filed the present case for redressal of their grievance.

3. The first party management in its written statement challenging the maintainability of the case stated that the second party workmen were the contract labourers engaged by the contractors. There was no employer-employee relationship between the first party management and the second party workmen. Therefore, they are not entitled to any relief claimed for.

4. In the aforesaid premises, the issues framed are as follows :—

ISSUES

- (i) “Whether the termination of services by way of refusal of employment of Shri Sarat Kumar Sahoo and 37 others with effect from the 15th November 2012 by the Managing Director, COS Board Industries Ltd. is legal and/or justified ?
- (ii) If not, what relief Shri Sarat Kumar Sahoo and 37 others are entitled to ?”

5. In support of their case, the second party workmen examined two witnesses and filed documents which have been marked Exts.1 to 19. The first party management, however did not adduce any evidence.

FINDINGS

6. *Issue Nos. (i) & (ii)*—The second party workmen in support of their claim as workmen under the first party management have filed Ext.14, the xerox copy of the bipartite settlement, dated 28-7-2012 entered into between the first party management and the COS Board Industries Shramik Union, representing the cause of the second party workers which reveals the name of the second party workmen as workers under the first party management. In the absence of the first party management the aforesaid document remained unchallenged. Since the second party workmen were working under the first party management and their nature of work as per the claim of the second party workmen was perennial in nature any refusal of employment as stated by the second party workmen requires compliance of the provisions of the Industrial Disputes Acts, 1947. The case of the second party workmen is that the first party management is a factory and there are more than 500 workers working under it. Therefore, any termination/refusal of employment requires compliance of the provisions of Section 25-N of the Industrial Disputes Act, 1947. There is no averment nor any material on record about compliance of the aforesaid provisions of the Industrial Disputes Act by the first party management. In the aforesaid circumstances, their termination/refusal of employment is neither legal nor justified and they are entitled to reinstatement in their previous posts. However, they are not entitled to any back wages on the principle of “no work no pay”.

The case is disposed of accordingly.

Dictated and corrected by me.

P. K. RAY
12-3-2014
Presiding Officer
Industrial Tribunal
Bhubaneswar

P. K. RAY
12-3-2014
Presiding Officer
Industrial Tribunal
Bhubaneswar

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