

# EMPLOYMENT RELATIONS TRIBUNAL

ERT/RN/151/2014

## ORDER

Before:

Shameer Janhangeer	Vice-President
Raffick Hossenbaccus	Member
Denis Labat	Member
Georges Karl Louis	Member

In the matter of: -

**Private Sector Employees Union (PSEU)**

*Applicant Union*

and

**G.R.N.W Boat Yard Ltd**

*Employer*

The present application has been made by the Private Sector Employees Union (PSEU) to the *Tribunal* for an order of sole recognition of the trade union under *section 38(1)* of the *Employment Relations Act 2008* as amended (the “*Act*”). The *Employer* in the matter, G.R.N.W Boat Yard Ltd, is objecting to the present application on the grounds that the *Applicant Union* is not sufficiently representative of the employees to be granted sole recognition; and that recognition will not be conducive to good industrial relations. Both parties were assisted by Counsel.

The bargaining unit in respect of which the *Applicant Union* has made the present application for sole recognition is made up of fibre glass workers; painters; storekeepers; cleaners; assistant storekeepers; welders; and drivers working at G.R.N.W Boat Yard Ltd.

Mr Devianand Narrain, Secretary of the Private Secondary Employees Union (PSEU), was called on behalf of the *Applicant Union* and stated that the PSEU represents workers of

the private sector and aims to help these workers solve their problems at work and their conditions of work. They presently have 500 members. They represent all bargaining units in the private sector. The PSEU is asking for recognition with G.R.N.W Boat Yard Ltd. 44 employees are members of the trade union. He produced copies of 43 signed check-off forms and one unsigned check-off form (Documents A<sub>1</sub> to A<sub>44</sub>). None of the 44 members have left the trade union. The bargaining unit of the 44 workers at the company is made up of fibre glass workers, painters, store keepers, cleaners, assistant storekeepers, welders and drivers. The trade union is asking for sole recognition for these 44 workers forming this bargaining unit. He also added that since the 44 workers joined the trade union they have had no problems nor have they had any strikes with the employer.

Mr Narrain was also questioned by Counsel for the *Employer*. He could not say if there were 64 workers in the bargaining unit. He notably produced a document showing the list of members of the managing committee, auditors and negotiators for the year 2014 of the PSEU (Document B) and a copy of the rules of the trade union (Document C). The representative was also questioned as to the validity of the check-off forms he had produced in support of the present application.

Eventually during the course of the hearing, it was convened that the *Tribunal* would organise and supervise a secret ballot in the bargaining unit pursuant to *section 38(3)* of the *Act*. This was following the contention of Counsel for the *Employer* that only 15 of the 44 forms were valid in relation to the total list of 71 employees at G.R.N.W Boat Yard Ltd in the bargaining unit. On the other hand, Counsel for the *Applicant Union* had stated that 41 of the 44 forms were valid.

The *Tribunal* proceeded to organise and supervise the secret ballot exercise at the premises of G.R.N.W Boat Yard Ltd on the 23<sup>rd</sup> of January 2015 in presence of all parties concerned. The agreed number of employees in the bargaining unit was 61 workers. 62.3 % of the workers voted in favour of the recognition of the Private Sector Employees Union (PSEU) as their bargaining agent. On the other hand, 1.6 % voted against the recognition of the aforesaid Union.

In light of the result of the secret ballot exercise, Learned Counsel for the *Employer* stated that there was no clearer and honest way for the workers to have expressed their choice and left the matter in the hands of the *Tribunal*. No further evidence was adduced.

Upon an application made under *section 38(1)* of the *Act*, it is incumbent on the *Tribunal* to issue an order where it is satisfied that the trade union concerned has produced evidence that it is eligible for recognition in accordance with *section 37* of the *Act*.

The secret ballot exercise held has clearly shown that the *Applicant Union* in this matter has the required support to be entitled to recognition as the sole bargaining agent for the relevant bargaining unit of the enterprise in the present application.

The *Tribunal* has also noted that the representative of the *Applicant Union* has stated that since 44 workers of the *Employer* became members of the PSEU, there have been no problems nor have they had any strikes at the workplace.

In view of the principles and best practices of good employment relations as stated in *section 97* of the *Act*, it should be borne in mind, from the *Code of Practice* of the *Fourth Schedule* of the *Act*, that

4. *Management and trade unions shall be engaged constructively and be committed to develop necessary conditions conducive to harmonious employment relations at the workplace.*

5. *Management and trade unions shall address employment relations and human resources management issues in a spirit of openness, trust, honesty, mutual respect and understanding.*

The parties in the present matter are reminded that these principles ought to be upheld to endeavour towards good and harmonious employment relations at the workplace.

The *Tribunal* therefore makes an order granting recognition to the Private Sector Employees Union (PSEU) by G.R.N.W Boat Yard Ltd in relation to employees in the category of fibre glass workers; painters; storekeepers; cleaners; assistant storekeepers; welders; and drivers employed by G.R.N.W Boat Yard Ltd. The Private Sector Employees Union (PSEU) is to be recognised as a sole bargaining agent for the bargaining unit concerned.

The Private Sector Employees Union (PSEU) and representatives of G.R.N.W Boat Yard Ltd are also required to meet at specified intervals or at such time and on such occasions as the circumstances may reasonably require, for the purposes of collective bargaining.

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**Shameer Janhangeer**  
**(Vice-President) Sd**

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**Raffick Hossenbaccus**  
**(Member) Sd**

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**Denis Labat**  
**(Member) Sd**

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**Georges Karl Louis**  
**(Member) Sd**

**Date: 30<sup>th</sup> January 2015**