

# EMPLOYMENT RELATIONS TRIBUNAL

## AWARD

ERT/RN 55/09

Before:

<b>Raj SEEBALUCK</b>	<b>Vice-President</b>
<b>Bulram TACOURI</b>	<b>Member</b>
<b>Pradeep DURSUN</b>	<b>Member</b>
<b>Hurryjeet SOOREEA</b>	<b>Member</b>

In the matter of:-

**SUGAR INDUSTRY WORKERS ASSOCIATION (SIWA)**

**AND**

- 1. FLACQ UNITED ESTATES LIMITED (F.U.E.L.)**
- 2. FUEL SUGAR MILLING COMPANY LIMITED (F.S.M.C.)**
- 3. FUEL STEAM AND POWER GENERATION LIMITED (F.S.P.G.)**

This is an application to this Tribunal for the making of a Procedure Agreement by way of an award as per **Section 51(2) of the Employment Relations Act 2008 (Act No. 32 of 2008)**.

The Applicant was represented by Mr Coomara Pyaneandee, of Counsel whereas the Respondents were assisted by Mr Patrice de Speville and Miss K. Teck Young, Counsel.

At the very outset this Tribunal was made to understand by Miss K. Teck Young that the Respondents were agreeable to sign the Procedural Agreement. However, she added that the Plantations Workers Union (PWU), the Artisans and General Workers Unions (A.G.W.U.), the Unions of Artisans of the Sugar Industry (U.A.S.I.), the Organisation for the Unity of Artisans (O.U.A.), and the Sugar Industry Labourers Unions (S.I.L.U), were directly involved in the present matter and those five unions were not agreeable for the signature of the said Procedure Agreement. Hence, there was a motion that those interested trade unions be made to put an appearance before this Tribunal to give their stand.

At the sitting of 28 October, 2009 those five trade unions were assisted by Mr Antoine Domingue, of Counsel. The Mauritius Sugar Planters Association was also joined and its representative Mr Jean Paul Honore was present. Mr Antoine Domingue moved that the five unions, namely, P.W.U, A.G.W.U, U.A.S.I, O.U.A and S.I.L.U, be put out of cause and which motion was accepted. Hence, Mr Patrice de Speville, after taking cognizance of the stand of the five other unions, stated that the Respondents will move along that the Procedure Agreement with SIWA be signed. Therefore the Tribunal invited the parties to have meaningful negotiations in order to secure a settlement with a view to the drawing up and signing the Procedural Agreement, as provided by **Section 51(3) of the Employment Relations Act 2008**. However, until the sitting of 9 November, 2009 same was not done.

**Section 51(2) of the Employment Relations Act 2008** provides:-

*“Where any party referred to in subsection (1) refuses to draw up and sign a procedure agreement within the specified period, the other party may apply to the Tribunal for the making of a procedure agreement by way of an award.”*

**Section 51(5) of the same Act** states:-

*“The application made under subsection (2) shall be determined within 60 days of the date of receipt of the application.”*

It is noted that the 60 days will lapse on the 10 November, 2009. True it is that at the very outset of the application and throughout the proceedings this Tribunal was made to understand that the Respondents were agreeable for the signature of the Procedural Agreement but it is noted with concern that the said Procedural Agreement has not yet been signed in spite of the best endeavours of the Tribunal. Flimsy reasons have been put forward in an attempt to justify the non-signature of the Procedural Agreement. This failure will without doubt fall within the ambit of the provisions of **Section 51(2) of the Employment Relations Act 2008**.

After hearing both parties and considering that the Respondents' conduct amounts to a refusal, the Tribunal awards that the Procedure Agreement be signed at the earliest.

**(sd) Raj Seebaluck**  
**Vice-President**

**(sd) Bulram Tacouri**  
**Member**

**(sd) Pradeep Dursun**  
**Member**

**(sd) Hurryjeet Sooreea**  
**Member**

**Date: 10 November, 2009.**