EMPLOYMENT RELATIONS TRIBUNAL

AWARD

R.N 1045

Before:

Raj SEEBALUCK
Geeanduth GANGARAM
Jheenarainsing SOOBAGRAH
Maurice Christian Aime LAURETTE

Vice-President
Member
Member
Member

In the matter of:-

CONSTRUCTION, METAL, WOODEN & RELATED INDUSTRIES EMPLOYEES
UNION

AND

RATTAN VETTEX WARES LTD

The present dispute was referred by the Minister of Labour, Industrial Relations & Employment in virtue of Section 82 (1) (f) of the Industrial Relations Act 1973, as amended.
The newly enacted **Employment Relations Act 2008** makes provision for such dispute to be heard before the newly constituted Employment Relations Tribunal:

“Section 108(10) - Transitional Provisions: –

“Any proceedings pending immediately before the commencement of this Act before the Permanent Arbitration Tribunal and the Civil Service Arbitration Tribunal shall be deemed to be proceedings pending under this Act and may be proceeded with before the Tribunal.”

The points in dispute are:-

1.- “Whether Messrs Alladen Pitchamootoo and Gabriel Pitchamootoo should be upgraded from skilled employee grade II to skilled employee grade I.”

2.- “Whether Mr Ravi Singar should be upgraded from skilled employee grade III to skilled employee grade II.”

The Union was represented by Mr Reeaz Chuttoo whereas the Respondent was assisted by Mr Bala Padiachy of Counsel.

**The statement of case of the Union on Point 1 was as follows:-**

(1) Mr Alladen Pitchamootoo has been working for the last 30 years and Mr Gabriel Pitchamootoo has been working for the last 20 years at Rattan Vettex Wares Ltd.
(2) Both Messrs Alladen and Gabriel have acquired experiences and know-how and are capable to manufacture rattan wares without any supervision.
(3) Messrs Gabriel and Alladen work without any supervision of a permanent superior grade. Without any guidance they are capable to manufacture a large variety of rattan wares.
(4) Like other Grade I skilled workers in other sectors, Messrs Gabriel and Alladen are not supposed to be able to perform all the jobs from rattan as a raw material to a finished product on the market.
(5) The Vettex Rattan Wares Ltd is governed by the Light Metal and Furniture Remuneration Order and according to same, a Skilled Worker Grade I is not supposed to conduct all operations in the manufacture of the furniture. A Skilled Worker Grade I works under the supervision of a supervisory grade and is supposed to complete his task after having been instructed by his Supervisor.

This definition of the scheme of duty of a Grade I Skilled Worker does not impose that a Grade I Worker should be capable of transforming a raw material into a finished product alone where all the stages in the manufacturing should be done by the Grade I Worker.

(6) Messrs Gabriel and Alladen have been for the past 20 years and 30 years respectively working on their own without any constant supervision.
(7) Vettex Rattan Wares Ltd has created a name in rattan wares with finished products done by employees under-graded.

(8) The employees at Vettex Wares are normally paid on piece rate system. The upgrading of the above referred employees will have an economic incident only in the payment for annual leaves, sick leaves or any other payment where daily basic wage is used which is marginal.

(9) Messrs Gabriel and Alladen deserve to be upgraded from Grade II to Grade I Skilled employees according to their merits.

The statement of case of the Union on Point 2 was:-

(1) Mr Ravi Singar has been working for Vettex Rattan Wares for the last 24 years.

(2) Mr Singar is a Skilled Worker and has the capacity and experience to perform an advanced stage in the manufacturing of rattan wares without terminating it as a finished good ready to put on the market.

(3) Mr Singar forms part in the manufacturing chain and excels in his job. 

(4) Mr Singar with less supervision does perform his job.

(5) Mr Singar also works on a piece rate system and his upgrading will not represent any major economic burden for the Company.

(6) Mr Singar is a Skillled Worker and has all the potential required in accordance with his job.

(7) However, the fact that Mr Singar cannot perform his task to a finished good stage as Messrs Alladen and Gabriel, the Union requests that Mr Singar should be upgraded from a Grade III to a Grade II Skilled Worker.

The statement of case of the Respondent was as follows:-

POINT 1

(1.0) Mr Alladen Pitchamootoo started to work on 10.09.1981 and Gabriel Pitchamootoo on 23.06.1984.

(1.1) The above two employees have always been working and are still working under the supervision of Mr Louis Adelisse (Director of Rattan Vettex Wares Ltd).

(1.2) They take all instructions regarding the manufacturing process of rattan furniture from the Director who also give them all appropriate guidance as to how to start the work. They often make mistakes in their work and the Director has to intervene for the appropriate corrections to be made in their task.

(1.3) Those two employee’s duties consist of “attacher et moeller” of the rattan furniture and they have not achieved the high standards and high degree of excellence required of an employee of grade I.

(1.4) By reason of the repeated mistakes of those employees in the manufacture of rattan furniture, the company has lost its credibility vis-à-vis its clients many of whom have refused to take delivery of articles which they have ordered. Many articles have been returned by the company’s clients. Following the constant reduction in the numbers of
clients, the company allegedly had to close one of its showrooms at the end of January 2009.

(1.5) The number of employees has also been considerably reduced being given that the volume of work has gone down substantially.

(1.6) According to the Light Metal & Wooden Furniture Workshops Remuneration Order, “skilled employee grade I” means an employee who is highly skilled in the trade and whose work achieves a high degree of excellence. “Skilled employee grade II” means an employee who does similar work as an employee grade I but has not achieved the high standards required of an employee grade I.

(1.7) Accordingly, an upgrade of those two employees from grade II to grade I is not warranted in the circumstances the more so that they have not achieved the high standards and high degree of excellence required of an employee grade I.

**POINT NO. 2**

(2.0) Mr Chaltalsingh (Ravi) Singar has been employed since 5.3.1986
(2.1) He has always been working under the supervision of the Director, Mr Louis Zide Adelisse.
(2.2) He seeks all instructions from Mr Adelisse and he often makes mistakes during the discharge of his duties. The Director therefore often has to intervene for corrections to be made by him.
(2.3) His work consists of “monte cadre” and he has often shown that he does not have the proper know-how to carry out his duties in respect of certain models of rattan furniture and this has caused a delay in the production chain and materials have been wasted. Without supervision, he cannot properly perform a given task.
(2.4) The Employer repeats the averments contained in paragraphs 1.4 and 1.5 above.
(2.5) Mr Singar has not reached the skill or experience described in respect of an employee grade I or II but has only acquired the ability to do some repetitive tasks of a routine or semi-routine nature. An upgrade to grade II is therefore not warranted in the circumstances.

At the very outset it is to be noted that at the hearing of 13 August 2009 the case for Mr Gabriel Pitchamootoo was withdrawn since he was absent on that day.

**Testimonial evidence**

Mr Alladen Pitchamootoo deposed in examination-in –chief as to the following:-

1.- He works at the company for about 30 years but he is a specialist in certain operations he does and not in all other operations of rattan work.
2.- Works are done as per catalogue or design models given to him by the Director.
3.- He added that Mr Adelisse never physically show him how the work must be done.

Upon cross-examination he denied that he works at the company for the last 19 years but agreed that he works under the supervision and order of Mr Adelisse. He denied that he had ever made mistakes in his works. He does not know the clients of the company.
Upon Documents A-A1-A2-A3-A4 shown to him he answered that his works consisted only of “moeller et attacher” and not “monte cadre”. He was not agreeable that the company was losing clients because of the mistakes in the rattan furniture made and delivered to them. He admitted that the workforce at the company has reduced to only 4 workers from an original workforce of 12 persons but this is due to dismissal and to voluntary departures.

Mr Ravi Singar testified under solemn affirmation to the effect that:-

1.- He works at the company for about 24 years as “Monteur cadre” and he is still at the level of grade III employee.
2.- His works have never been returned on account that they contain mistakes nor has he been shown by the Director any photo of a defective furniture he has worked upon.
3.- Formerly there were about 12 workers at the company and many of them have left.
4.- Mr Adelisse never checked his work but only gave him instructions as to how a particular furniture should be done by reference to a model or a photograph.
5.- He should be upgraded as he is doing the job previously being done by one Vishnou, the “Monteur cadre”.

When cross-examined he agreed that he works under the supervision of Mr Adelisse and takes instructions from the latter of how a work must be done. On Documents A-A1-A2-A3-A4 being shown to him he agreed that the furniture shown thereon was returned by a client named Mr Bholah on 6 August 2009 as it contains several defects. He further admitted that he had made those works containing the mistakes. He made it clear that anyone can make mistakes and he was amongst one of them.

Mr Adelisse deposed under oath on behalf of the employer to the effect that he is the Director cum Supervisor of Rattan Vettex Wares Ltd. He provides design, specification and measurement for the furniture to be fabricated, gives instructions for the work to be carried out and supervises the whole operation. Every morning he meets with his workers to tell them what work has to be done and how it should be carried out. Thereafter, he checks the work being done in the morning, at midday, and in the afternoon to ensure that the work is done properly. However, on some days he cannot come to the workshop to supervise the work which eventually leads for defects being left in those finished work which are delivered to clients, thus paving the way for complaints from the latter. He lengthily explained the defects contained in the furniture mentioned in Documents A-A1-A2-A3-A4 which had the participation of Messrs Alladen Pitchamootoo and Singar. He also produced a complaint letter sent by Mrs Marie-Anne Cadet de Fontenay - Document B.

Upon cross-examination Mr Adelisse explained that despite Messrs Alladen Pitchamootoo and Singar were making mistakes in their work he never took any disciplinary actions quoad them inasmuch as he preferred a dialogue policy and to train them so as to understand the work and put it into application. He put it that it is due to the shortfalls of the two workers that his enterprise had lost many clients and his business has suffered. He further made it clear that a Grade I worker has no right to make major mistakes as shown in Documents A-A1-A2-A3-A4.
CONCLUSIONS

After careful consideration of the evidence, the Tribunal notes and comments as follows:-

1.- The case for the Applicants is based on their length of service in the company. It is clear that they have worked for the Company for 30 years and 24 years in “Nattage” and “Montage” respectively.

2.- It is of common grounds that both Messrs Alladen Pitchamootoo and Singar work under the instructions and supervision of Mr Adelisse, the Director cum Supervisor of the Company although Mr Singar denied that fact when he deposed in chief.

3.- There have been defects in the works they have done. Documents A-A1-A2-A3-A4, which have not been contested on their production, depict a clear picture of those shortcomings in those works

4.- The case for the Respondent revolves around the bad workmanship of the two workers and the consequential loss of business.

5.- It is on all fours that those two above-named workers had their share of contribution in the growth and existence of the company although during the time the workforce has considerably reduced due to departures of other fellow workers.

6.- There is unchallenged evidence as shown by Docs A-A1-A2-A3-A4 that serious defects were left in furniture which had been made at the company by the Applicants. Mr Ravi Singar made it abundantly clear that he had made mistakes in his “Montage” of the furniture shown in those photographs and went on to explain that he was prone like any other worker to make those kind of mistakes. On the other hand Mr Alladen Pitchamootoo denied making mistakes. However, he did the work of “Nattage” on the furniture although the “Montage” was not good. In fact by considering himself as a Grade 1 worker he should have caused Mr Singar to do the necessary corrections in his “Montage” instead of carrying on with his work on a defective “Montage”.

7.- As a Supervisor Mr Adelisse gives all instructions for work to be done and this includes model, design, specification, measurement. He also comes 3 times per day to check the progress of the work. It is submitted that if the goods are defective (high and low backseat) it is due to lack of supervision in the work being done. Although, Mr Adelisse may be considered to have a contributory responsibility in the defective work, would that be tantamount for Messrs Alladen Pitchamootoo and Singar to carry on with the works culminating in having a defective furniture done and delivered to the customer? If those two workers indeed had the required skills as they claimed to have they would have certainly corrected the mistakes in the works done.
8.- The *Light Metal and Wooden Furniture Workshops Remuneration Order Regulations 2002* provides in its *Section 2*:-

“*Skilled employee grade I*” means an employee who is *highly skilled in the trade and whose work achieves a high degree of excellence* (the underlining is ours)

“*Skilled employee grade II*” means an employee who does similar work as an *employee grade I but who has not achieved the high standards required of an employee grade I*.

In line with the abovementioned provision coupled with the evidence in hand it is clear that neither Mr Alladen Pitchamootoo and Mr Ravi Singar are entitled to be upgraded in the respective grades they are seeking for.

9.- In these circumstances, the Tribunal is of the considered conclusion that the case for the Applicants has not been made out. The dispute is accordingly set aside.

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(sd) Raj Seebaluck  
Vice-President

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(sd) Geeanduth Gangaram  
Member

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(sd) Jheenarainsing Soobagrah  
Member

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(sd) Maurice Christian Aime Laurette  
Member

Date: 22\textsuperscript{nd} September, 2009