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## The Gazette of the Democratic Socialist Republic of Sri Lanka

EXTRAORDINARY

අංක 1400/2 - 2005 ජූලි 04 වැනි සඳුදා - 2005.07.04

No. 1400/2 - MONDAY, JULY 04, 2005

(Published by Authority)

### PART I : SECTION (I) — GENERAL

#### Government Notifications

My No. : T23/CO/319/2000.

#### THE INDUSTRIAL DISPUTES ACT, CHAPTER 131

THE award transmitted to me by the Arbitrator to whom the Industrial Dispute which has arisen between (1) Mrs. H. P. P. Marasinghe, No. 188/Y, Edith Land, Wilimbula, Henagama (WP), (2) Mrs. C. D. Amarasinghe, No. 03, Police Park Place, Colombo 05, (3) Mrs. A. Amadoru, 614 A, Waragoda Road, Sinharamulla, Kelaniya and (10) Others who are employees of State Mortgage and Investment Bank of the one part and State Mortgage and Investment Bank, P. O. Box 20 and 156 No. 269, Galle Road, Colombo 03 of the other part was referred by order dated 30.01.2003 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. 1275/5 of 11.02.2003 for settlement by arbitration is hereby published in terms of Section 18 (1) of the said Act.

SEETHA I. EDIRISINGHE,  
Actg. Commissioner General of Labour.

Department of Labour,  
Colombo 05,  
13th June, 2005.

Reference No.: T23/Co/319/2000.

In the matter of Industrial Dispute between

1. Mrs. H. P. P. Marasinghe, No. 188/Y, Edith Land, Wilimbula, Henagama (WP),

2. Mrs. C. D. Amarasinghe, No. 03, Police Park Place, Colombo 05,
3. Mrs. A. Amadoru, 614A, Waragoda Road, Sinharamulla, Kelaniya and ;  
(10) Others who are employees of State Mortgage and Investment Bank

AND

State Mortgage and Investment Bank,  
P. O. Box : 20 and 156,  
No. 269, Galle Road,  
Colombo 03.

CASE No : A 2969

#### The Award

(1) 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 Enactments of Ceylon (1956 Revised Edition) as amended by Act, Nos. 14 of 1957, 63 of 1957, 4 of 1962 and 39 of 1968. (read with Industrial Disputes (Special Provisions) Act, No. 37 of 1968) appointed me to be the Arbitrator and referred the aforesaid dispute to me for settlement by Arbitration.

The Parties here to have agreed that an Order should be given in the first instance in regard to the 3rd Matter in Dispute before taking the other Matters in dispute into consideration, and accordingly the Parties hereto had filed written submissions.

Having considered the said written submissions, it became clear that salary anomalies had arisen in the cases of two employees viz. Ms. H. P. P. Marasinghe and Ms. A. L. Samarasinghe following the implementation of the Collective

Agreement dated 08.04.1988 between the State Mortgage and Investment Bank and Ceylon Bank Employees Union.

The specific statement in Reference No. 3 reads as follows:

“Whether the non revision of the salaries of the undermentioned eight (08) employees in terms of para. 2 of the memorandum of Settlement entered into between the State Mortgage and Investment Bank and the Ceylon Bank Employees Union on 20.09.1990 which was intended to rectify the anomalies created in the implementation of the Collective Agreement signed by the Bank and the Union on 08.04.1988 on the hypothesis that the said employees had not received a promotion prior to December 1987 is justified, and if not, to what relief each of them is entitled.....”

Of the eight (08) persons named in the foregoing paragraph, the Parties to the dispute agreed that an order be given in the first namely, Mrs. H. P. Marasinghe and Mrs. A. L. Samarasinghe.

This anomaly in respect of the aforementioned two employees had arisen as they had not arisen as they had not been promoted prior to 31.12.1988. Where they would have received a higher salary in the Stenographers’ service of the bank than in the new grade to which they had been promoted. Both the employer and the employees are in agreement in this regard.

### Order

In the premises, I hold that there has been an anomaly created in respect of Mrs. Marasinghe and Mrs. Samarasinghe. I hold that these two employees should be placed on the appropriate salary point of Rs. 1,330 per mensem in the salary grade 9(c) as approved by the Collective Agreement dated 08.04.1988 and appropriate arrears be paid to them.

Both parties to the Dispute thereafter agreed to abandon proceedings against the 1st and 2nd References in respect of the employees affected by the 3rd Reference as the Respondent Bank had given a favourable response to the determination of the 3rd Reference.

It was therefore agreed by and between the Parties that the names of the following employees only should be considered in respect of the 1st Reference :

1. Mrs. S. J. Liyanage,
2. Mrs. A. Amadoru,

3. Mrs. M. S. Silva.

The names of the following employees only should be considered in respect of the 2nd Reference.

1. Mrs. S. J. Liyanage,
2. Mrs. A. Amadoru,
3. Mr. R. A. Gunasoma,
4. Mr. S. A. Chandradasa,
5. Mrs. M. S. Silva.

The specific statement in Reference No. 1 reads as follows:

“Whether the non consideration of the previously earned salary increments of the undermentioned employees at the salary revision made by the respondent bank in the year 1980 is justified and if not, to what relief each of them is entitled.”

In the written submissions tendered on behalf of the Respondent Bank, it is argued that all employees of the Bank received a percentage increase of 35% on their salary points as at 31.12.1979 in accordance with the increase of 35% affected by the Government. The bank also states that the said salary revision was effected as a blanket percentage increase on their salary points as at 31.12.1979. The Bank pleads that it did not penalize any employees and that these employees were given 35% salary increase on their salary points and not based on a salary revision effected by the bank. The Bank excludes Mrs. M. S. Silva on the ground that this employee was not in service of the Bank at the date of the said salary increase *i.e.*, 1st January 1980.

The written submissions on behalf of the employees state that in the revision of salary scales, it is the salary structure pertaining to a particular grade that is revised and not individual salaries of employees. It is contended on behalf of the employees that the bank has revised the salary structures of employees grade-wise and not employee-wise. It has also been argued on behalf of the employees that the employer has failed to uniformly increase the salaries of employees by 35%, and that the employees are entitled to receive the earned increments in view of the above situation.

Having considered the above arguments, I am of the view that the respondent bank should have taken into consideration the previously earned salary increments of these employees at the salary revision made by the bank in 1980.

### Order

Since this has not been done by the Bank, I order that the employees concerned be given these earned increments in the following manner :

Mrs. S. J. Liyanage — be awarded two (02) earned increments *i.e.* the annual increment due to her as at 1st November 1979 and the increment which fell due to her credit as at 31st December, 1979.

Mrs. A. Amadoru— be awarded one (01) earned increment *i.e.* the annual increment which fell due to the employee on 3rd November, 1979 prior to the salary revision on 1st January, 1980.

The specific statement in Reference No. 2 states as follows:

“Whether the revision of salary to the undermentioned employees on a lesser salary point at the salary revision made by the Bank in the year 1982 is justified, and if not to what relief each of them is entitled.”.

The respondent Bank states that the 1982 salary revision by the bank was done in order to bring salary scales of the employees of the bank on a par with of other State Banks and in the interests of the employees, and that a Cabinet approval had been obtained for the implementation of the revised salary scales, and that the bank had fulfilled all the requirements pertaining to the salary revision.

It has been argued on behalf of the employees that according to a bank circular dated 5th May, 1983, salaries of all employees had to be converted from the old scale to the new scale on a point to point basis which means that each employee had to be placed on the new revised salary scale of 1982 taking into account the increments earned by each such employee. It is further argued that this had not been done in respect of the employees mentioned in this dispute, and therefore they had been placed on a lower salary scale.

Having considered the arguments of both parties in this dispute, I am of the view that the placement of the salaries of these employees on a lower salary scale due to the salary revision is not justified.

### Order

I therefore make order that the salary scales of these employees above named in the Dispute No. 2 be adjusted and updated by awarding the correct incremental points.

DR. V. IRWIN JAYASURIYA,  
Arbitrator.

5th May, 2005.

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