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The Gazette of the Democratic Socialist Republic of Sri Lanka EXTRAORDINARY

අංක 1397/26 - 2005 ජූනි 15 වැනි බදාදා - 2005.06.15
No. 1397/26 - WEDNESDAY, JUNE 15, 2005

(Published by Authority)

PART I : SECTION (I) — GENERAL

Government Notifications

My No. : T23/CO/194/2002.

Ref No. : T23/CO/194/2002.

THE INDUSTRIAL DISPUTES ACT, CHAPTER 131

IN THE MATTER OF AN INDUSTRIAL DISPUTE
between

THE award of the arbitrator dated 29.04.2005 transmitted to me as an interpretation to his original award dated 29.04.2005 regarding the Industrial dispute arisen between Mr. Thilan R. Senaratne, No. 191/1, Horton Place, Colombo 07. of the one part and (1) Mr. D. Nugawela, partner of spring Field Exhibition and Promotions, No. 18, Iswari Road, Colombo 06 (2) Mrs. S. Nugawela, Partner of Spring Field Exhibition and Promotion, No. 18, Iswari Road, Colombo 06 of the other part which was referred by order dated 08.09.2003 under Section 4(1) of the Industrial Disputes Act and published in the Democratic Socialist Republic of Sri Lanka *Extra Ordinary* No. 1306/19 of 18.09.2003 is hereby published in terms of Section 18 (1) of the said Act.

Mr. Thilan R. Senaratne,
No. 191/1, Horton Place,
Colombo 07. of the One Part

AND

CASE No. : A /3004

1. Mr. D. Nugawela,
Partner of Spring Field Exhibition and
Promotions,
No. 18, Iswari Road,
Colombo 06

AND

2. Mrs. S. Nugawela,
Partner of Spring Field Exhibition and
Promotion,
No. 18, Iswari Road,
Colombo 06. of the other Part

MAHINDA MADIHAHEWA,
Commissioner General of Labour.

Department of Labour,
Colombo 05.

20th May, 2005.

The 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 Act. Nos. 14 of 1957, 4 of 1962 and 39 of 1968. appointed me as Arbitrator by his order dated 08.09.2003 and referred the following dispute to me for settlement by Arbitration to wit ;

The matters in dispute between the aforesaid parties are whether Mr. Thilan R. Senaratne is entitled to receive the following payments from the Partners of Spring Field Exhibition and Promotions in term of the letter dated 17.05.1999 issued to him by the said establishment and if not, to what relief he is entitled.

1. 2% Commission on achievement of target for January 2000 ;
2. Car rent for April and May 2000 at the rate of Rs. 20,000 per month and ;
3. Reimbursement of Fuel expenses for March, April and May 2000.

Both Parties had made their respective statements as required.

The Employers were absent on 23.04.2004 and on 24.06.2004 though they had been noticed.

I decided to hold this matter without the presence of the Employers.

The applicant in his evidence had stated that he was compelled resign because of the attitude of his employers and I accept this position. I accept his evidence and the documents marked by him.

I overrule the objection raised by the Employers in their statement at paragraphs 09, 10 and 11 in view of the following reasons, namely—

- (a) That there is a constructive termination of services.
- (b) That the ratio decedent in Colombo Apothecaries Co. Ltd., Vs. Wijesuriya 70 NLR Page 481 and S. B. Perera Vs. Standard Chartered Bank and Other 1995 (1) SLR 73 does not prevent this court entertaining or inquiring into the matter referred to it by the Hon. Minister.

I hold that on the documents marked by the applicant workman namely A1, A2, A3, A4, A5 and A6 and the evidence of the applicant as follows :-

1. That the 2% commission on achievement of target for January 2000 is Rs. 12,464 and that the applicant workman is entitled to it.
2. That the car rental was Rs. 20,000 per mensem and that he is entitled to the car rental for the months of April and May 2000 amounting to Rs. 14,000.

I make award that Mr. D. Nugawela and S. Nugawela pay the sum of Rs. 66,464 the applicant workman Thilan Senaratne.

Amended as follows:

The employers to deposit the money awarded hereby with the Commissioner General of Labour within the one month from the date and publication and this award in the Gazette.

This award shall take effect from the date hereof.

A. SRI NAMMUNI,
Arbitrator.

Dated at Colombo,
This 29th day of April, 2005.

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MAHINDA MADIHAHEWA,
Commissioner General of Labour.

Department of Labour,
Colombo 05.

20th May, 2005.

The Award

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