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PART I : SECTION (I) – GENERAL Government Notifications

My No. : T23/P/267/2001.

THE INDUSTRIAL DISPUTES ACT, CHAPTER 131

THE award transmitted to me by the Arbitrator to whom the Industrial Dispute which has arisen between Mr. K. W. Jinaplala, Godahena, Ambalangoda of the one part and Ruhunu Bus Company Limited, Head Office, No. 171, Matara Road, Galle of the other part was referred by order dated 31.07.2003 made under section 4(1) of the Industrial Disputes Act Chapter 131, (As amended) and published in the *Gazette Extraordinary of the Democratic Socialist Republic of Sri Lanka* No. 1300/28 – 08.08.2003 for settlement by arbitration is hereby published in terms of Section 18(1) of the said Act.

MAHINDA MADIHAHEWA,
Commissioner General of Labour.

Department of Labour,
Colombo 05.
29th October, 2004.

IN THE MATTER OF AN INDUSTRIAL DISPUTE

between

Mr. K. W. Jinapala Godahena, Ambalangoda.

AND

Case No.: A/2995

Ruhunu Bus Company Limited, Head Office, No. 171, Matara Road,
Galle.

THE AWARD

The Hon. Minister of Employment and Labour by virtue of the powers vested in him by Section 4(1) of the Industrial Disputes Act, Chapter 131 of the Legislative Enactment's of Ceylon (1956 Revised Edition) as amended by Acts Nos. 14 of 1957, 4 of 1962 and 39 of 1968 (read with Industrial Disputes (Special Provisions) Act No. 37 of 1968) appointed me as Arbitrator by his order dated 31.07.2003 and referred the following dispute to me for settlement by arbitration to wit.

“whether Mr. K. W. Jinapla who is assigned to perform the duties in the Post of Acting Inquiring Officer Grade III B under the Ruhunu Bus Company Limited is entitled to receive the said post and if not, to what relief he should be granted.”

The parties to the dispute settled the aforesaid dispute in the following manner namely,

1. that the workman be promoted to Grade III A in the service of the Employer with retrospective effect from 01.03.1998 together with arrears of salary if any; and
2. that the above promotion will take effect from 01.09.2004.

The approve the settlement reached by the parties and make award accordingly.

This award shall take effect from 01.09.2004.

A. SRI NAMMUNI,
Arbitrator.

Dated at Colombo, this 05th day of October, 2004.

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My No.: T23 / P / 133 / 96.

THE INDUSTRIAL DISPUTES ACT, CHAPTER 131

THE award transmitted to me by the Arbitrator to whom the Industrial Dispute which has arisen between Mr. Z. A. A. Hussein, No. 291/1, Colombo Road, Veralupe, Ratnapura of the one part and Bank of Ceylon, Head Office, No. 4, Bank of Ceylon Mawatha, Colombo 01 of the other part was referred by order dated 04.06.1998 made under Section 4(1) of the Industrial Disputes Act Chapter 131, (As amended) and published in the *Gazette Extraordinary of the Democratic Socialist Republic of Sri Lanka* No. 1043/21 - 03.09.1998 for settlement by Arbitration is hereby published in terms of Section 18(1) of the said Act.

MAHINDA MADIHAHEWA,
Commissioner General of Labour.

Department of Labour,
Colombo 05.
29th October, 2004.

IN THE MATTER OF AN INDUSTRIAL DISPUTE

between

Mr. Z. A. A. Hussein, No. 281, Colombo Road, Veralupe, Ratnapura,
New Address: Mr. Z. A. A. Hussein, 291/1, Colombo Road, Veralupe,
Ratnapura.

Case No.: A/2690

AND

Bank of Ceylon, Head office, No. 4, Bank of Ceylon Mawatha,
Colombo 01.

THE AWARD

The Hon. Minister of Labour by virtue of the powers vested in him by Section 4(1) of the Industrial Disputes Act, Chapter 131 of the Legislative Enactments of Ceylon (1956 Revised Edition), as amended by Acts Nos. 14 of 1957, 62 of 1957, 4 of 1962 and 39 of 1968 (read with Industrial Disputes (Special Provisions) Act No. 37 of 1968) appointed me as Arbitrator by his order dated 04.06.1998 and referred the aforesaid dispute to me for settlement by arbitration.

The matter in dispute between the aforesaid parties is whether the demand made by Mr. Z. A. A. Hussein who was in service in the Bank of Ceylon from 11.09.1972 to 19.07.1995 that he be granted pension rights is justified and to what relief he is entitled.

The workman Mr. Hussein had been recruited to the Employer Bank as a Probationary Junior Clerk on the 19th September 1972: and had steadily progressed: and in 1987 had been the Manager of the Ratnapura Branch. On the Ratnapura Branch being upgraded he was continued as Acting Manager of the Ratnapura Super Grade Branch.

In January 1992 he was transferred to Colombo. Till then he had been serving in and around Ratnapura. At Mr. Hussein's request this transfer to Colombo was deferred for one year.

When after one year Mr. Hussein was transferred with effect from 18th January 1993, he again sought deferment for a further year on medical grounds. This probably was seen by the Management as a ruse by Mr. Hussein to remain in Ratnapura. The trouble started between the Bank and Mr. Hussein. Without dealing with Mr. Hussein's second request for deferment of the transfer he was charge sheeted on 3rd February 1993.

The Employer Bank cannot be blamed for entertaining suspicions about Mr. Hussein for his apparent keenness to remain in Ratnapura, his hometown, where his father-in-law too appears to have been wielding influence: and had in fact used it earlier to secure the Ratnapura region for Mr. Hussein.

Whilst totally condemning such despicable procedures that are sometimes used to emphasise the right but more often used for unfair advantage, I must not lose sight of the point at issue; the Justifiability of Mr. Hussein's claim for pension rights, even if had been at fault.

There had been no dispute; no problem at all: till January 1993. Mr. Hussein's service record was very good; if not excellent. He had no charges against him till March 1993 and that too only after his suspicion-arousing second appeal for deferment of his transfer. No charges had been inquired into. Mr. Hussein had not been found guilty of any charge. Even the Disciplinary Order dated 3rd October 1994 (A55) is only one of "Cautioning" given after considering the explanation given by Mr. Hussein to the charges in the charge sheet dated 2nd March 1993: and not after Inquiry.

Be that as it may, Mr. Hussein's argument goes beyond. Under Rule 5 of the Pension Rules, marked and produced both by the Workman and the Employer Bank as A77 and R15(a) respectively, gives the Board of Directors absolute discretion to decide to retire any employee on Disciplinary Grounds as a merciful alternative to dismissal provided such employee has been in service for a period of not less than Fifteen years. This discretion has been used favourably for the workman in the several instances mentioned by the Workman Mr. Hussein. Particular reference is necessary to the case of Mr. Ratnayake who on a mere letter from him from Canada had been retired on medical grounds without even sending him before a Medical Board Mr. Hussein's plea for a decision by the Board had been totally ignored repeatedly.

Considering all the circumstances, it is my view that the Workman Mr. Hussein should have the benefit of Rule 5. Mr. Hussein had served for 21 years. I therefore decide that the demand made by Mr. Z. A. A. Hussein, who was in service of the Bank of Ceylon from 11.09.1972 to 19.07.1995 be granted Pension Rights, is justified.

The very Reference indicates the last date of Service of Mr. Hussein as 19.07.1995. As such I hold that Mr. Hussein be paid pension commencing from 1st August 1995.

I further order that all arrears, after adjustments if any: shall be deposited with the Assistant Commissioner of Labour (Colombo South) on or before the 30th of April 2005 and the workmen shall be entitled to withdraw same when so deposited.

I make Award accordingly.

P. J. S. A. PERERA,
Arbitrator.

Dated at Colombo, this 29th day of September, 2004.

My No.: T23/Co/31/2004.

**THE INDUSTRIAL DISPUTES ACT, CHAPTER 131 OF THE LEGISLATIVE ENACTMENTS OF CEYLON
(1956 REVISED EDITION)**

Order under Section 4 (1)

WHEREAS an Industrial Dispute in respect of the matter specified in the statement of the Commissioner of Labour which accompanies this order exists –

BETWEEN

Mrs. R. A. Chamila Rupasinghe, No. 113, Kaluwala Road, Ganemulla.

AND

Telecommunication Regulatory Commission of Sri Lanka, No. 276, Elvitigala Mawatha, Colombo 08.

NOW THEREFORE I, Athauda Seneviratne, Minister of Labour Relations and Foreign Employment do by virtue of the powers vested in me by Section 4(1) of the Industrial Disputes Act, Chapter 131 of the Legislative Enactments of Ceylon (1956 Revised Edition), as amended by Acts No. 14 of 1957, 4 of 1962 and 39 of 1968 (read with Industrial Disputes (Special Provisions) Act No. 37 of 1968) hereby appoint Mr. P. Navaratne, 570/B/1, Ekamuthu Mawatha, Off Nugegoda Road, Talawathugoda to be the Arbitrator and refer the aforesaid dispute to him for settlement by arbitration.

ATHAUDA SENEVIRATNE,
Minister of Labour Relations and Foreign Employment.

20th October, 2004,
Colombo 05.

My No.: T23/Co/31/2004.

**THE INDUSTRIAL DISPUTES ACT, CHAPTER 131 OF THE LEGISLATIVE ENACTMENTS OF CEYLON
(1956 REVISED EDITION)**

Mrs. R. A. Chamila Rupasinghe, No. 113, Kaluwala Road, Ganemulla.

AND

Telecommunication Regulatory Commission of Sri Lanka, No. 276, Elvitigala Mawatha, Colombo 08.

STATEMENT OF MATTER IN DISPUTE

The matter in dispute between the aforesaid parties is –

Whether Mrs. R. A. Chamila Rupasinghe who is presently employed on contract basis with breaks in service by the Telecommunication Regulatory Commission of Sri Lanka is entitled to be made permanent in service in terms of the Public Administration Circular No. 27/2001 of 29.10.2001 and the order referred to in the latter dated 08.11.2001 of the Ministry of Posts and Telecommunication and Information Technology Developments and if not, to what relief she should be granted.

MAHINDA MADIHAHEWA,
Commissioner of Labour.

Dated at the office of the Commissioner of Labour, Colombo,
This 08th day of October, 2004.