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The Gazette of the Democratic Socialist Republic of Sri Lanka

EXTRAORDINARY

අංක 1481/35 - 2007 ජනවාරි 26 වැනි සිකුරාදා - 2007.01.26

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(Published by Authority)

PART I : SECTION (I) — GENERAL

Government Notifications

My No. : T/7/30/2000.

Association, Bandaranaike International
Airport, Katunayake

THE INDUSTRIAL DISPUTES ACT, CHAPTER 131

The award transmitted to me by the Arbitrator to whom the Industrial Dispute which has arisen between Airport and Aviation Executive Officers Association, Bandaranayake International Airport, Katunayake of the one part and, Airport and Aviation Services (Sri Lanka) Limited, Bandaranayake International Airport, Katunayake of the other part was referred by order dated 17th March, 2001 made under Section 4 (1) of the Industrial Dispute Act, Chapter 131 (As amended) and published in the *Gazette of Democratic Socialist Republic of Sri Lanka Extraordinary* No. 1177/17 of 28th March, 2001 for settlement by arbitration is hereby published in terms of Section 18 (1) of the said Act.

D. S. EDIRISINGHE,
Commissioner General of Labour.

Department of Labour,
Colombo 05,
18th December, 2006.

Ref. No. T7/30/2000.

In the matter of an Industrial Dispute
between

Airport and Aviation Senior Executives

..... Applicant

Airport and Aviation Services (Sri Lanka)
Limited, Bandaranaike International Airport,
Katunayake

..... Respondent

Case No. : A - 2840

The Award

Hon. Seyal Alavi Mowlana, 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 Act, No. 14 of 1957, 4 of 1962 and 39 of 1968 (Read with Industrial Disputes (Special Provision) Act, No. 37 of 1968) appointed me to be the arbitrator and referred the aforesaid dispute to me for settlement by arbitration.

02. The matter in dispute between the aforesaid parties is whether it is justified by the Airport and Aviation Services (Sri Lanka) Limited to pay special allowances only to certain officers serving in the company, if not, to what relief the officers who are denied the said allowance despite being qualified to receive same are entitled.

03. The parties exchanged their statements and counter-statements. The applicant Association by its statement pleaded inter-alia that the Respondent Company. Airport Aviation Services (Sri Lanka) Limited graded its employees from 1985 into scales S1 to S14 out of which the scales S10 to S14 are executives, were affected as a result of the Company paying allowances to certain employees up to the date of the filing of the arbitrator application.

04. The applicant Association further stated in its statement dated 07th May, 2001 that the Company granted an allowance of Rs. 10,000 to Chartered Engineers, and Chartered Accountants and Rs. 7,500 to Heads of Department.

05. The union further pleaded that the 67 executives who are in the scales of S10 and above do not receive any such allowances although they have to carry out the duties of some Departmental Heads.

06. The applicant association prayed for the following relief in its first statement.

- (i) that the Respondent Company be ordered to re-structure the salary scales, and
- (ii) that the 67 executives be granted an allowance of Rs. 7,500 per month with effect from 01st January, 2000.

07. The Respondent Company in its statement dated 21st July, 2001 stated that extra allowances have been paid from the inception of the Company in 1984 to the following categories of staff –

- (i) Air Traffic controllers,
- (ii) Electronics Engineering staff, and
- (iii) Aeronautical Communication Staff.

08. The rating allowances paid to the above staff was revised in 1999 the details of which were set out in the statements filed by the Respondent. There ratings were paid to skilled technical officers performing essential function for the maintenance and operation of an Airport. There ratings are payable on the basis of licenses issued by the Civil Aviation Department and/or after completion of training at reputed Academics. From 01st January, 2000 special allowances were paid to employees based on their professional qualifications and/or their duties as Head of Function or Department.

09. The Respondent Company further stated that there is not barrier to any category of employee becoming eligible for the payment of special allowances depending on their merits and achieving extra ratings or positions as head of division/

Department. The Respondent pleaded that there was no justification and/or legal basis for granting the payments requested by the applicant association.

10. Urala Hemachandra Pathinayake, Executive (Administration and Personnel) giving evidence on behalf of the Association stated he has a degree from the Peradeniya University and was the Secretary of the Association which was formed in 1990. The witness stated that the employees in the Respondent Company were graded according to salary scales S1 to S14, the executives being placed in grades from Grade 10 to Grade 14. He added that his complaint was in regard to the allowances paid to certain employees, and the non-payment of these allowances to himself and certain executives of the Company.

11. Hemachandra Pathinayake in his evidence marked A1 a list of the executives who do not get the special allowances and according to him the following officers in A1 are paid special allowances.

Legal Officer, Mrs. Ranasinghe –Rs. 10,000 p.m.
Chartered Accountant Mr. L. Dahanayake, –Rs. 10,000 p.m.

He marked 70 affidavits A1 to A70, giving the names of officers who were not paid special allowances. The witness under cross examination admitted that there were a member of officers in A1 getting training allowances from Rs. 2,000 to Rs. 4,000.

12. Hemachandra Pathinayake admitted that the professional allowance was paid to fully qualified Accountants, Engineers and Lawyers doing professional work. He further admitted that allowances increased with added qualifications, but failed to convince me that most of the 67 employees in the List A1 had professional qualifications justifying payment of a professional allowance of Rs. 10,000 or a special allowance. Having a Degree from a recognized university does not necessarily mean that the holder has a right to get a professional allowance.

13. Mr. Hemachandra Pathinayake further admitted under cross examination that the special allowances are based on qualifications and seniority rather than experience. He is of the view that if an employee chooses to study further and qualify, he or she can become entitled to the special allowances.

14. The next witness who gave evidence in chief for the applicant was Mr. D. A. R. M. Perera on whose behalf an affidavit was filed did not present himself for cross examination.

15. It was contended on behalf of the Applicant association that there are some officers who do not receive special allowances although they do possess years and years of

experience in their respective fields. Only one or two such officers have the chance of becoming Head of Department only on the verge of their retirement, one such officer being Mr. H. R. Dissanayake who is on the verge of retirement. Therefore it is clear that there is a disparity in the salary scales and allowances in the present scheme. The Respondent Company has to give a serious thought to this situation and it is suggested to appoint a committee to go into this question thoroughly.

16. As arbitrator I am unable to exceed my terms of reference in the absence of expert evidence to order a re-structure the salary scales and order the Respondent Company to pay

professional and special allowances as suggested by the Association.

17. The applicant association has failed to convince me that all the officers in A1 are entitled to get professional or a special allowance indiscriminately. Therefore make no award in this case.

T. PIYASOMA,
Arbitrator.

24th November, 2006.

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