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No. 1467/27 – FRIDAY, OCTOBER 20, 2006

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PART I : SECTION (I) — GENERAL

Government Notifications

My No. : T 7/51/2002.

Ref. No.: T 7/51/2002.

THE INDUSTRIAL DISPUTES ACT, CHAPTER 131

THE award transmitted to me by the Arbitrator to whom the Industrial Dispute which has arisen between All Ceylon Commercial and Industrial Workers Union, No. 457, Dr. Colvin R. de Silva Mawatha, Colombo 02 of the one part and Volanka Limited. No. 193, Minuwangoda Road, Kotugoda of the other part was referred by order dated 20/02/2004 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. 1,330/08 of 02.03.2004 for settlement by arbitration is hereby published in terms of Section 18 (1) of the said Act.

D. SOMAWEERA EDIRISINGHE,
Commissioner General of Labour.

Department of Labour,
Labour Secretariat,
Colombo 05,
04th September, 2006.

In the matter of an Industrial Dispute

BETWEEN

All Ceylon Commercial

AND

Industrial Workers Union,
457, Dr. Colvin R. de Silva Mawatha,
Colombo 02.

AND

Volanka Limited,
No. 193, Minuwangoda Road,
Kotugoda

Case No.: A -3031

THE AWARD

Hon. Mahinda Samarasinghe, The 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, (read with Industrial Disputes (Special Provisions) Act, No. 37 of 1968) appointed me to be the arbitrator and referred the aforesaid dispute to me for settlement by arbitration.

- (2) The matter in dispute between the parties is whether the demand of the All Ceylon Commercial and Industrial Workers Union for a salary increase of 35% for the workers employed at Volanka Limited as at 01.01.2004 is justified and if not, to what relief the said workers are entitled.
- (3) Mr. S. Siriwardena, General Secretary of the Union appeared for the All Ceylon Commercial and Industrial Workers Union, and Mr. Vajira Ellepola Attorney-at-Law appeared for the Respondent Company Volanka Limited.
- (4) After the parties filed their statements the inquiry commenced on 26.08.2004 when the applicant Union started its case first, leading the evidence of Wanniarachchige Don Anton.
- (5) In his evidence in chief Anton stated as follows :-
 - (i) The parties between the employer and the Union was to enter into Collective Agreement for a period of three years, and the last agreement (R1) signed in 1992 expired in 1995.
 - (ii) Non renewal of the Collective Agreement led to negotiations between the employer and the employee which ended in a deadlock.
 - (iii) The Commissioner - General of Labour tried to bring about a settlement and on his failure in that attempt referred the matter to the Hon. Minister who under Section 4(1) of the Industrial Dispute Act referred the matter for arbitration.
 - (iv) In arbitration proceedings No. A-2636, the arbitrator granted a salary increase of 20% with effect from 1st September, 1998. The employer did not grant the applicant any salary increase thereafter.
- (6) The Respondent Company has not shown any interest in revising the Collective Agreement signed in 1992 as it believe that a wage revision should be linked to a productivity improvement scheme. Discussions have been held between the management and the workers on the basis of improving productivity and sharing of benefit, but the workers were not convinced about the benefit that would accrue to them.
- (7) The workers were asking the revision of the Collective Agreement that was familiar to them over the years, but the Company had not given thought to the expectations of the Union.
- (8) Messrs. K. N. P. Kularatne, Manager Commercial and K. A. Thilak Abeyruwan Deputy General Manager gave evidence on behalf of the employer with regard to the competition faced by the company in purchasing raw-materials in the open market and other related matters.
- (9) Mr. Kularatne gave evidence with regard to the cost of production maintained by the other competitors through labour cost etc., but did not give any documentary or expert evidence to substantiate his contention.
- (10) Mr. Tilak Abeyruwan in his evidence stated that the lowest salary of an employee for the month of December 2005 was Rs. 9,800 while the highest salary was Rs. 38,300/-. He stated that substantial increases were given to the employees for the years 1998 to 2005.
- (11) This witness tried to show that wages of the employees were increased every year through the cost of living index and some relief have been granted to the workers despite non-revision of the Collective Agreement. R1. Under cross examination he had to accept the position that R1 was in fact a revision of the Collective Agreement signed on 1982 (Vide page 6 of 17.05.2006).
- (12) The witness categorically stated that the company had not consented to the matter being referred to compulsory arbitration under Section 4(1) of the Industrial Disputes Act. The attitude of the company appears to be opposed the authority of the Hon. Minister under the Industrial Disputes Act.
- (13) The Respondent Company has not challenged the jurisdiction of the Minister under Section 4(1) to refer this matter to arbitration either in the statement 18.03.2004 or after the beginning of the inquiry at any time but has taken such an objection only in the written submission dated 22.08.2006. Similarly he has challenged arbitrator's jurisdiction only in the written submission referred to above.
- (14) While going through the documents and the evidence of the witnesses I said that last salary increase of 20% was granted to the workers with effect from 01.09.1998 on an order of the arbitrator in proceedings No. A-2636 and confirmed by the Court of Appeal and the Supreme Court.

- (15) In consideration of the oral and documentary tendered, and the inquiries made by me as arbitrator, I hold that the Respondent Company has failed to give a salary increase to the workers in the applicant Union during the last 3 years.

All Ceylon Commercial and Industrial Workers' Union has asked for a salary increase of 35% for the workers employed at the Volanka Limited as at 01.01.2004. Accepting the fact that the workers have been given some relief under the cost of living index, I consider 20% salary increase calculated approximately at the rate of 6.7% per year for the these three years as at 01.01.2004. This 20% should be paid on this salary (excluding the allowances) drawn by the employees as at 01.01.2004.

- (16) Volanka Limited is hereby directed to implement the terms of this award within six weeks of its publication in the *Government Gazette*.

I consider this award just and equitable.

T. PIYASOMA,
Arbitrator.

Dated at Colombo,
on the 19th day of September, 2006.

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