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(Published by Authority)

PART I : SECTION (I) – GENERAL

Government Notifications

My No.: T7/50/92.

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 & Industrial Workers' Union, 457, Union Place, Colombo 02 of the one part and Nestle Lanka Limited, 440, T. B. Jayah Mawatha, Colombo 10 of the other part was referred by order dated 25th September, 2007, under Section 4(1) of the Industrial Disputes Act, Chapter 131 as amended and published in the *Gazette* of Democratic Socialist Republic of Sri Lanka, Extraordinary, No. 1518/6, dated 08th October, 2007, for settlement by Arbitration is hereby published in terms of Section 18(1) of the said Act.

W. J. L. U. WIJAYAWEEERA,
Commissioner General of Labour.

Department of Labour,
Labour Secretariat,
Colombo. 05.
03rd February, 2009

In the matter of the Industrial Dispute between –

All Ceylon Commercial & Industrial Workers' Union, 457, Union Place, Colombo 2 Petitioner.

A. 3235

AND

Nestle Lanka Limited, 440, T. B. Jayah Mawatha, Colombo 10 Respondent.

Dated at the 17th December, 2008.

AWARD

The Hon. Minister by virtue of the power vested in him by Section 4(1) of the Industrial Disputes Act, Chapter 131 of the Legislative Enactments of Sri Lanka (1956 Revised Edition) as amended by Act Nos. 14 of 1957, 4 of 1962 and 39 of 1968 (read with the Industrial Disputes Special Provisions) Act, No. 37 of 1968) has appointed me as the Arbitrator and has referred the following dispute to me for settlement by arbitration:

“Whether the termination of the services with effect from 10th April, 1992 of D. A. M. Hemasiri, who was employed in the Pannala Factory of Nestle Lanka Limited is justified and if not, to what relief he is entitled.”

History

The above matter in dispute had been originally referred by the Hon. Minister in terms of Section 4(1) of the Industrial Disputes Act, Chapter 131 for settlement by arbitration to the Labour Tribunal No. 13 on 28th September, 1992 and on 09th July, 1996 the Hon. Tribunal gave judgement to the effect that the Applicant Hemasiri was not entitled to any relief. Thereupon, the aforesaid Union on behalf of the said workman appealed against the judgement of the Hon. Tribunal to the Court of Appeal and the said Court of Appeal ruled that the matter in dispute should be referred to another Arbitrator in terms of Section 4(1) of the said Act.

On 10th November, 1999, the Hon. Minister in terms of Section 4(1) of the Act, referred the above dispute to an Arbitrator by the name of G. P. Haththotuwa by No. A2767. While the Arbitration was in progress the Respondent Company applied to the Court of Appeal for an interim injunction which was refused by the Court of Appeal on 05th June, 2002. The Respondent Company appealed the Supreme Court against the decision of the Court of Appeal but the Supreme Court upheld the decision of the Court of Appeal and dismissed the application of the Respondent Company. At the conclusion of the arbitration No. 2767, the Respondent Company again appealed the Court of Appeal requesting for a writ to quash the proceedings of the Arbitration. In terms of the decision of the Court of Appeal, the Hon. Minister in terms of the said Section 4(1) referred this matter to the undersigned for settlement by arbitration.

Proceedings

The above Arbitration was called before the undersigned on 10 dates from 12th November, 2007 to 26th August, 2008. The Applicant party the All Ceylon Commercial and Industrial Workers Union representing the workman Hemasiri argued that workman resigned from the Canteen Committee of the Respondent Company on the question of the poor quality of milk that was served to the workers of the factory.

On matters arising from a letter which the workmen had written to the management of the Respondent, workman Hemasiri's services were suspended, and upon holding of a domestic disciplinary inquiry the services of workman Hemasiri had been terminated with effect from 10th April, 1992. Thereafter, as stated in the preceding History of this arbitration, several applications were filed by both the Applicant and the respondent against the decisions of the Arbitrator and finally it has come before the undersigned for settlement by Arbitration. The applicant Union on behalf of the workman Hemasiri prayed that the termination of the services of the workman was unlawful and unjustified.

The Respondent, by its written submissions filed before the Industrial Court also reiterated the statements of the Applicant and argued that when the Applicant Hemasiri was to be served with a letter to the effect that he should desist from making false and baseless allegations against the management, that he had refused to accept the letter of the management, and that the refusal of the workman was unlawful and a clear breach of the provisions of Clause 36(2) of the Collective Agreement the Trade Union had signed with the Respondent Company and the workman was suspended from services of the Company and after holding a domestic disciplinary inquiry the services of the workman was terminated with effect from 10th April, 1992. The Respondent Company prayed that termination of the workman is just and equitable.

After several days of trial the Respondent Company agreed to settle this matter on the payment of Rs. 1,135,000, as an ex gratia payment but on the condition that the Respondent will hold back 15% of the said payment as With Holding Tax (WHT) to be paid to the Inland Revenue Department as required by law. However, the Respondent agreed to pay back the sum of Rs. 202,500 held as the payment of the With Holding Tax if the workman was able to obtain a directive from the Inland Revenue Department to the effect that the workman will pay the said sum of Rs. 202,500 to the Inland Revenue Department as WHT. Finally when this assurance was obtained by the workman from the Inland Revenue Department, the Respondent was prepared the sum of Rs. 202,500 in open court to the workman.

Finally on 26th August, 2008, the Respondent Company paid and settled the full amount of Rs. 1,135,000 to the workman Hemasiri and settled the matter.

In view of the above, I make no Award in this Arbitration.

Dr. Irwin Jayasuriya (Attorney-at-law),
Arbitrator.

Dated at the 17th day of December, 2008.

My No.: IR/15/07/2007.

**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 specified in the statement of the Commissioner of Labour which accompanies this order exists between -

Mrs. R. A. Chandani Ranasinghe, No. 75, "Highlands", Cyril Jansz Mawatha, Panadura.

AND

Sri Lanka Broadcasting Corporation, P.O.Box 574, Independence Square, Colombo 07.

NOW THEREFORE I, Athauda Seneviratne, Minister of Labour Relations and Manpower, 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, 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), hereby appoint Mr. Sugathadasa Kariyawasam, No. 28, Abeyratne Mawatha, Boralessgamuwa, to be the Arbitrator and refer the aforesaid dispute to him for settlement by arbitration.

ATHAUDA SENEVIRATNE,
Minister of Labour Relations and Manpower.

19th February, 2009,
Colombo.

My No.: IR/15/07/2007.

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

Mrs. R. A. Chandani Ranasinghe, No. 75, "Highlands", Cyril Jansz Mawatha, Panadura.

AND

Sri Lanka Broadcasting Corporation, P.O.Box 574, Independence Square, Colombo 07.

STATEMENT OF MATTER IN DISPUTE

The matter in dispute between the aforesaid parties is -

What should be the post that Mrs. R. A. Chandani Ranasinghe appointed to ie. whether to the post of Secretarial Assistant or to the post of Book Keeper on the basis of the date of her first appointment as the Secretarial Assistant Grade III as recruited by the Sri Lanka Broadcasting Corporation with effect from 26th March 1996 and what should be the grade and the salary point given to her at the time of so appointing her to the respective post.

W. J. L. U. WIJAYAWEERA,
Commissioner of Labour.

Dated at the office of the Commissioner of Labour, Colombo, this 23rd day of January, 2009.

My No.: IR/22/25/2007.

**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 specified in the statement of the Commissioner of Labour which accompanies this order exists between -

Mr. A. P. H. G. C. Jayaweera, 'Sampath' Athwalapitiya, Hingula.

AND

Sri Lanka Transport Board, No. 200, Kirula Road, Colombo 05.

NOW THEREFORE I, Athauda Seneviratne, Minister of Labour Relations and Man Power 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, 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) hereby appoint Mr. P. Danansuriya, No. 114C, Moratuwatta, Pattalagedera, Veyangoda to be the Arbitrator and refer the aforesaid dispute to him for settlement by arbitration.

ATHAUDA SENEVIRATNE,
Minister of Labour Relations and Man Power.

Colombo 05.
19th February, 2009.

My No.: IR/22/25/2007.

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

Mr. A. P. H. G. C. Jayaweera, 'Sampath' Athwalapitiya, Hingula.

AND

Sri Lanka Transport Board, No. 200, Kirula Road, Colombo 05.

STATEMENT OF MATTER IN DISPUTE

The matter in dispute between the aforesaid parties is -

Whether the interdiction of Mr. A. P. H. G. C. Jayaweera who was the Depot Manager, Mawanella Depot without pay from 25.01.2006 upto 02.12.2006 by the Sri Lanka Transport Board is justified and if not justified, to what relief he is entitled from the said Board.

W. J. L. U. WIJAYAWEERA,
Commissioner of Labour.

Dated at the office of the Commissioner of Labour,
Colombo, this 03rd day of February, 2009.

03 - 309