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PART I : SECTION (I) — GENERAL

Government Notifications

My No.: T23/CO/23/2003.

In the matter of an Industrial Dispute Between

THE INDUSTRIAL DISPUTE ACT, CHAPTER 131

THE award transmitted to me by the Arbitrator to whom the Industrial Dispute which has arisen between Mr. H. N. Amarasinghe, No. 460/19, Bauddhaloka Mawatha, Colombo 08, and Co-operative Wholesale Establishment, New Secretariat Building, No. 27, Vauxhall Street, Colombo 02 was referred by order dated 23.03.2004 made under Section 4(1) of the Industrial Dispute Act, Chapter 131 (as amended) for settlement by arbitration is hereby published in terms of Section 18 (1) of the said Act.

Mr. H. N. Amarasinghe,
No. 460/19, Bauddhaloka Mawatha,
Colombo 08.

AND

Co-operative Wholesale Establishment,
New Secretariat Building,
No. 27, Vauxhall Street,
Colombo 02.

Case No.: A 3039

D. S. EDIRISINGHE,
Commissioner General of Labour.

AWARD

Department of Labour,
Labour Secretariat,
Colombo 05,

20th June, 2007.

The Honourable Minister of Labour Relations and Foreign Employment 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, 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 23.03.2004 and referred the dispute between the aforesaid parties to me for settlement by arbitration.

The following dispute between the above parties were referred to me for settlement by arbitration to wit-

1. Whether the non payment of salary for period of non offer of work from 06.05.1989 to 26.08.1994 to Mr. H. N. Amarasinghe who was in the service of Co-operative Wholesale Establishment grant relief in terms of the Section 4 of the Public Administration Circular No. 32/89 (IV) treating him as a displaced employee from service for taking part in the July 1980 strike is justified and if not, to what relief the said employee is entitled and
2. Whether the non payment of the balance of the holiday wages for the years 2001 and 2002 to Mr. H. N. Amarasinghe is terms of Paragraph 31 of the leave regulations of the Co-operative Wholesale Establishment is justified and if not, what relief he is entitled.

Both parties agreed as follows:-

1. That the claims of the workman is based on Circular No. 32/89 (4) of 22.04.1991 issued by the Secretary to the Ministry of Public Administration which was marked X tendered to court.
2. That the workman was not in employment on that date i.e. 22.04.1991.
3. That according paragraph 4 of the said Circular those who had been deemed to have vacated employment in July 1980 but who had been re-employed at that date or re-employed subsequently are entitled to their increments and/or arrears of wages.

4. That the workman was re-employed on 28.08.1994.
5. That his salary has been paid up to 05.08.1989.
6. That the said circular be interpreted and an award be made there after.

Paragraph 4 for the said Circular states in Sinhala as follows:

1980 ජූලි මස සිට තනතුර අත්හැර ගියායේ සැලකෙන පුද්ගලයින් සඳහා හිඟ වැටුප් ගෙවීම.

මේ අනුව 1984 ජනවාරි මස 1 වෙනිදායින් පසුව නැවත සේවයේ පිහිටුවා ඇති හෝ පිහිටුවන පුද්ගලයින්ට ඔවුන් සේවයට නොපැමිණි කාලය තුළ සහ කාලය සඳහා සාමාන්‍යයෙන් ගෙවිය යුතු වැටුප් වර්ධක හා/හෝ හිඟ වැටුප් ගෙවිය යුතුය.

The workman has been re-employed on 29.08.1994 (1984 ජනවාරි . . . පසුව පිහිටුවන) and is entitled to the benefit of the said circular.

The dues up 05.08.1989 have been paid. He is entitled to his balance salary together with the normal increment from 06.05.1989 to 26.08.1994 and I make award accordingly.

I hold that there exists no dispute regarding No. 2 of the reference as all monies due had been paid. I also order that the monies awarded herein be paid within one month from the date of publication of this award.

A. SRI NAMMUNI,
Arbitrator.

09th of April, 2007.

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