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The Gazette of the Democratic Socialist Republic of Sri Lanka

EXTRAORDINARY

අංක 2072/46 – 2018 මැයි මස 24 වැනි බ්‍රහස්පතින්දා – 2018.05.24

No. 2072/46 – THURSDAY, MAY 24, 2018

(Published by Authority)

PART I : SECTION (I) – GENERAL

Government Notifications

My No.: IR/15/39/2011.

THE INDUSTRIAL DISPUTES ACT, CHAPTER 131

The award transmitted to me by the Arbitrator to whom the Industrial Dispute which has arisen between Mr. W. P. Perera, No. 50, 2nd Step (Phase), Gemunu Mawatha, Thabuttegama of the one part and Mahaweli Authority of Sri Lanka, No. 500, T. B. Jayah Mawatha, Colombo 10 of the other part was referred by order dated 06.09.2013 made under section 4(1) of the Industrial Dispute Act, Chapter 131, (as amended) and published in the *Gazette of the Democratic Socialist Republic of Sri Lanka Extraordinary* No. 1827/12 dated 11.09.2013 for Settlement by Arbitration is hereby published in terms of section 18(1) of the said Act.

A. WIMALAWEERA,
Commissioner General of Labour.

Department of Labour,
Labour Secretariat,
Colombo 05.
12th May, 2018

In The Matter Of Industrial Dispute

Between

Mr. W. P. Perera, No. 50, 2nd Step (Phase) Gemunu Mawatha, Thabuttegama

of the one part

A - 3522

AND

Mahaweli Authority of Sri Lanka, No. 500, T. B. Jayah Mawatha, Colombo 10.

of the other part



AWARD

THE Hon. Minister of Labour and Labour Relations by virtue of the powers vested in him under 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 Dispute between the aforesaid parties to me for settlement by arbitration.

The matter in dispute is -

“Whether any injustice has been caused to Mrs. W. P. Perera employed as Technical Engineer Grade II of the Mahaweli Authority of Sri Lanka, Through-

1. The placement in the post of Engineering Assistant Grade I not being backdated to 01.01.1986
2. The placement in the post of Technical Engineer Grade II not being backdated to 23.02.1999
3. Not being placed in Technical Engineer Grade I from 23.02.2002.
4. Not being placed in Technical Engineer Special Grade from 23.02.2005.

And if so what reliefs she is entitled to

The applicant Mrs. W. P. Perera was represented by Mr. M. N. A. Fernando while respondent Mahaweli Authority of Sri Lanka was represented by Mrs. Prasanga Ailapperuma, Attorney at law.

To reduce the time involved it was decided to permit filing of a sworn affidavit by the applicant and the respondent to cross examine thereafter in filing the initial submissions in terms of the regulations under the Industrial Disputes Act, as well as the affidavit, the applicant stated that she was deprived of positioning in the different grades in the Technical service she was employed. She submitted that she passed the examinations in 1986 but appointed only on 01.01.1990 whereas those who passed at the same exam in 1986 were given the promotions effective 01.01.1986.

As a result of the delayed appointment she was short by 3 months for the next exam and could not therefore sit the Grade II exam. She was called for the interview along with another 50 and 39 were listed as suitable for appointment and appointments were given according to merit and her rank in seniority on merit was 21. However 16 were appointed. Mr. D. D. M. Dayananda who was placed on 17th position appealed but the management rejected his appeal. Thereafter through arbitration proceedings it came to light that there were 20 vacancies. She being in the 21st position in the merit list management could have easily appointed her but failed to do so in the meantime disgrading The merit list management selected one Mr. Jayasekara who was on the 28th position over looking several others. She pointed out that management violated the accepted procedure thus depriving her the due promotion resulting from economic losses continuously.

Applicant's next witness Mr. D. D. M. Dayananda formerly Engineering Assistant stated that

He joined Mahaweli Authority of Sri Lanka on 01.01.1986 as an Engineering Assistant and was promoted to Grade II in 1994. He sat for the next promotion along with others and secured the 17th position on merit rating. Management selected 16 when few more vacancies existed. Therefore he took up the issue with the Department of Labour and the matter was referred to arbitration.

The Hon. Arbitrator held with the plea since it highlighted that 20 more vacancies were available, apart from selections made earlier. Also it came to light that persons in the merit list No. 19 and another on 28th position had been promoted by passing the merit ranking.

Proceedings could not be continued with the witness as it was reported that he passed away.

Thereafter inquires were fixed on the following dates. Although respondent appeared on all dates applicant's witness and representatives failed to appear on most dates fixed and proceedings moved at a snails speed.

- | | | |
|--------------------|---|---|
| 10. September 2014 | - | Witness absent. |
| 26. September 2014 | - | Applicant and witness absent. |
| 03. October 2014 | - | Witness indisposed, applicant and representatives absent. |
| 24. October 2014 | - | Applicant absent, representatives present and state that witness passed away on the 21st instant. |
| 24. November 2014 | - | Applicant and representative present, new witness absent. |

In conclusion find that the applicant had lost interest in proceedings with this case and in the circumstances award no relief. This is just and a fair award.

P. NAVARATNE,
Arbitrator.

27th March, 2018.

06-475

My No.: IR/COM/01/E/2015/11.

THE INDUSTRIAL DISPUTES ACT, CHAPTER 131

THE AWARD transmitted to me by the Arbitrator to whom the Industrial Dispute which has arisen between Mr. R. A. Amerasinghe, Security Division, Lanka Sugar Company, Pelwatta, Buttala of the one part and Lanka Sugar Company (PVT) Ltd; Private Mail Bag Buttala at the, other part was referred by order dated 31.12.2016 made under section 4(1) of the Industrial Dispute Act, Chapter 131, (as amended) and published in the *Gazette of the Democratic Socialist Republic of Sri Lanka Extraordinary* No. 2004/46 dated 01.02.2017 for Settlement by Arbitration is hereby published in terms of section 18(1) of the said Act.

A. WIMALAWEERA,
Commissioner General of Labour.

Department of Labour,
Labour Secretariat,
Colombo 05.
13th May, 2018

In The Matter Of Industrial Dispute

Ref. No.: IR/COM/01/E/2015/11.

Between

Mr. R. A. Amerasinghe, Security Division, Lanka Sugar Company, Pelwatta, Buttala *of the one part*

Case No: A/09/2017

AND

Lanka Sugar Company (PVT) Ltd., Private Mail Bag, Buttala

of the other part

The Award

THE Hon. Minister of Labour and Trade Union Relations do 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, 4 of 1962 and 39 of 1968 (read with Industrial Disputes Special Provisions) Act, No. 37 of 1968, Appointed me to be the Arbitrator by his order dated 31st December 2016 and referred the following disputes to me for settlement by arbitration.

The matter in dispute between the aforesaid parties are –

Whether the non payment of arrears of salary to Mr. R. A. Amarasinghe who is working at the Lanka Sugar Company (Pvt) Ltd. as a security Guard, for the Period from 18.11.2011 to 07.12.2011 during which he had been interdicted from employment is just and equitable if not so, to what reliefs he is entitled.

Appearance

Mr. H. A. Piyadasa,
Representative for the party *of the First Part*

Mr. Mahendra Dias,
Attorney-at-Law for the party of the *Second Part*

Both parties have filed the statements under Regulations 21(1) and 21(2) of the Industrial Disputes Regulations of 1958 as amended.

The Applicant's evidence was lead and meanwhile the both parties were agreed to discuss for a settlement.

On 7th March 2018, The Applicant's Representative informed the Court that the Applicant Mr. R. A. Amerasinghe was paid the salary arrears for the period 18.11.2011 to 07.12.2011 by the Respondent Company and the matter in dispute was settled.

In the circumstances I make no award.

KAPILA M. SARATHCHANDRA,
Arbitrator.

14th March, 2018.

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