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LABOUR & EMPLOYEES STATE INSURANCE DEPARTMENT

NOTIFICATION

The 27th March 2014

No. 2920—IR-(ID)-11/2014-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 1st March 2014 in I. D. Case No. 69 of 2012 of the Presiding Officer, Industrial Tribunal, Bhubaneswar wherein the industrial dispute between the Management of the Assistant General Manager, Salipur Electrical Division, CESU, Dist. Cuttack and its Workman Shri Pradeep Kumar Lenka was filed by the above-mentioned workman under Section 2-A (2) of I. D. Act. 47 for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE NO. 69 OF 2012

Dated the 1st March 2014

Present :

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

Between :

The Management of .. First Party—Management
The Assistant General Manager,
Salipur Electrical Division, CESU,
At/P.O. Salipur, Dist. Cuttack.

And

Its Workman, .. Second Party—Workman
Shri Pradeep Kumar Lenka,
Vill. Atoda, P.O. Patapur,
P.S. Jagatpur, Dist. Cuttack.

Appearances :

Shri D. Mohanty, Advocate	.. For the First Party—Management
Shri T. Lenka, Advocate	.. For the Second Party—Workman

AWARD

This case under Section 2-A(2) of the Industrial Disputes Act, 1947 has been filed for reinstatement of the second party workman along with full back wages, continuity of service and other consequential service benefits.

2. The case of the second party workman is that he was given appointment as an Office Assistant under the first party management with effect from the 6th November 2009 at a salary of Rs. 3,000 per month consequent upon which he was discharging his duties. Though the second party workman several times requested for payment of his salary, the first party management did not respond with the same and assured for regularisation of his service. On 20-12-2010 after completion of work when the second party workman asked for payment of his salary the first party management bore grudge against him and refused him employment with effect from the 21st December 2010. Since all his persuasion for reinstatement was failed and the aforesaid act of the first party management contravenes the provisions of the Industrial Disputes Act, 1947, he raised dispute before the first party management on 4-3-2011 with copy to the labour machinery. As the labour machinery did not make a reference after lapse of 45 days he filed the present case for redressal of his grievance.

3. The first party management in its written statement refuting the claim of the second party workman to the effect of his engagement as Office Assistant at any point of time far less to speak about his termination has stated that the second party workman is not entitled to any relief sought for 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 refusal of employment of Shri Pradeep Kumar Lenka, Office Assistant with effect from the 21st December 2010 by the Assistant General Manager, CESU is legal and/or justified ?
- (ii) If not, what relief Shri Lenka is entitled to ?”

5. To substantiate their respective stand while the second party workman examined two witnesses including himself and filed documents marked Exts. 1 to 12, the first party management has examined one witness.

FINDINGS

6. *Issue Nos. (i) & (ii)*—The claim of the second party workman is that he was engaged as an Office Assistant under the NMR Scheme with a remuneration of Rs. 3,000, but he has candidly admitted that no appointment order was issued in support of the same. Except some handwriting in official records of the first party management which the second party workman claims to have belonged to him neither he produced nor called for any record in support of his engagement by the

first party management. In connection with the so-called handwriting of the second party workman in the office records in Exts. 1 to 10 while the first party management refuted the same at the same time it has stated that in view of engagement of the staff through contractors no presumption can be drawn from the handwriting on any of the records. Therefore, when the second party workman claims to have been engaged from November, 2009 till December, 2010 absence of any record relating to Attendance or Muster Roll leads to the credibility of the claim of the second party workman. In the case in hand, admittedly the father of the second party workman was an employee of the said office. In the aforesaid background, absence of any documentary evidence relating to his appointment, Attendance and Muster Roll leads to the conclusion that the second party workman has never been engaged officially but tries to make an entry through backdoor method taking advantage of his father's continuance in service in the said office. Therefore, the claim of the second party workman that he was appointed as an Office Assistant under the NMR Scheme is a misnomer and consequently the second party workman is not entitled to any relief sought for.

The case is disposed of accordingly.

Dictated and corrected by me.

P. K. RAY
1-3-2014
Presiding Officer
Industrial Tribunal
Bhubaneswar

P. K. RAY
1-3-2014
Presiding Officer
Industrial Tribunal
Bhubaneswar

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