PERMANENT ARBITRATION TRIBUNAL

AWARD

R.N.552

H. Balgobin - President
Y.G.M Atchia - Member
K. Gujadhur - Member

Parties

The Cigarette Manufacturing Employees Union
and
The British American Tobacco (Mtius) PLC

Terms of Reference

(i) “Whether the new salary structure for the employees should be as per Appendix 1 or otherwise;

(ii) Whether redundant workers who are not yet 52 years old but have reckoned 10 years serviced should be entitled to an Early Retirement Pension or otherwise?”

The dispute was referred to the Tribunal by the Minister in charge of Industrial Relations under the provisions of Section 82(1)(f) of the Industrial Relations Act, 1973.

Case of British American Tobacco

The 1st limb of the dispute has been settled in terms of an agreement dated 4th January 1998.
The 2nd limb of the dispute which has been referred to the Minister by the CMEU is the only live issue and raises the question whether redundant workers (i.e. staff workers who are not yet 52 years old (male) or 46 years old (female) but who reckon 10 years pensionable service should be entitled to an early retirement pension or otherwise. The same issue has been raised with regards to ‘Operative except the age differs instead of 52 and 46, it is 50 for both male and female.

These are pension rules: first, the 2nd Pension and Life Assurance Scheme which is meant for the staff and secondly the Pension, Life Assurance, Widows and Children Scheme which is meant for the operatives.

Proposals were made by the BAT to the CMEU as follows:

For any company employee (staff and operative) leaving on redundancy with at least 10 years service and having not reached the age to be eligible for normal or early retirement benefits as defined in the scheme’s rules, he/she may opt for:

(i) Retirement benefits payable at the normal retirement age (staff: male 60 (reduced from 62), female 56; operative: male/female 60)

(ii) Retirement benefits payable 10 years before normal retirement age but actually valued to take account of the early payment of the benefits.

In agreeing to introduce a new benefit for employees going on redundancy as per clause II above, on top of the already agreed redundancy package (described below) the company has kept in mind both the cost and also the reduction of any disparity between staff and operatives.

(iii) The actuarial value of the accrued benefits transferred to a new employer’s scheme. This will conform to the new directive on Pensions mobility.

Or

(iv) The actuarial value of the accrued benefit transferred to a personal pension plan; this again would be in line with the new directive on pensions mobility.

Or
(v) The cash value of one’s own contributions plus 6% compound, together with the equivalent amount from the company.

The request made by the CMEU cannot be considered as such being given that:

Providing immediate unreduced pensions upon leaving service, irrespective of age, is very costly compared to the normal funding of a pension scheme.

Assuming no retrospective changes and that the active membership of the BAT Pension plan experiences 3% turnover a year in future, with leavers becoming entitled to immediate pensions, the plan would be exposed to liabilities in respect of past service which might be valued at RPS 3.4M. This would represent immediate strain on the pension plan. In addition, there is an estimated further cost in respect of future service equivalent to further pension contributions of 1.4% of active members’ salaries.

In practice, the costs would be heavily dependent on the actual pattern of leavers and could be significantly greater if, for example, turnover was more than 3% or if the leavers were generally young.

In our view, the pension plan is not structured to meet these benefits and it is not sufficiently resourced to meet the extra costs. The appropriate benefit for a vested early leaver should be deferred pension payable at the normal retirement age.

It is to be underlined that BAT operates a generous redundancy scheme which was agreed with the Union since January 1996 (copy is herewith annexed-Annex A). Employees leaving on redundancy benefit from the scheme and also depending on their age, to pension benefits as per the rules of the pension scheme, i.e. those leaving at or after the early retirement age benefit from early retirement benefits; those leaving before the early retirement receive a refund of their contributions to the pension schemes with interest plus an equivalent amount representing the company’s contributions. Moreover, when an employee is made redundant, he is entitled to 2 months and a quarter of basic salaries per year of service and therefore the employee does not run the risk of having either one week or two weeks per year of service depending on the level of salaries. Furthermore they are also entitled to attendance and annual bonus.
To conclude what may be said of the CMEU is that:

If one enters into a contract of employment at the age of 20 and is made redundant at the age of 30, it cannot be expected that such a person will benefit of the full pension scheme (as defined in the schemes) at the age of 30.

The Tribunal agrees with the stand of management. The dispute is set aside and the Tribunal awards accordingly.

(H. Balgobin)  
President

(Y.G.M Atchia)  
Member

(K. Guядhur)  
Member

28th October, 2003