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The Gazette of the Democratic Socialist Republic of Sri Lanka

EXTRAORDINARY

අංක 1378/8 - 2005 ජනවාරි 31 වැනි සඳුදා - 2005.01.31
No. 1378/8 - MONDAY, JANUARY 31, 2005

(Published by Authority)

PART I : SECTION (I) — GENERAL

My No. CI/175/2004.

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/matters specified in the statement of the Commissioner of Labour which accompanies this order exists between —

Inter Company Employees' Union,
470, Kandy Road,
Kelaniya *of the one part ; and*

- (1) Caltex Lubricants Lanka Ltd.,
P. O. Box. 06,
Kolonnawa.

and

- (2) Mr. N. H. A. Somapala,
Sub Contractor of Calter Lubricants Limited,
No. 114 A, Pahala Biyanwila,
Kadawatha *of the other part.*

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. Loyd Galhena, No. 101/B, Raja Mawatha, Ratmalana, to be the Arbitrator and refer the aforesaid dispute to him for settlement by arbitration.

ATHAUDA SENEVIRATNE,
Minister of Labour Relations
and Foreign Employment.

Colombo 05,
29th December, 2004.

My No. CI/175/2004.

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

Inter Company Employees' Union,
470, Kandy Road,
Kelaniya *of the one part ; and*

- (1) Caltex Lubricants Lanka Ltd.,
P. O. Box. 06,
Kolonnawa
and
- (2) Mr. N. H. A. Somapala,
Sub Contractor of Caltex Lubricants Lanka Limited,
No. 114 A, Pahala Biyanwila,
Kadawatha *of the other part.*

Statement of matters in dispute — The matter/matters in dispute between the aforesaid parties is/are —

- (1) whether the employer of the following four employees who were engaged in service at Caltex Lubricants Lanka Ltd., should be the said Company or its Sub Contractor named N. H. A. Somapala ; and
- (2) whether the termination of the employment of the said four employees is justified and if not, to what relief each of them is entitled from the respective employer.

- (1) Mr. T. Mervin Perera
- (2) Mr. K. A. Samantha
- (3) Mr. H. W. Gunapala
- (4) Mr. R. M. W. U. Bandara

MAHINDA MADIHAHEWA,
Commissioner of Labour.

Dated at the Office of the Commissioner of Labour, Colombo,
This 29th day of December, 2004.

2-423

My No. T7/08/2003.

**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/matters specified in the statement of the Commissioner of Labour which accompanies this order exists between —

Inter Company Employees' Union,
470, Kandy Road,
Kelaniya

and

Confifi Beach Hotels (Pvt.) Ltd.,
No. 33, St. Michael's Road,
Colombo 03.

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. V. I. Jayasuriya, No. 50/20, Sumudu Uyana, Pubudu Mawatha, Mattegoda, Polgasowita, to be the Arbitrator and refer the aforesaid dispute to him for settlement by arbitration.

ATHAUDA SENEVIRATNE,
Minister of Labour Relations
and Foreign Employment.

Colombo 05,
12th January, 2005.

My No.T7/08/2003.

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

Revocation of Order under Section 4(1)

WHEREAS by Order made under section 4(1) of the Industrial Dispute Act, Chapter 131 of the Legislative Enactments of Ceylon (Revised Edition 1956) as amended by Act, Nos. 14 and 62 of 1957, 4 of 1962 and 39 of 1968 read with Industrial Disputes (Special Provisions) Act, No. 37 of 1968 dated 02.03.2004 and published in the *Gazette of the Democratic Socialist Republic of Sri Lanka Extraordinary* No. 1330/08 of 03.02.2004 the Industrial Dispute in respect of the matter/matters specified in the statement of the Commissioner of Labour dated 31.12.2003 between –

Inter Company Employees' Union,
470, Kandy Road,
Kelaniya

and

Confifi Beach Hotels (Pvt.) Ltd.,
No. 33, St. Michael's Road,
Colombo 03

was referred to Mr. M. T. S. Fernando, No. 2A, Mahamedawatte Road, Maharagama for settlement by arbitration.

And whereas it is now deemed expedient that the said Order revoked, I, Athauda Seneviratne, Minister of Labour Relations and Foreign Employment do hereby revoke the said Order and further make Order that no proceedings be taken upon the said order dated 03.02.2004 .

ATHAUDA SENEVIRATNE,
Minister of Labour Relations
and Foreign Employment.

Colombo 05,
12th January, 2005.

My No. T7/08/2003.

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

Inter Company Employees' Union,
470, Kandy Road,
Kelaniya

and

Confifi Beach Hotels (Pvt.) Ltd.,
No. 33, St. Michael's Road,
Colombo 03.

Statement of matter in dispute — The matter in dispute between the aforesaid parties is —

whether the recovery of service charges after lapse of several years that was paid to the employees of Confifi Beach Hotel, Beruwala which is being managed under the Confifi Beach Hotels (Private) Limited is justified and if not, to what relief the said employees are entitled.

MAHINDA MADIHAHEWA,
Commissioner of Labour.

Dated at the Office of the Commissioner of Labour, Colombo,
This 04th day of January, 2005.

02-424

My No. T23/CO/194/2002.

THE INDUSTRIAL DISPUTES ACT, CHAPTER 131

THE award transmitted to me by the Arbitrator to whom the Industrial Dispute which has arisen between Mr. Thilan R. Senaratne, No. 191/1, Horton Place, Colombo 07 of the one part and (1) Mr. D. Nugawela, Partner as Spring Field Exhibitions and Promotions, No. 18, Iswari Road, Colombo 06, (2) Mrs. S. Nugawela, Partner of Spring Field Exhibitions and Promotions, No. 18, Iswari Road, Colombo 06 of the other part was referred by Order dated 08.09.2003 made under Section 4(1) of the Industrial Disputes Act, Chapter 131, (as amended) and published in the *Gazette of the Democratic Socialist Republic of Sri Lanka Extraordinary* No. 1306/19 dated 18.09.2003 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,
19th November 2004.

IN THE MATTER OF AN INDUSTRIAL DISPUTE

between

Mr. Thilan R. Senaratne,
No. 191/1, Horton Place,
Colombo 07 *of the one part*

and

Case No. : A/3004.

1. Mr. D. Nugawela,
Partner of Spring Field Exhibitions and Promotions,
No. 18, Iswari Road,
Colombo 06 ; *and*

2. Mrs S. Nugawela,
Partner of Spring Field Exhibitions and Promotions,
No.18, Iswari Road,
Colombo 06 *of the other part.*

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 Lagislative Enactments of Ceylon (1956 Revised Edition), as amended by Act, Nos. 14 of 1957, 4 of 1962 and 39 of 1968)appointed me as Arbitrator by his Order dated 08.09.2003 and referred the following dispute to me for settlement by arbiration. to wit,

The matters in dispute between the aforesaid parties are whether Mr. Thilan R. Senaratne is entitled to receive the following payments from the Partners of Spring Field Exhibitions and Promotions in terms of the letter dated 17.05.1999 issued to him by the said establishment and if not, to what relief he is entitled.

1. 2% commission on achievement of target for January 2000;
2. Car rent for April and May 2000 at the the rate of Rs. 20,000 per month ; and
3. Reimbursment of Fuel expenses for March, April and May, 2000

Both parties had made their respective statements as required.

The Employers were absent on 23.04.2004 and on 24.06.2004 though they had been noticed.

I decided to hold this matter without the presence of the Employers.

The applicant in his evidence had stated that he was compelled resign because of the attitude of his employers and I accept this position. I accept his evidence and the documents marked by him.

I overrule the objection raised by the Employers in their statement at paragraphs 09,10 and 11 in view of the following reasons, namely-

- (a) that there is a constructive termination of services;
- (b) that the ratio decedent in Colombo Apothecaries Co. Ltd. Vs Wijesuriya 70 NLR Page 481 and S. B. Perera Vs. Standard Chartered Bank and Others 1995 (1) SLR 73 does not prevent this court entertaining or inquiring into the matter referred to it by the Hon. Minister.

I hold that on the documents marked by the applicant workman namely A1, A2, A3, A4, A5 and A6 and the evidence of the applicant as follows :-

1. that the 2% commission on achievement of target for January 2000 is Rs. 12,464 and that the applicant workman is entitled to it ;
2. that the car rental was Rs 20,000 per mensum and that he is entitled to the car rental for the months of April and May 2000 amounting to Rs. 14,000.

I make award that Mr. D. Nugawela and Mrs. S. Nugawela pay the sum of Rs 66,464 the applicant workman Tilan Senaratne.

This award shall take effect from the date hereof.

A. SRI NAMMUNI,
Arbitrator.

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

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