

PERMANENT ARBITRATION TRIBUNAL

INTERPRETATION OF AWARD

RN 906

BEFORE

Rashid Hossen	-	Acting President
Masseelamanee Goinden	-	Member
Binnodh Ramburn	-	Member

In the matter of:

The Food & Beverages Industry Employees Union (FBIEU)

And

Food & Allied Industries Ltd

On the 22nd June 2005, the Permanent Arbitration Tribunal interpreted an Award delivered by the then President of the Tribunal, Mr. H. Balgobin (R.N. 546).

The Tribunal was asked to interpret the effective date the Award should come into operation with respect to salaries prevailing in 1996 – 1997 or July 2003.

After hearing the parties, the Tribunal interpreted the question in lite as to mean a 6% increase as follows:- 3% with effect from 1st July 2003 and 3% with effect from 1st February 2004, on salary prevailing as at June 1996.

In an application addressed to the Tribunal, the Food & Beverages Industry Employees Union, hereinafter referred to as "the Union", is seeking for, what it calls an interpretation of an interpretation.

The Union's application is being reproduced here:-

"Terms of Reference:

"An interpretation of the Interpretation of 22/06/05 Award (RN: 834) (Under Section 88 of the Industrial Relations Act).

1. *This is an application by the Applicant Union in relation to the interpretation by the PAT on the 22nd June 2005 of an Award delivered by the then President of the Permanent Arbitration Tribunal, Mr H. Balgobin (R.N. 546).*

2. *Should it be interpreted as follows:*

Stage 1: Parties take the salary as at June 1996

Stage 2: To that salary we add 3% then all prescribed additional remuneration and other increases to determine their salaries as at 30 June 2003 – to which the prescribed additional remuneration for July 2003 should be added. They have to receive the difference between this figure and what they have drawn for period ending 31st January 2004. It is purely here a question of payment of arrears.

Stage 3: A second exercise has to be carried out. To the salary as at 30 June 1996, a 6% salary increase should be added. To this figure all Prescribed Additional Remuneration and other increases have to be added up to 31 January 2004. this salary is to be considered as the new salary for the purpose of the application of their Award.

The employees are to be paid the difference between what they have received as from the 1st February 2004 up to the date of payment (which is inclusive of the Prescribed Additional Remuneration and other increases) and this new salary to which should be added the Prescribed Additional Remuneration of July 2005 and other increases.

3. *It is to be noted that the award has not been implemented by the Respondent Employer up to now."*

Mr Ramano for the Union submitted that according to paragraphs 14 and 15 of the Second Schedule, Practice and Procedure of the I.R.A., the Tribunal shall seek to avoid formality in its proceedings. According to Counsel, one of the basics of the Tribunal in the regulation of its procedure is that of flexibility. He submitted that the Union is simply not clear as to the interpretation and he is asking for some clarifications. Furthermore Section 88 provides that the Tribunal may clarify any question arising from the interpretation of an Order or Award made by the Tribunal.

Mr De Speville, of Counsel, for the Respondent submitted that the Union is asking the Tribunal to interpret an interpretation and therefore the Tribunal has no such jurisdiction. According to Counsel, the jurisdiction of the Tribunal is limited to interpreting an Award or an Order of the Tribunal. We are not here concerned with an interpretation of an Order or an Award.

Section 88 of the Industrial Relations Act of 1973 as amended reads –

"88 Interpretation of order, award and agreement

(1) Where any question arises as to –

- (a) the interpretation of any order or award made by the Tribunal;*
- (b) any order or award being inconsistent with any enactment; or*
- (c) the interpretation of any collective agreement,*
any party to whom the order, award or

agreement relates, or the Minister, may apply to the Tribunal for a declaration on the question, and thereupon the Tribunal shall make a declaration on the question after hearing the parties concerned.

(2) A declaration by the Tribunal under subsection (1) shall be notified to the parties and shall be deemed to form part of the order, award or collective agreement.

(3) Notwithstanding subsection (1), where a question arises out of any clerical mistake, incidental error or omission, the Tribunal may, on its own motion and without hearing the parties, make a declaration to rectify the mistake, error or omission."

Section 88 (supra) in no unambiguous term stipulates that where any question as to the interpretation of any order or award arises, the Tribunal can make a declaration accordingly, and this can only refer to an interpretation of an order or award. This section does not make provision for the interpretation of an interpretation.

True it is that para 14 (2) of the Practice and Procedure 2nd Schedule to the Industrial Relations Act, invites the Tribunal to avoid formality in its proceedings. Being less formal does not mean that the Tribunal can transgress a statutory law.

The Tribunal considers this application to be an abuse of process of the Tribunal.

The application is set aside.

Rashid Hossen

Ag President

Masseelamanee Goinden

Member

Binnodh Ramburn

Member

Date: 21st July 2006