

EMPLOYMENT RELATIONS TRIBUNAL

ERT/RN 125/2017

ORDER

Before: -

Shameer Janhangeer	Vice-President
Francis Supparayen	Member
Andy Ryan Hau Kee Hee	Member
Arassen Kallee	Member

In the matter of: -

**Sugar Industry Labourers Union
Union of Artisans of the Sugar Industry
Artisans & General Workers Union**

Applicants

and

**Mauritius Sugar Cane Planters Association
Mauritius Co-operative Agricultural Federation Ltd**

Respondents

In presence of: -

Cane Growers Association

Co-Respondent

The Applicant Unions are seeking an order for the extension of a Collective Agreement dated 19 June 2017 to the whole of the industry pursuant to *section 60* of the *Employment Relations Act* (the “*Act*”). The Collective Agreement referred to was reached between the Applicants and the Cane Growers Association and provides for an increase of 17.5% in salaries to agricultural and non-agricultural workers of the sugar industry with effect from 1 January 2017. The Applicants were assisted by Counsel in the matter.

Mr Devanand Ramjuttun, Negotiator, was called to adduce evidence on behalf of the Applicant Unions. He stated that a Collective Agreement was signed between the three Applicant Unions and the Cane Growers Association on 19 June 2017 and has been duly registered with the Tribunal and the Ministry of Labour, Industrial Relations, Employment and Training on 7 August 2017 and 15 August 2017 respectively. He identified a copy of the Collective Agreement as annexed to the Applicants' Statement of Case.

Mr Ramjuttun also confirmed, in his evidence, that the parties to the Collective Agreement represent a substantial proportion of the employees or the employers of the industry, namely employees governed by the *Sugar Industry (Agricultural Workers) (Remuneration Order) Regulations* and the *Sugar Industry (Non-Agricultural Workers) (Remuneration Order) Regulations 1985*; both Respondents are not members of the Cane Growers Association, are not formally bound by the Agreement and have stated that they have no objection; and the extension of the Agreement is necessary and desirable in the interests of uniformity of terms and conditions of employment in the industry. Rose Belle Sugar Estate has already implemented the salary increase reached between the Mauritius Sugar Producers Association and the Unions. He is asking that the Collective Agreement be extended to the whole of the industry.

Mr Rajesswar Goorah, Secretary of the Mauritius Sugar Cane Planters Association, stated on behalf of the first Respondent, that there is no objection for the Collective Agreement to be extended to the whole of the sugar cane industry.

Mr Sachin Sookna, representative of the Mauritius Co-operative Agricultural Federation Ltd, has at the outset of the hearing of the present matter stated that he has no objection to the present application.

The present application is being made pursuant to *section 60 (1)* of the *Act* for the extension of a Collective Agreement to the whole of the industry. The Collective Agreement in question was reached between the Applicant Unions and the Co-Respondent on 19 June 2017 and provides for an increase of 17.5% in salaries to agricultural and non-agricultural workers of the sugar industry with effect from 1 January 2017.

The following salient provisions of the Collective Agreement dated 19 June 2017, in relation to its application, may be noted:

1. *The aforesaid 13% staggered monthly basic salary increase provided for in the aforesaid collective agreement of 28 November 2014 and the aforesaid 4.5% monthly basic salary increase awarded by the arbitration award of 31 July 2015 i.e. a 17.5% cumulative salary increase shall apply to the monthly basic salary in force as at 31 December 2013 and shall be paid by all the members of the Cane Growers Association to their employees with retrospective effect as from 1 January 2017 in terms of **Annexes A & B** to this agreement which set out the new basic salary which is payable to such employees with effect as from 1 January 2017.*
2. *The aforesaid 13% staggered monthly basic salary increase provided for in the aforesaid collective agreement of 28 November 2014 shall not have any retrospective effect prior to 1 January 2017.*

Pursuant to an application for an extension of a Collective Agreement to the whole of the industry, the Tribunal must satisfy itself of certain conditions present to the application prior to making an order. This may be noted from *section 60 (2)* of the Act:

- (2) *No order shall be made under subsection (1) unless the Tribunal is satisfied that –*
 - (a) *the parties to the agreement are or represent a substantial proportion of the workers or of the employers in the industry, the workers being workers of the description to which the agreement applies;*
 - (b) *the employers engaged in the industry are not bound by the agreement;*
 - (c) *the extension of the agreement is necessary or desirable in the interests of uniformity of terms and conditions of employment in the industry.*

In the present matter, it would be pertinent to note from the unchallenged evidence adduced by Mr Ramjuttun on behalf of the Applicant Unions that the parties to the Collective Agreement dated 19 June 2017 represent a substantial proportion of the workers or of the employers of the industry, the workers being governed by the *Sugar Industry (Agricultural Workers) (Remuneration Order) Regulations 1983* and the *Sugar Industry (Non-Agricultural Workers) (Remuneration Order) Regulations 1985* to which the Agreement applies. Secondly, the Respondents to the application are not members of the Cane Growers Association and are

not presently bound by the Collective Agreement dated 19 June 2017. Presently, it is only employers who are members of the Cane Growers Association who are bound by the aforesaid Collective Agreement. And thirdly, it is necessary and desirable in the interests of uniformity of terms and conditions of employment within the industry that the Collective Agreement dated 19 June 2017 be extended.

The Tribunal has further noted that the two Respondents have not objected that the Collective Agreement dated 19 June 2017 be extended to the whole of the industry as per the application made. Moreover, the Cane Growers Association is already party to the aforesaid Agreement and as per the Agreement itself, it has no objection to the extension of the Agreement to the whole of the industry.

The Tribunal therefore orders that the Collective Agreement reached between the three Applicant Unions and the Cane Growers Association on 19 June 2017 be extended to the whole of the sugar industry.

The present order is being made on the condition that where an employer in the sugar industry is observing terms and conditions of employment more favourable than the terms and conditions of employment specified in the Collective Agreement dated 19 June 2017, the employer shall continue to be bound by the more favourable terms and conditions of employment.

The Tribunal orders accordingly.

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

**SD Francis Supparayen
(Member)**

**SD Andy Ryan Hau Kee Hee
(Member)**

**SD Arassen Kallee
(Member)**

Date: 8th November 2017