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No. 1496/12 - THURSDAY, MAY 10, 2007

(Published by Authority)

PART I : SECTION (I) — GENERAL

Government Notifications

My No.: CI/1738/2004. Case No.: A 3103

THE INDUSTRIAL DISPUTE ACT, CHAPTER 131

In the matter of an Industrial Dispute
Between

THE award transmitted to me by the Arbitrator to whom the Industrial Dispute which has arisen between Free Trade Zones, and General Services Employees Union, 141, Ananda Rajakaruna Mawatha, Colombo 10 of the one part and, Cadillac Garments Ltd., 111/2, Station Road, Angulana, Moratuwa of the other part was referred by order dated 27.05.2005 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. 1395/16 - 01.06.2005 for settlement by arbitration is hereby published in terms of Section 18 (1) of the said Act.

Free Trade Zones, and
General Services Employees Union,
141, Ananda Rajakaruna Mawatha,
Colombo 10.

AND

Cadillac Garments Ltd.,
111/2, Station Road,
Angulana,
Moratuwa.

AWARD

D. S. EDIRISINGHE,
Commissioner General of Labour.

19th April, 2007.
Department of Labour,
Colombo 05,

1. The Hon. 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 Industrial Disputes (Special Provisions) Acts. 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 27.05.2005 and referred the dispute between the aforesaid parties for settlement by arbitration.

The matter in dispute between the aforesaid parties are :-

“Whether there had been a constructive termination of employment of the thirty four (34) employees referred to in the attached schedule who were in the service of the Angulana factory of Cadillac Garments Ltd., by way of closing down the said factory due to a Labour unrest took place therein and transferring them to its Nupe Factory in Matara by the said Company and if so occurred, to what relief each of the said employees is entitled.”

Appearances : Mr. R. A. D. Kumarawickreme, Attorney at Law for Company along with Mrs. Nishamani Karunaratne Group Personnel Manager of the Company.

Mr. S. Sinnathamby, Attorney at Law appeared initially with Mr. Anton Marcus Secretary of the Union and T. Leelananda Representative. Thereafter Mr. T. Leelananda - Representative appeared for the Union.

It was stated on behalf of the Respondent Company that the employees referred to in the annexed schedule have tendered resignations voluntarily from time to time and collected their dues from the company. Accordingly to the company the number of employees who have resigned as at 01.03.2006 was 19. The Company produced letters of resignation and the receipts for payments made. Copies of these documents were given to the Union. The Learned Counsel for the Union stated that he was not pursuing the reference in respect of the 19 employees. According to the proceedings of 31.01.2007, 27 employees have already resigned. The dispute is now confined to 07 employees.

The Union commenced the case on 03.10.2006 and led the evidence of Priyantha Abeywickrema. The inquiry was postponed to 23.08.2006. The overnight witness was not present on 23.08.2006. The Branch Union President was present on 23.08.2006 but he did not offer any explanation as to why the overnight witness was absent. The case was postponed to 04.10.2006. No one from the Union was present on 04.10.2006 but the Learned Counsel for the company was present along with Group Personnel Manager. The Registrar of the Industrial Court was directed by me to notice the Union to be present on the next date *i.e.* 31.01.2007. As directed by me the Union was noticed by the Registrar.

On 31.01.2007, the Learned Counsel for the Company was present with the Factory Manager but no one from the Union was present. The Union has not informed the Registrar the reasons for absence on 31.02.2007.

In these circumstances, I have no option but to conclude that neither the Union nor the workers are interested in the case. The Union as well as the seven

employees have failed to help themselves. Even God also helps those who help themselves.

I make no Award as the Union and the seven employees have by their conduct made it clear that they are not interested in obtaining relief.

V. VIMALARAJAH,
Arbitrator.

12th March, 2007.

Name

1. D. P. Malani Chandrakanthi
2. D. M. K. Dayakanthi
3. P. C. Priyanthi
4. W. A. Saman Sisira Kumara
5. W. W. Dilhani Fernando
6. M. F. M. Suraieyas
7. M. A. Indra Kumari
8. G. Indrani Athukorala
9. H. M. Seetha Kumari
10. K. H. Chandima Jayakumara
11. P. D. Ajith Kumara Jayawardane
12. G. Ranjith Kumara
13. A. L. Priyantha Abayawickrema
14. K. Kanthi
15. N. Nishanthi Madurapperuma
16. M. A. Swarnathilaka
17. R. P. Neetha Pathmalatha
18. A. M. Lalith Priyantha Adikari
19. V. Sampath Thushara Perera
20. M. J. W. Ruwan Nishantha
21. Nirosha Wanniarachchi
22. M. S. Thanuja Walisinghe
23. H. W. Nalani
24. H. B. K. S. Senadeera
25. N. Nilanthi
26. S. A. Badrika Chandani
27. B. D. Shiroma
28. G. W. Gunarathna Menike
29. W. B. Chithrangani
30. M. Nalani
31. R. A. Inoka
32. D. V. Ranuka Sandamali
33. M. G. Ranjith Wijayanandana
34. M. S. Fathima Sriyani

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