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LABOUR & E. S. I. DEPARTMENT
NOTIFICATION

The 27th March 2014

No. 2915—IR-(ID)-10/2014-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 22nd February 2014 in Industrial Dispute Case No. 33 of 2013 of the Presiding Officer, Industrial Tribunal, Bhubaneswar wherein the industrial dispute between the Management of Executive Engineer, Mahanadi Barrage Division, Gandarpur, Cuttack and their Workmen (1) Shri Bidyadhar Barik (2) Shri Benudhar Sahoo was filed by the above mentioned workmen 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. 33 OF 2013
Dated the 22nd February 2014

Present :

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

Between :

The Management of
Executive Engineer,
Mahanadi Barrage Division,
Gandarpur, Cuttack. First Party—Management

And

Their Workmen (1) Shri Bidyadhar Barik,
S/o Sanatan Barik,
At Rahandia,
P.O. /P.S Kanas, Dist. Puri.
(2) Shri Benudhar Sahoo,
S/o Bhagaban Sahoo,
At Chaulabasta,
P.O. Bantugram,
P.S. Nimapada, Dist. Puri. Second Party—Workmen

Appearances :

Shri J. K. Mishra, Advocate	.. For the First Party—Management
Shri T. Lenka, Advocate	.. For the Second Party—Workmen

AWARD

2. This case under Section 2-A(2) of the Industrial Disputes Act, has been filed by the second party workmen for their reinstatement with full back wages. The case of the second party workmen namely, Shri Bidyadhar Barik & Shri Benudhar Sahoo is that they initially joined under the first party management as N.M.R. mates with effect from the 1st March 1991 and the 1st April 1991, respectively and performed their duties till 30th November 2001 and both of them have worked continuously for more than 240 days in each calendar year during the said period under the first party management and were receiving wages @ Rs. 1500 each at the time of their retrenchment. On 1st December 2001 the first party management retrenched the second party workmen along with 256 other NMRs being surplus staff after completion of Mahanadi-Birupa Project as per the Government decision in Water Resources Department. But the Government in the Department of Water Resources had taken a decision for re-engagement of 74 Nos. of retrenched workmen vide Order No. 32485, dated the 15th October 2007 and subsequently vide Order No. 16156, dated the 3rd November 2007 of the Chief Engineer, Drainage Circle, Cuttack, the Executive Engineer, Barrage Division, Cuttack re-engaged 35 Nos. of workmen. Subsequently Shri Bilas Kumar Sahoo and Shri Purna Chandra Dalai, who are junior to the second party workmen have also been re-engaged with effect from the 1st December 2007. Further, in the meantime the Director, Personnel, office of the Engineer-in-Chief, Water Resources directed all the Chief Engineers vide his letter No. 14972, dated the 25th November 2008 for preparation of panels for re-engagement of Work-charged/NMRs/DLRs. The aforesaid action of the first party management being in violation of Sections 25-F, 25-G, and 25-H of the Industrial Disputes Act, 1947, they raised the dispute before the first party management with intimation to the labour machinery on 7th January 2013. Since no action has been taken by the labour machinery within a period of 45 days, that have filed this case for their reinstatement in service with all back wages.

3. The first party management in its written statement have challenged the maintainability of the case on the ground that for the self same cause of action the second party workmen earlier had approached the Industrial Tribunal in I.D. Case No. 42 of 2011 and the Tribunal vide its Award, dated the 11th December 2012 have held that the disputants are not entitled to any relief claimed for. It is further stated that after completion of the Mahandi-Birupa Project as per the decision of the Government to reduce the staff strength which was communicated to the Engineer-in-Chief, Water Resources vide letter No. 20222, dated the 29th May 2001, 256 Nos. of workmen within the categories of Work-charged/NMRs/DLRs were retrenched and they have all been given retrenchment notice and benefit thereof. It is further stated that the allegation of the second party workmen that Shri Bilas Kumar Sahoo and Shri Purna Chandra Dalai who are junior to the second party workmen have been re-engaged is not correct. Besides, these second party workmen had also approached the Orissa Administrative Tribunal, Cuttack Bench in O.A. No. 195(C) of 2009 and 193 (C) of 2009 and as per the order of the Hon'ble Tribunal, dated the 30th March 2009 to consider the case of the second party workmen the Competent Authority after considering the claim declined the same. Hence, the second party workmen are not entitled to any relief claimed in the present case.

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

ISSUES

- (i) “Whether the termination of services by way of retrenchment of Bidyadhar Barik, NMR Mate and Benudhar Sahoo, NMR Mate with effect from the 1st December 2001 by the Executive Engineer, Mahanadi Barrage Division, Gandarpur, Cuttack is legal and/or justified ?
- (ii) If not, what relief Shri Barik and Shri Sahoo are entitled to ?”

5. In support of their respective stand, while the second party workmen have examined one witnesses and filed documents marked Exts.1 to 20, the first party management examined one witness and filed documents which have been marked Exts.A to H.

FINDINGS

6. *Issue Nos. (i)*—There is no dispute that the workmen who were engaged as NMR Mates have been retrenched with effect from the 30th November 2001. When the stand of the second party workmen is that they have been retrenched in violation of the provisions of Sections 25-F, 25-G and 25-H of the Industrial Disputes Act, 1947, the averment of the first party management is that at the time of their retrenchment they were given retrenchment benefit and there is no re-engagement of any junior to the second party workmen in violations of Section 25-G and H of the Industrial Disputes Act. The second party workmen neither in their evidence adduced nor in course of cross-examination of the witness examined on behalf of the first party management elicited anything contrary to the averments relating to payment of retrenchment benefits in compliance to the provisions of Section 25-F nor any violation of Sections 25-G or H of the Industrial Disputes Act. Therefore, the contention of the second party workmen that they have been illegally retrenched in violation of Section 25-F of the Industrial Disputes Act is not tenable. Further, in I.D. Case No. 42 of 2011 this Tribunal having held that re-employment of Shri Bilas Kumar Sahoo and Purna Chandra Dalai with effect from the 1st June 2007 being not in ignorance of the seniority of the present disputant, the contention advanced on behalf of the second party workmen that the first party management has violated the provisions of Sections 25-G and 25-H of the Industrial Disputes Act is devoid of merit.

7. *Issue No. (ii)*—The admitted position is that the second party workmen were engaged in Mahanadi Barrage Division which was undertaking a temporary project. Therefore, the second party workmen cannot claim for their re-engagement after completion of the said project. On completion of such project since the first party management was under obligation to comply with the provisions of Section 25-F of the Industrial Disputes Act, 1947 and it having paid retrenchment benefit the second party workmen have got no claim for any compensation nor have got right for their re-engagement after completion of the said Project. Hence, they are not entitled to any relief.

The case is disposed of accordingly.

Dictated and corrected by me.

P. K. RAY
22-2-2014
Presiding Officer
Industrial Tribunal
Bhubaneswar

P. K. RAY
22-2-2014
Presiding Officer
Industrial Tribunal
Bhubaneswar

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