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EXTRAORDINARY

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PART I : SECTION (I) — GENERAL

Government Notifications

My No. : IR/21/52/2009.

My No. : IR/21/52/2009.

THE INDUSTRIAL DISPUTES ACT (CHAPTER 131)

THE award transmitted to me by the Arbitrator to whom the Industrial Dispute which has arisen between Jathika Sewaka Sangamaya, No. 416, Kotte Road, Pitakotte, of the one part and The National Film Corporation of Sri Lanka, No. 303, Baudaloka Mawatha, Colombo 07, of the other part was referred by order dated 10.11.2010 made under Section 4(1) of the Industrial Disputed Act, Chapter 131, (as amended) for Settlement by Arbitration is hereby published in terms of Section 18(1) of the said Act.

M. D. CHANDANI AMARATHUNGA,
Commissioner of Labour.

Department of Labour,
Labour Secretariat,
Colombo 05,
14th June, 2013.

In the matter of an Industrial Dispute

BETWEEN

1. Jathika Sewaka Sangamaya,
No. 416, Kotte Road,
Pitakotte.

Case No.: A - 3356 *and*

1. The National Film Corporation of Sri Lanka.
No. 303, Baudaloka Mawatha,
Colombo 07.

01. The Honorable Minister of Labour Relation and Productivity Promotion, by 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 as an arbitrator by his order dated 10th November 2011 and referred the following dispute to me for arbitration.



THE AWARD

3. From 1st January, 1990 Fonseka was eligible to a salary of Rs. 2,200

The matters in dispute has arisen between

W. S. Fonseka - Cashier, National Film Corporation of Sri Lanka of the onepart (Applicant) and the National Film Corporation of Sri Lanka, No. 303, Baudhaloka Mawatha, Colombo 7 of the other part (Respondent).

The matters in dispute between the aforesaid parties are :

"Whether Mr. W. S. Fonseka who is performing the duties in the acting post of Chief Shroff under the National Film Corporation of Sri Lanka is entitled to be placed on the grade MA 1-3 and receive salaries accordingly and what relief he should be granted by the said corporation."

Appearances :

The Applicant Widanalage Sumanadasa Fonseka was represented by his representative Mr. M. K. Hemapala. The Respondent National Film Corporation was represented by Mrs. Wathsala Wickramarachchi Attorney-at-Law, together with the Respondent's Officers. Evidence on behalf of the Respondent was given by Renjani Perera the acting Personnel Manager who tabled documents marked P1 to P25 (mel - me 25). The Applicant gave evidence on his behalf and the case was taken up on the following days :

23rd February 2011, 9th March 2011, 7th April 2011, 9th May 2011, 24th May 2011, 17th June 2011, 11th July 2011, 3rd August 2011, 4th October 2011, 6th December 2011, 13th January 2012, 4th May 2012, 12th June 2012, 20th July 2012.

Appointment of applicant as Chief Cashier :

The Applicant was appointed Temporary Cashier/Clerk at the National Film Corporation on 13th June, 1979 and was made permanent on 14th December, 1979 on the retirement of the Chief Cashier N. P. Peiris - Grade VII - who retired on 19th April, 1989. On the retirement of the Chief Cashier the applicant, in addition to his normal duties also performed the duties of Chief Cashier Peiris and the Applicant was made aware of the emoluments paid to acting officers by letter dated 22nd February 1993. This letter referred to the post of Grade VII Chief Cashier. Reference was made here to chapter 7 of the Establishment Code paragraph 12:5:2 which showed acting Chief Cashier's emoluments as follows :

1. Chief Cashier's Salary Scale :
Rs. 2,200 50 x 5 - 75 x 14 Rs. 3,500.
2. Fonseka's salary from 19.04.1989 had reached -
Rs. 2,150
as set out in the Establishment Code for Grade VII -
paragraph 12:5:2

Applicant's Service Record :

Applicant who was made permanent on 14.12.1979 has got the following promotions.

01.01.1981 - Promoted to Cashier/Clerk	Grade X
01.03.1983 Promoted to Cashier	Grade IX
1.6.1994 Promoted to Cashier	Grade VIII
1.2.2001 Promoted to Chashier	Grade VII

His service record shows that, the Applicant was appointed on 13th June, 1979 as Cashier/Clerk Grade III and was confirmed on that post on 14th December 1979. He was promoted on 01st January, 1981 as Cashier/Clerk Grade X and on 01st March, 1983 was promoted to Grade IX as Cashier/Clerk. In 1989 he was appointed to perform the duties of the Chief Cashier Grade VII who had retired by then - (P 1). From 19th April 1989 which date he was paid an acting allowance of Rs. 90 based under the Establishment Code Chapter VII. Section 12.5.1 and from 1st January, 1990 under Section 12.5.2. of the Establishment Code, he has been paid an acting allowance. Thereafter on 1st June 1994 he was promoted to Grade VIII and from 1st February 2001 he was promoted as Cashier Grade VII. Under the new scheme introduced by the Respondent Corporation there was no specific cadre for the post of Chief Cashier, although there were grades above Grade VII. This resulted in the applicant having to stagnate on Grade VII. Fonseka had been recruited as the Cashier Clerk Grade III and confirmed in the post on 14.12.1979. On 01.01.1981 he was in the Grade X and was promoted to Grade IX on 01.03.1993. On the retirement of the Cashier on 19.04.1989 who was serving in Grade VII, an appointment was made to perform the duties of this officer till a permanent officer is appointed. At the applicant's request an acting allowance of Rs. 90 was paid. Thereafter from 01.06.1994 he was promoted to Grade VIII on 01.01.2001. He was promoted to Grade VII. From Grade 9 as the applicant has been performing the duties of the Chief Cashier and he had made many requests that he be appointed to the Post of Chief Cashier. Under the provisions of the Establishment Code, the Department of Management Services which is under the Ministry of Finance and Planning recommend certain changes in the scheme of retirement of staff and promotion to higher grades. This had not included the Chief Cashier's post as one such scheduled post. The only post included for the Chief Cashier was Grade VII, which was in the way of Fonseka appointed to that post, straight away.

At the time of his retirement Fonseka has arrived at the maximum of Grade MA - 1 - 1 Though permission was sought to place Fonseka by creating a post equivalent to IM - 1 - 1 such

permission was not granted as such posts could not be created for the purpose of benefitting any targeted employee and not meant for the general staff.

Department of Management Services Circular No. 30 makes reference to Board Decisions taken on 19th November 2008 and the Report submitted by the Personnel Division is of the view that salary anomalies would arise if 2 extra salary increments are made personnel to the applicant and was not given to the Chief Cashier as there are other employees of the same seniority as the applicant, who cover up duties other than duties they have been assigned. This made the applicant to stagnate at G7.

The Film Corporation was started in 1972 and the Chief Cashier Mr. G. H. Peris who is one of its earliest employees and has his Employees' Provident Fund - E.P.F. No. as 33. When the Chief Cashier (Mr. G. H. Peris) retired he was in Grade VII and there was no provision for promotion above Grade VII. On the retirement of the Chief Cashier the applicant Fonseka was appointed to act for him, for which he was paid on acting allowance from 01.01.1990.

In the evidence of the applicant (page 38 of proceedings) in answer to a question the Applicant stated that he had acted for a period of over 21 years till he retired on 17 February 2011. This is a fallacious and misleading statement. During this period he had made many requests to the Respondent Board to make him permanent in his acting post. In response to a request on behalf of the Applicant to promote him and make the post MA - 1 personal to Fonseka, the National Salaries and Cadres Commission intervened by its letter No. NSCC/2/1/5/1/15 - Volume.11 (Page 216) and 26 April 2010 and expressed the view that MA - 1 - 1 is the Grade that would be most beneficial to the applicant and. This failure and/or delay on the part of the Film Corporation to prepare details of the scheme of promotions did not enable Fonseka to receive his promotions and all his other dues on the due dates. It could now be rectified after presenting it for necessary approval. This was the view expressed by Mr. B. Wijayarathna Secretary of the National Wages and Cadres Commission (Page No. 29).

We have also been conscious of the great risk the applicant and those performing the task of Cashiers' undergo in their day today performance of their duties in handling large amounts of cash, Banking them, their disbursement to theatres etc. which is performed at great risk to their lives specially at times like the present violence-prone days.

Presently Fonseka on Salary Scale MA 1-1 draws 13,450 = 145 x 10 - 170 x 7 - 240 x 4 - 320 x 20 = 23,450. His present salary scale which he has reached - 23,460 =, as his monthly salary has carried with it numerous increments during the period of

his service despite his misleading and fanciful statement that he had acted for a period of 21 years, a claim which has to be rejected outright.

The salary scale for Grade VII is Rs. 7190 - 10,270 - 13 x 150 which scale the Applicant has reached and received all his increments. In recognition of the good service record maintained by the Applicant Fonseka. I would commend that he be paid two extra increments from the salary point he has reached. This payment should include all the allowances and other benefits he would have drawn during this period of 2 years.

Under these circumstances I consider this Award a just and equitable Award.

W. G. DEEN,
Arbitrator.

09th April, 2013.

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My No. : CI/139.

THE INDUSTRIAL DISPUTES ACT (CHAPTER 131)

THE Memorandum of Settlement entered into between Singer (Sri Lanka) PLC. No. 80, Nawam Mawatha, Colombo 2 of the one part and the Commercial and Industrial Workers' Union, No. 17, Barracks Lane, Colombo 2 of the other part on 4th day of January 2013, regarding Manual (Drivers and Packers/Cleaners) Grade Employees is hereby published in terms of Section 06 of the Industrial Disputes Act, Chapter 131, of the Legislative Enactments of Ceylon (Revised Edition 1956).

V. B. P. K. WEERASINGHE,
Commissioner of Labour.

Department of Labour,
Labour Secretariat,
Colombo 05,
21st May, 2013.

Memorandum of Settlement No. 02 of 2013

Memorandum of Settlement entered into between Singer (Sri Lanka) PLC of No. 80, Nawam Mawatha, Colombo 2 (hereinafter referred to as "The Employer") and the Commercial and Industrial Workers' Union having its registered Office at No. 17 Barracks Lane, Colombo 2 (hereinafter referred to as "the Union").

It is hereby agreed by and between parties as follows :

Grade III - Rs. 17,188/- (14 x 95/-) + (21 x 105/-) Rs. 20,723/- & thereafter 105/-

1. This Memorandum of Settlement shall cover the Employer, the Union and members of the Union employed on permanent basis in categories of Drivers, Packers/Cleaners of the employer who are in the service as at 01st December 2012.
2. This Memorandum of Settlement shall come into effect on 01st December 2012 and shall continue thereafter until either party gives one month's written notice of termination of the agreement to the other, provided, however, neither party shall give such notice of termination before 31st October, 2014.
3. During the pendency of this agreement the company shall make a payment in lieu of Cost of Living as it did in the year 2012.
4. It is agreed by and between parties that during the pendency of this Memorandum of Settlement neither party shall attempt to vary or alter any of the terms and conditions set out herein other than by way of mutual agreement.
5. In the event of a dispute in relation to any matter that is not covered by this agreement, parties are agreed to resolve such dispute through discussions at the Company level or failing which at the Employers Federation of Ceylon or failing which through conciliation and/or voluntary arbitration in terms of the Industrial Disputes Act.
6. With effect from 01st December, 2012 the salaries applicable to the employees covered by this agreement shall be in terms of the scales set out hereunder.

7. (i) To ascertain the salary payable to an employee with effect from 01st December, 2012, a sum equal to 11.5% of the salary drawn by each employee as at November, 2012 shall be added to the salary payable to an employee as at 30th November, 2012 and the employee shall be placed on the corresponding point in monetary terms in the grade applicable to him/her on the aforementioned salary scale. If there is no corresponding point the employee shall be placed on the next higher point in monetary terms.

(ii) With effect from 01st December, 2013, each employee who is in employment and who was in employment as at 1st December 2012 shall be granted a salary increase equal to 0.5% of the salary paid to such employee as at November, 2012 and such employee shall thereafter be placed on the corresponding salary point in the grade applicable under the salary scales applicable as at such time. In the event of there being no such corresponding point such employee shall be placed on the next higher point as in the case of the first conversion.

In witness hereof parties have set their hand hereunto at Colombo on this 04th day of January, Two Thousand and Thirteen.

For and on behalf of the
Employer

For and on behalf of the Union

Drivers

Grade I - Rs. 16,473/- (14 x 55/-) + (35 x 70) Rs. 19,693/- & thereafter 70/-

Grade II - Rs. 16,818/- (14 x 90/-) + (30 x 100/-) Rs. 21,078/- & thereafter 100/-

Grade III - Rs. 17,619/- (14 x 105/-) + (21 x 115/-) Rs. 21,504/- & thereafter 115/-

Packers/Cleaners

Grade I - Rs. 16,068/- (14 x 55/-) + (35 x 65) Rs. 19,113/- & thereafter 65/-

Grade II - Rs. 16,363/- (14 x 80/-) + (21 x 90/-) Rs. 19,373/- & thereafter 90/-

1.
M. P. A. Salgado,
Finance Director.

2.
P. L. D. C. Perera,
Director - Human Resources

3.
H. M. I. S. Herath,
Manager - Industrial
Relations.

1.
Saranapala Silva,
General Secretary - CIWU

2.
S. A. B. Premalal,
Branch President - CIWU

3.
H. L. M. P. Nanayakkara,
Branch Secretary - CIWU

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