PERMANENT ARBITRATION TRIBUNAL

PART AWARD

R.N. 214(a)

A. INTRODUCTION

In the matter of:

The Docks and Wharves Staff

and

Employees Association The Cargo Handling Corporation Ltd.

The Tribunal composed of:

Mr. Harris Balgobin - President
Mr. Ravin Bunwaree - Member
Mr. Max Serret - Member

proceeded to enquire into the abovementioned industrial dispute referred to it in terms of Section 82(1)(f) of the Industrial Relations Act, 1973, by the Minister in charge of Industrial Relations. The points in dispute are:-

(1) Whether the salary scale of the categories of employees affected by the implementation of the double shift in the Port should be adjusted to compensate for regular overtime lost and the changes brought to the existing contract of employment regarding hours of work, or otherwise;

(2) Whether the employees posted on second shift should be paid a meal allowance of Rs 13, or otherwise;

(3) Whether a productivity target bonus should be introduced for non-piece rate workers, or otherwise;
Whether all Tally Clerks ("board" and "shore") should be paid the same salary, or otherwise;

Whether the Documentation Clerks should be paid the same salary as Berth Office Clerks or otherwise;

Whether the Clerks should be guaranteed a personal allowance Equivalent to an extra (i.e. after 3 p.m.) if a vessel finishes before 3 p.m., or otherwise;

Whether the employees should be entitled to obtain loans not exceeding 2 months salary, refundable in 15 monthly instalments, or otherwise;

Whether when required to perform duties of another post employees should be remunerated accordingly, or otherwise;

Whether employees should be paid at the end of the year for all sick leave not taken, or otherwise;

Whether an allowance should be paid to employees on a team when there is an employee short (dimoune manque), or otherwise:

Whether uniforms should be allotted as follows: 3 pairs of trousers and 6 shirts and 2 pairs of shoes a year, or otherwise.

A.2 Mr. Guy Ollivry, Q.C., instructed by Mr. P. Balmano, Attorney-at-Law, assisted the Docks and Wharves Staff and Employees Association, hereinafter referred to as the Association, Whereas Mr K. Matadeen, then Principal. Crown Counsel, appeared for Cargo Handling Corporation Ltd., hereinafter referred to as the Corporation.

A.3 Written Statements of Case was presented to the Tribunal by both Parties to the dispute and were duly filed. Oral and documentary evidence was also adduced.

A.4 The Tribunal has concluded the proceedings with the President and one Member only after obtaining leave from the Parties.

A.5 The Tribunal has now decided to deliver a Part Award in relation to Item (1).

"(1) Whether the salary scale of the categories of employees effected by the implementation of a double shift in the Port should be adjusted to compensate for regular overtime lost and the changes brought to the existing contract of employment regarding hours of work, or otherwise."
B. CONSIDERATIONS

(l) Whether the salary scale of the categories of employees affected by the implementation of a double shift in the Port should be adjusted to compensate for regular overtime lost and the changes brought to the existing contract of employment regarding hours of work, or otherwise.

B.1 The Tribunal considers that the issue commonly known as the double Shift/dispute is yet another source of tension in the Port and should be dealt with by way of a Part Award.

B.2 The Tribunal considers that it is important that it should deal extensively with the arguments of both Parties as expressed in their Statement of Case.

B.3 The Union has in its Statement of Case averred in relation to Item (l) the following:

Historical Background

All the categories of employees mentioned in paragraph 6 were formerly employed by private cargo handling companies. On the 1st October, 1983 the Government licensed the Cargo Handling Corporation to operate in the place of those private companies and the C. H. C. absorbed the categories of employees concerned on the basis of an agreement signed between the C.H.C. and the trade union (D.A.W.S.E.A.). This agreement sets out the working hours of these categories of employees.

On or about the 24th February, 1988 the Union was informed through the press that the C.H.C. was introducing a double shift system in the Port as from the 1st of March, 1988. The D.A.W.S.E.A. and other Unions concerned by the double shift system set up the “Front Syndical Portuaire” and contacted the authorities concerned for prior consultation. Negotiations were held between the Parties. The last meeting was held on the 12th March, 1988.

The double shift was introduced as from the 14th March, 1988 on the basis of terms and conditions laid down in the minutes of proceedings of that meeting. Parties took note however, of the fact that there existed a deadlock on the introduction of the double shift system without compensation.

GROUND IN SUPPORT OF CLAIM

Dispute No. 1.

Whether the salary scales of the categories of Employees affected by the implementation of the double shift in the Port should be adjusted to compensate for regular overtime lost and the changes brought to the existing contract of employment regarding hours of work or otherwise.
The Union was informed that the implementation programme of the double shift system in the Port would be: as follows:

Phase I   Quay No.4  - Implementation Date: 14.3.88 (already implemented)

Phase II  Quay No.3 - Implementation Date: 14.5.88 (not yet implemented)

Phase III : Other Quays  - Within the next three years though not to the extent of 100% as from 14.3.88

The Unions concerned, grouped in the Front Syndical Portuaire – the F.S.P – took the following stand regarding:-

A. The: General Conditions for the Introduction of the double shift

(1) That an agreement be reached globally as if the shift system was to be introduced on all Quays.

(2) That the workers concerned be compensated for extension of working hours from 2.30 p.m. to 11.00 p.m.

(3) That compensation be: worked out on the: basis of the fact that the Port was operating on a regular 3-hour overtime: per day between 3 and 6 p.m; i.e. 18 hours: overtime per week.

(4) That a formula for a phased adjustment in wages and salaries and piece rate be worked out and that such a formula be embodied in a global agreement.

B. Preliminary Changes

(1) That the present M.G.M.P. (i.e.: Minimum Guaranteed Monthly Pay) for Port Labour be adopted as the monthly basic wages.

(2) That the piece rate for Port Labour be extended to Plant Operators/Forklift Drivers, etc. and that the formula for calculating Cargo handled be modified as follows:

<table>
<thead>
<tr>
<th>Ship Cargo</th>
<th>No. of Labour Gangs</th>
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(3) That the salary structure of “Staff Employees” be adjusted to take into account
paras. A(2) and (3).

B.4 The Corporation has, in its Statement of Case, averred in relation to Item (2) the following:

In terms of earnings the Cargo Handling Corporation Limited guarantees basic salary of the employees concerned and not any overtime payment; which is but only incidental to the requirements of ships in the Port.

The partial introduction of double shift has not affected the basic salary. Consequently the need for any form of adjustment in salary is not felt.

Moreover, the categories of employees concerned by this item are not on salary scales. Hence, the question of any adjustment thereof should not arise.

B.5 There is no doubt that the introduction of a double shift system in the Port constituted a major change as far as the employees are concerned.

B.6 Negotiations between the Parties were based on the assumption that the introduction of the double shift system should entail adequate compensation for the workers.

B.7 The compensation sought for was based on a claim for overtime loss, the extension of their working hours and what they termed the social disturbance of night work.

B.8 This view is not shared by the Corporation which claims, that double shift has not affected either their basic wages or their Minimum Guaranteed Monthly Pay.

B.9 The Tribunal has anxiously considered the evidence adduced before it and finds that the total earnings of the employees have to a certain extent, been adversely affected by the introduction of the double shift.

B.10 There is again no doubt that the introduction of the double shift which implied night work affected the social life of members of the Union. There remains to be decided the extent and manner in which these workers should be compensated.
B.11 The formula submitted by the Union is useful only to the extent that it can only serve as a guide.

B.12 It is also clear that there is no precise formula for compensation of the disruption of the social life of the workers by the introduction of night shift work.

B.13 The Tribunal holds that the Corporation shall by way of compensation adjust the salary structures as well as the earnings of piece rate workers.

B.14 In arriving at what we consider to be a reasonable form of compensation, we have, on the basis of the evidence before us, decided that:

(a) that salary earned be compensated an increase of 8%;

(b) piece rate earners shall also have their piece rate increased by 8%;

(c) the compensation for social disturbance shall in the case of both the salary earners and piece rate earners be 7.5%

B.15 The Tribunal consequently decides that the Corporation shall adjust the salary and wage structures and piece rate by 15.5% and awards accordingly.

B.16 This Award shall take effect on the 1st July, 1991.

C. CONCLUSIONS

C.1 The Tribunal would like to thank the Parties and their Counsel. The Tribunal is of the opinion that a high powered committee or an Independent body should review the Existing salary structures in the Port as they are not always entirely rational.

(H. Ba1gobin)
President

(M. Serret)
Member

3rd September 1991