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EXTRAORDINARY

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PART I : SECTION (I) — GENERAL

Government Notifications

My No. : CI/24/2002.

THE INDUSTRIAL DISPUTES ACT, CHAPTER 131

THE award transmitted to me by the Arbitrator to whom the Industrial Dispute which has arisen between Lanka General Services Union, 10/1, - 1/1, Kotugodella Veediya, Kandy and Ceylon Tobacco Company Limited, No. 178, Sir Ramanathan Mawatha, Colombo 15, was referred by order dated 17.08.2004 made under Section 4 (1) of the Industrial Disputes Act, Chapter 131, (as amended) 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,
17th February, 2005.

Reference No.: CI/24/2002.

Lanka General Services Union,
10/1, -1/1, Kotugodella Veediya,
Kandy.

AND

Case No. : A/3058

Ceylon Tobacco Company Limited,
No.: 178, Sirimath Ramanathan Mawatha,
Colombo 15.

Award

Minister of Labour Relations and Foreign Employment do 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, 4 of 1962 and 39 of 1968 read with Industrial Disputes (Special Provisions) Act, No. 37 of 1968 referred the aforesaid dispute to me for settlement by arbitration.

The matter in dispute between the aforesaid parties is :

- (1) whether there is any discrepancy between the amount of Compensation paid by the Ceylon Tobacco Company to Mr. M. R. S. Withanage who served as a field officer of the Company and that of so paid to Executives in the similar grades under the Voluntary Retirement Scheme and if so, to what amount of compensation he is entitled.
- (2) Whether the deprivation of Mr. M. R. S. Withanage the right to purchase the vehicle used last at a concessionary rate allowed by the Company to the Managers who retire voluntarily is justified and if not, to what relief he is entitled ; and
- (3) Whether the non computation of the annual increment due for the year 1993 for the purpose of payment of gratuity and compensation to Mr. M. R. S. Withanage by the Ceylon Tobacco Company is justified and if not, to what relief he is entitled.

This matter was taken up for inquiry on 14.10.2004. Workman was present. Mr. J. Maliyagoda represented the Applicant Union. Respondent was absent and unrepresented. No reasons have been submitted by the Respondent for their default in appearance. The respondent has defaulted in filling their statement as directed by Court on the due date. The

Respondent has failed to file their statement relating to the matter in dispute even up to the date, this matter was taken up for inquiry. The Applicant Union filed their statement relating to the matter in dispute on the due date as directed by Court. On the Application by the Applicant Union, punitive costs in the sum of Rs. 2,000 was ordered against the Respondent to be paid to the Applicant Union.

Registrar, Industrial Court was directed by Court to inform the Respondent to show cause for their non-appearance on 14.10.2004 and to appear before court on the next date and further to bring the sum of Rs. 2,000 as costs to be paid to the Applicant.

Further Registrar, Industrial Court was directed to inform the respondent under registered cover, that if they are absent on the next date, without valid reasons, court will proceed to hear this case ex parte on the next date.

Further inquiry was fixed for 12.11.2004.

On 12.11.2004, Applicant was present. Mr. J. Maliyagoda represented the Applicant Union. Respondent was absent and unrepresented.

I find on record that on 14.10.2004. Applicant was present and Mr. J. Maliyagoda appeared for the Applicant and the Respondent was absent and unrepresented.

Respondent was absent without any valid reasons and there was no valid reason submitted for their absence.

Respondent had not filed a statement relating to the matter in dispute.

They had defaulted in filing their statement.

I find that the applicant had filed his statement before this Court.

On 14.10.2004, Mr. Maliyagoda moved for costs on the ground that the respondent was not present. I ordered punitive costs as the Respondent had not submitted any valid reasons for their absence on 14.10.2004, and they had not filed their statement relating to the matter in dispute within time. Costs in a sum of Rs. 2,000 was ordered against the Respondent for their absence on 14.10.2004.

I directed the Registrar, Industrial Court to inform the Respondent of the hearing fixed for 12.11.2004 and further to bring a sum of Rs. 2,000 to be paid to the applicant, ordered as costs.

I find on record that the registrar, industrial Court had informed the Respondent of the hearing fixed for 12.11.2004, and to show cause for their non-appearance before Court on 14.10.2004, and to bring a sum of Rs. 2,000 ordered as costs to be paid to the Applicant.

Further the Registrar, Industrial court was directed by me to inform Respondent that if they were absent on the next date 12.11.2004, Court will proceed to hear this case ex parte on the evidence of the Applicant.

I find that notice had gone under registered cover to the Respondent and the notice was not returned undelivered, and there was no response whatsoever to the notice on the Respondent and they had defaulted in appearance on 12.11.2004.

I find further that up to 12.11.2004, Respondent had failed to submit their statement to the matter in dispute.

Mr. Maliyagoda moved for further costs for 12.11.2004.

I ordered the Respondent to pay a further sum of Rs. 2,000 as punitive costs for 12.11.2004.

Total sum of costs ordered on 14.10.2004 and 12.11.2004 is a sum of Rs. 4,000.

Taking into consideration the circumstances in this case on 12.11.2004, I decided to proceed to hear this case ex parte in evidence and take it up for inquiry.

Mr. Maliyagoda called the Applicant in evidence.

I have examined the oral and documentary evidence of the workman and the written submissions.

The evidence of the workman shows that he joined Ceylon Tobacco Co. Ltd., on 16.09.1977 and he was thereafter promoted to the Management cadre on 01.10.1997 by Document A1. His salary was Rs. 22,395. He was given a transport allowance of Rs. 7,090 a month. The age of retirement was 55 years. After his promotion to the Managing Staff in 1997 he was issued a slow cause letter A2 dated 03.09.1999. This was regarding a shortage amounting to Rs. 3,019.05. He replied the show cause letter. A domestic inquiry was held. He was not informed of the Decisions of the Domestic inquiry.

The Leaf Director called him on 30.11.1999 and informed him that he was exonerated of all the charges. He was asked to resign on the ground of ill-health although he was in good health. He questioned Leaf Director and he told him that the Company is restructured and offered him a package under the Voluntary Separation Scheme on the Formula of Basic salary multiplied by 1.50 x the last drawn salary + Rs. 8,750.- for 24 months. The evidence of the workman shows that he was paid less in the sum of Rs. 1.5 million by document A3. His evidence shows that he is entitled to Rs. 2,544,720. His evidence shows that he is entitled to a balance of Rs. 472,272 under the Voluntary Separation Scheme. He was paid Gratuity in the sum of Rs. 643,500. He is entitled to Rs. 720,720. In evidence he stated that he is claiming the balance gratuity due to him in the sum of Rs. 77,220. In evidence, he further claimed Rs. 472,272 due to him under the Voluntary Separation Scheme.

He also claimed in relief the Vehicle he was using at the time of his employment.

Taking into consideration the oral and documentary evidence of the workman, I accept his uncontradicted evidence of the workman. I hold it just and equitable to grant the relief prayed for by the workman.

On the evidence of the workman both oral and documentary, I hold that the workman is entitled to the balance sum of Rs. 472,272 as Compensation under the Voluntary Separations Scheme. He is entitled to the balance Gratuity in the sum of Rs. 77,220. I further hold that he is entitled to the vehicle used by him during his employment at a concessionary rate, allowed by the Company to the Managers who retired voluntarily.

Answering the three issues as set out in the statement of the matter in dispute, I confirm that the workman is entitled to the relief prayed for.

I make award accordingly.

I further make Award and order the Respondent, Ceylon Tobacco Co. Ltd., to deposit the sum of Rs. 472,272 as

Compensation and Rs. 77,220 as Gratuity and costs ordered in the sum of Rs. 4,000 totalling the sum of Rs. 553,492 with the Asst. Commissioner of Labour, (Kandy South) on or before 30th June, 2005, after which the workman is entitled to withdraw this sum.

I further make Award and order the Respondent Ceylon Tobacco Co. Ltd., to grant the right to the workman to purchase the vehicle used last at a concessionary rate allowed by the respondent Co. to the Managers who retire Voluntarily.

K. R. M. N. LAWRENTZ,
Arbitrator,
Attorney-at-Law,
Judge of the Industrial Court,
Commissioner of Oaths,
Kandy.

25th January, 2005.

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