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The Gazette of the Democratic Socialist Republic of Sri Lanka

EXTRAORDINARY

අංක 1380/29 – 2005 පෙබරවාරි 18 වැනි සිකුරාදා – 2005.02.18
No. 1380/29 – FRIDAY, FEBRUARY 18, 2005

(Published by Authority)

PART I : SECTION (I) — GENERAL

Government Notifications

My No.: T7/272/94.

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 Acts, 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 28.07.2000 of the Industrial Dispute in respect of the matter/matters specified in the statement of the Commissioner of Labour dated 13.07.2000 between –

Mr. A. Chandrasena,
No. 304-C, Salmal Mawatha,
Pinnagolla,
Nittambuwa.

and

Ceylon Electricity Board,
Sir Chithampalam A Gardiner Mawatha,
Colombo 02

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

And whereas it is now deemed expedient that the said Order be 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 28.07.2000.

ATHAUDA SENEVIRATNE,
Minister of Labour Relations
and Foreign Employment.

Colombo 05,
09th February, 2005.

My No.: T23/Co/272/94.

**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 —

Mr. A. Chandrasena,
No. 304-C, Salmal Uyana,
Pinnagolla,
Nittambuwa.

and

Ceylon Electricity Board,
50, Sir Chitampalam A Gardiner Mawatha,
Colombo 02

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. K. A. D. B. Karunaratne, No. 216/8, Pamunuwa Road, Maharagama, 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,
09th February, 2005.

My No.: T23/Co/272/94.

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

Mr. A. Chandrasena,
No. 304, C, Salmal Uyana,
Pinnagolla,
Nittambuwa.

and

Ceylon Electricity Board,
50, Sir Chitampalam A Gardiner Mawatha,
Colombo 02

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

Whether the placement of Mr. A. Chandrasena on a monthly salary point of Rs. 265-14 x 10 - 5 x 15-480 in his promotion to clerk Grade IV with effect from 18.04.1978 is justified and if not, to what relief he is entitled.

MAHINDA MADIHAHEWA,
Commissioner of Labour.

Dated at the Office of the Commissioner of Labour, Colombo,
This 03rd day of February, 2005.

03-143

My No.: T23/Co/80/2002.

THE INDUSTRIAL DISPUTES ACT, CHAPTER 131

THE award transmitted to me by the Arbitrator to whom the Industrial Dispute which has arisen between Mrs. Ranjani Mundigala "Thilina", No. 47, Courts Road, Homagama and Sri Lanka institute of Advanced Technical Education, No. 98, Ward Place, Colombo 07 was referred by Order dated 24.02.2003 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. 1279/9 of 11.03.2003 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,
10th February, 2005.

Ref. No.: T23/CO/80/2002.
(A 2974)

IN THE MATTER OF AN INDUSTRIAL DISPUTE

between

Mrs. Ranjani Mundigala,
"Thilina",
No. 47, Courts Road,
Homagama

and

Sri Lanka institute of Advanced Technical Education,
No. 98, Ward Place,
Colombo 07.

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 Legislative Enactments of Ceylon (1956 Revised Edition), as amended by Acts, 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 24.02.2003 and referred the dispute to me for settlement by arbitration.

The matter in dispute between the parties are whether the non offer of a post of Senior Lecturer to Mrs. Ranjani Mundigala an Assistant Lecturer of the Institute, who appeared at the interview held by Sri Lanka institute of Advanced Technical Education on 26.04.1999, for the internal promotions to the said post was justified and if so what relief she is entitled to.

At the Inquiry Mr. R. P. Wimalasena, Attorney-at-Law appeared for the Employee and Mrs. K. R. R. Jehan, Attorney-at-Law appeared for the employer.

Parties filed their respective statements and the Inquiry commenced on 15.09.2003 and concluded on 24.05.2004. Written submissions on behalf of the Employee was filed on 15.07.2004 and the Employer did not tender any written submissions after the conclusion of the Inquiry.

Initially the Employer obtained dates to see the possibility of taking up the Employee's matter in the Governing Council meeting of the Employer but nothing materialised.

There after , the matter was taken up for inquiry and at the Inquiry the Employee Mrs. Ranjani Mundigala gave evidence and produced documents marked A1 to A6-2.

It must be noted the Evidence given by the Employee was neither cross examined nor contested by the Employer though the Employer was represented by its Attorney-at-Law and Mrs. P. Siriwardena, the Deputy Director General (Administration) of the Employer. The Employer did not call any witness or produce any document at the inquiry.

The Employee in her Evidence set out her qualifications and Experience in detail. The position of the Employee is that at the Interview held on 26.04.1999 for the promotion for the post of Senior Lecturer, the interview Board did not give the correct marks which she was entitled to get. The Employee has obtain 50 marks at the interview and the interview Board has recommended promotions for those who obtained marks over 53. The Employees position is that if the marking scheme is correctly applied, She would have obtained at least 53. She also in her evidence pointed out that others, who could not have obtained marks on the said scheme, were given marks which they were not entitled to get and were promoted.

The reason why the interview Board recommended promotions to only those who obtained 53 marks is unknown and the Employer did not seek to justify the same. The decision to promote only those who obtained 53 marks is not based on the availability of vacancy.

At the Inquiry, the Employer did not lead any evidence or produce any document to justify the denial of promotion to the Employee. The Employer did not avail of the opportunity given to it to justify the conduct of its interview Board.

The Employer in the document marked A2 admits that all those who obtained 53 marks at the interview were given promotions by the Employer.

At various stages Mrs. P. Siriwardena, the Deputy Director General (Administration) representing the Employer informed that she herself recommended a fresh interview for this Employee since she found that certain discrepancies had taken place at the interview in respect of this Employee. At the Inquiry, when questioned by me the deputy Director General admitted that this Employee should have been given more than 53 marks at the interview.

Taking into account the uncontradicted Evidence of the Employee and the documents produced before me, I am of the view that the Interview Board of the Employer has not given proper marks to the Employee and thereby denied her the promotion which she would otherwise have got.

Therefore, the denial of promotion to the Employee by the Employer is not justified and I consider that the Employee Mrs. Ranjani Mundigala should have been promoted by the Employer along with others who got their promotion in the same interview.

I hold that the Employee Mrs. Ranjani Mundigala should be promoted to the post of Senior Lecturer with all the privileges and facilities that were given to others who were promoted on the same interview and for all intends and purposes the promotion should be backdated to 21.05.1999 with the salary scale relevant to the said post of Senior Lecturer and with salary increase and back wages from the said date of 21.05.1999 to date, within 45 days after the publication of this award in the *Government Gazette*.

I make the award accordingly and I consider the same as fair and equitable.

U. ABDUL MAWJOOTH,
Arbitrator.

02nd February, 2005.

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