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LABOUR & E. S. I. DEPARTMENT

NOTIFICATION

The 21st May 2014

No. 3893—li/1 (BH)-07/2007-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 22nd March 2014 in Industrial Dispute Case No. 5 of 2013 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the industrial dispute between the Management of Rengali Hydro Electric Project, Odisha Hydro Power Corporation Ltd., Rengali, Dist. Angul and their Workmen represented through the General Secretary, Odisha Hydro Power Corporation Employees Union, Rengali was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 5 OF 2013

Dated the 22nd March 2014

Present :

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

Between :

The Management of
Rengali Hydro Electric Project,
Odisha Hydro Power Corporation Ltd.,
Rengali, Dist. Angul. First Party—Management

And

Its workmen, represented
through General Secretary,
Odisha Hydro Power Corporation
Employees' Union, Rengali Unit,
Rengali Dam Site,
Dist. Angul. Second Party—Workmen

Appearances :

Shri Debaraj Pradhan, Auth. Representative	. . For the First Party—Management
Shri K. P. Patra, Auth. Representative	. . For the Second Party—Union

AWARD

This case has been instituted under Section 10(1) of the Industrial Disputes Act, 1947 (for short, the 'Act') on a reference made by the Labour & Employment Department of the Government of Odisha under Section 12(5)(d) of the Act vide its Letter No. 13839—li/1-(BH)7/2007-LE., dated the 20th December 2007 with the following Schedule:—

“Whether the fixation of Scales of Pay of Rs. 3140—5080 for the Ferroprinter with effect from the 1st April 1997 by the management of R.H.E.P., O.H.P.C. Ltd., Rengali vide Order No. 11405, dated the 4th September 2001 instead of Rs. 3,430—6,205 as demanded by the O.H.P.C. Employees Union is legal and justified ? if not, what relief those workmen are entitled to ?

2. The case of the second party union is that as per the Odisha Electricity Reforms Act on formation of the Odisha Hydro Power Corporation Limited, the Rengali Hydro Electric Project which was directly controlled by the State Government comes under the administrative control of O.H.P.C. Ltd., along with other Projects namely, Upper Kolab Hydro Electric Project, Bariniput, Dist. Koraput, Upper Indravati Hydro Electric Project, Mukhiguda, Dist. Kalahandi, Balimela Hydro Electric Project, Balimela and Hirakud Power Station, Burla which were under the control of O.S.E.B. Under the aforesaid Act and Rules the service facilities of the ex Government employees and O.S.E.B. would not be less beneficial to its employees on permanent absorption under the O.H.P.C. Prior to the absorption in the O.H.P.C. the post of Ferroprinter of the Government organisation was equal to the status of Junior Clerk/Junior Store Keeper/L.V. Driver in the Scale of Pay with effect from the 1st January 1974. January 1985 and 1st January 1996 up to 31st March 1997 all the aforesaid categories were given the Scales of Pay of Rs. 3,050—4,590 but at the time of rationalisation of pay under the O.H.P.C. the Ferroprinter are not given the Scales of 3,600—6,500 at par with their equal categories. After rationalisation of Scale of Pay the Ferroprinters were given the Scales of Pay of Rs.3,140—5,080 though initially the O.H.P.C. Board had offered the Scales of Pay Rs. 3430—6,205 in respect of the Ferroprinters. Hence, claiming the Scales of Pay of Rs. 3,600—6,500 the second party union has raised the dispute which has ultimately referred to this Tribunal for adjudication.

3. The first party management in its written statement challenging the case on the point of maintainability has stated that the O.H.P.C. vide its Order No. O.H.P.C, H.R.D., GR 52/97 (Vol.-V) 1145 Dt. 4-9-2001 rationalised the pay structure with designation and unification of cadre in the Corporation. The employees were requested vide Office Order No. 12009, Dt. 19-9-2001 to submit their individual grievance concerning such rationalisation within the stipulated period. Since no complaint/grievance has been made by any of the individual employee or class of employees from the Units this reference is not maintainable. In the rationalisation of Scale the Ferroprinter is given

better Scale of Pay than the pre-revised period i.e. Rs. 3,140—5,080 but at the same time in Para. 9 of the written statement it is stated that the Ferroprinters were allowed advance Scale of Pay of the O.H.P.C. i.e. Rs. 3,430—6,205. Hence in the circumstances, the claim of the Ferroprinters is not entertainable.

4. The second party Union in its rejoinder reiterated their claim for the Scales of Pay of Rs. 3,600—6,550 at par with their counterparts in the same grade of employees.

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

ISSUES

- (i) Whether the reference is maintainable ?
- (ii) "Whether the fixation of Scales of Pay of Rs. 3,140—5,080 for the Ferroprinter with effect from the 1st April 1997 by the management of R.H.E.P., O.H.P.C. Ltd., Rengali vide Order No. 11405, dated the 4th September 2001 instead of Rs. 3,430—6,205 as demanded by the O.H.P.C. Employees Union is legal and justified ? If not, what relief these workmen are entitled to ?

6. In order to substantiate their respective case while the second party Union has examined two witnesses and filed documents marked Exts.1 to 9, the first party management examined one witness and filed documents which have been marked Exts A to H and Exts. J to M.

FINDINGS

7. *Issue No. (i)*—The first party management challenged the reference of this case on the point of limitation and jurisdiction. So far as limitation is concerned, there is no such stipulation in the Industrial Disputes Act. The Hon'ble Supreme Court in the case of S. M. Nilajkar *vrs.* Trilecom District Manager, reported in (2003) 4 SCC 27 has held that the reference sought for by the workmen cannot be said to be delayed or suffering from a lapse particularly when law does not prescribe any period of limitation for raising a dispute under Section 10 of the Act. In view of the aforesaid observation of the Hon'ble Supreme Court, this Tribunal does not have the jurisdiction to hold the reference to be not maintainable on the point of limitation except adjudicating the dispute on the point of law.

Further, regarding jurisdiction of this Tribunal, since the first party management has adopted the Scale of pay during rationalisation contrary to terms and conditions of Section 24(2) of the Orissa Electricity Reforms Act, 1995 it gives rise jurisdiction to the Tribunal to adjudicate the same. Hence, the reference is maintainable.

8. *Issue No. (ii)*—In this case there is no dispute that the Ferroprinters were given the Scale of Pay at par with the ex Government Junior Clerks. The ex Government Junior Clerks are given the Scale of Pay of Rs. 3,600—6,550. In the instant case the Ferroprinter is a promottee from the post of Peon. He was offered with the Scales of Pay of Rs. 3,430—6,205 which he was willing to accept. Therefore, when he was not considered at par with other categories prior to his joining the Government service and willing to accept the Scales of Pay Rs. 3,430—6,205 offered by the O.H.P.C. the ultimate fixation of his Scales of Pay as Rs. 3,140—5,580 is irrational. Therefore, in the interest

of justice it would be proper to allow him the Scales of Pay of Rs. 3,430—6,205 with effect from the 1st April 1997 in view of his acceptance of a lower Scales of Pay i.e. Rs. 3,430—6,205 than that of the category which was at par with the said post. According, the first party management is directed to extend him the Scales of Pay of Rs. 3,430—6,205 with effect from the 1st April 1997.

The reference is answered accordingly.

Dictated and corrected by me.

P. K. RAY
22-3-2014
Presiding Officer
Industrial Tribunal
Bhubaneswar

P. K. RAY
22-3-2014
Presiding Officer
Industrial Tribunal
Bhubaneswar

By order of the Governor
M. NAYAK
Under-Secretary to Government