

PERMANENT ARBITRATION TRIBUNAL

Award

RN: 556

Before:

Rashid Hossen - Ag President

Binnodh Ramburn - Member

Rajendranath Sumputh - Member

In the matter of:-

The Diamond Cutting Factory Workers Union

And

The Beldiam Company Ltd

This dispute has been referred by the Minister of Labour, Industrial Relations and Employment for compulsory Arbitration by virtue of **Section 82(1)(f) of the Industrial Relations Act 1973** as amended.

The Diamond Cutting Factory Workers Union is hereafter referred to as the applicant and the Beldiam Company Ltd as the Respondent.

Both Parties were represented by Counsel.

The Points in dispute are:-

- (1) **Whether the wages/salaries of the employees should be increased by 40% or otherwise**
- (2) **Whether the existing Piece Rate/Production incentive scheme should be reviewed as per Annex A or otherwise.**
- (3) **Whether the watchman should be paid the salary of Rs3,250 x 100 – 3,750 or otherwise.**

- A copy of Annex A as referred too in dispute No. 2, is attached for reference –

The Applicant's Statement of Case:-

1. Workers working at the factory drew salaries within a structure which has been framed on the following unacceptable disparities.
 - (a) A big gap between the top of the official scale and the highest salary paid.
 - (b) A huge gap between the lowest daily basic rate and the highest basic rate.

2. There exists presently two different salary structure at the factory.
 - (a) A basic salary and a piece rate/incentive schemes for production workers.
 - (b) A basic salary for other categories of workers.

3. Piece Rate/Incentive Target Scheme
 - (a) There exists glaring disparities between rates paid for different sizes of same types of diamonds and between rates paid for different types of diamonds.
 - (b) That the disparities generate problems of “unequal wages” and “decreasing wages” when workers are transferred from one section to another.

4. The financial situation of the company is not correctly assessed taking into consideration the fact that the company is owned by an International dealer in rough and finished diamonds.

The Respondent's Statement of Case:-

- (1) The Pay package of the employees of the Beldiam Company Ltd, comprises on the one hand the basic wage as prescribed by law, the incentive scheme as proposed and implemented by the Management and the end of year bonus.

(2) Every employee of the company receives:-

- (a) The prescribed minimum wage
- (b) The compulsory 5% bonus
- (c) The special attendance bonus.

(3) The Incentive Scheme:-

- (a) It is calculated weekly
- (b) It concerns the number of stones polished over and above the weekly target.
- (c) In cases of absences on either sick or local leave, the weekly target on a five-day basis is applicable.
- (d) When the worker handles stones of different sizes during a week, the incentive bonus is calculated after a conversion exercise is carried out.

(4) The Elements of the incentive bonus:-

- (a) Production Bonus
- (b) Second Bonus
- (c) Shortage Bonus
- (d) Average Bonus (transfer from one section to another).

(5) The company would not be in a position to sustain any increase of salary:-

- (a) The Mauritian Rupee had appreciated substantially
 - (b) The company has sustained accrued losses during the last 3 years
 - (c) The cost of operation of certain sections was becoming prohibitive when compared to the cost which is obtained in Shri Lanka, Thailand or China.
- (6) The company avers that the salaries of the employees are significantly higher than the mauritian average.

Updated Statement of Case submitted by the applicant:-

- (1) Since the setting up of the Company (1987) there has not been any negotiated and/or any general revision of salaries.
- (2) The salary policy of the company combines the application of the minimum prescribed salaries with salary increases made on a personal and individual basis.
- (3) The collective stand of the employees of the company is to sell their labour force at a negotiated price.

1997-2006

During the period under reference, attempts to settle the dispute through negotiations were made. There were proposals and counter proposals, changes in salaries, bonuses pending an award as no settlement was reached. Main changes that had taken place:-

1998 - Interim measures pending Award

As from 1.11.98, the following increases would be implemented: _

- (1) Re-scaling of the basic salaries and increases of the daily basic of confirmed workers to Rs85.00.
- (2) Increases of production bonuses particularly in sections and sizes with disparities.

Interim measures implemented:-

In November 1998

- (1) The basic salary of confirmed workers was increased from Rs79.00 to Rs85.00
- (2) Starting salary for newcomers was increased from Rs62.42 to Rs79.00
- (3) Increase in production bonus for brilliant workers.
- (4) Overall increase production bonus of production workers.

In October 1999

- (1) Increase of special attendance bonus.

In February 2000

- (1) Performance appraisal and grade revision exercise (4% increase of basic salary)

In December 2000

- (1) Review production targets and bonus of girdling brilliant (12% increase of production bonus)
- (2) Introduce a performance bonus for girdling brilliant.

In February 2001

- (1) Performance appraisal and grade revision exercise

(3% increase est. basic salary)

In April 2001

- (1) Review production targets and bonus for bottom brilliant (7% increase est. production bonus)
- (2) Introduce a performance bonus for top and bottom brilliant

2001-2006 - During this period there were proposals and counter-proposals, negotiations continued for a settlement which failed and the case was referred back for continuation and arbitration. Both parties were requested to submit up-dated Statement of Case.

The Tribunal re-considers the initial disputes.

Dispute No. 3 - **Whether the watchman should be paid the salary of Rs3,250 x 100 – 3,750 or otherwise.**

The applicant informed the Tribunal that this dispute is withdrawn as the company no longer employs watchman Security Guard has taken over.

Dispute No. 2 - **Whether the existing piece rate/Production Incentive Scheme should be reviewed as per Annex A or otherwise.**

Changes in the piece-rate payment and bonuses is per Annex B & C.

Referring to Annex B & C, the Respondent avers that “ it clearly demonstrates that the effort which has been made by the Company to respond to the demands of the Union”.

“Reduction of the targets for the different stones which are polished by the different sections of the company. The percentage of increase in all cases is even more than what the Union had asked”.

In a letter dated 8th June 2005, copy submitted to the Tribunal, the applicant – “ is of opinion that management has upgraded the piece-rate system”.

- On the 19th of October 2006, the applicant’s Counsel avers that – “on piece rate we accept that there has been some increase given”.

Dispute No. 1: Whether the wages/salaries of employees should be increased by 40% or otherwise.

In a letter dated 8th June 2005, copy submitted to the Tribunal, the applicant has modified its demand from 40% to:-

Direct labour an increase of 12.5% and for

Indirect labour a proposal of 18%.

- Direct labour are those defined as Production Workers.
- Indirect labour are those defined as non-Production Workers.

Employees of the Company

- (a) Non Production Workers : (i) Assist Supervisors

- (ii) Administration
- (iii) Sievers –Boilers –Sorters
- (iv) Driver
- (v) Mechanic –tradesman
- (vi) Cleaner

(b) Production Workers those working on a piece rate basis.

Applicant up-dated Statement of Case:-

- (1) The need to adjust for the erosion in the purchasing power of the workers or at least to re-establish the real wages.
- (2) The need to increase the pay packet of the workers in relation to the nature of work of the workers of Beldiam-Diamond Cutting is NOT an unskilled job and the workers concerned should be remunerated in relation to their skill.
- (3) The need to consider the financial situation of the company in the context that the owner of Beldiam is also the main provider of raw-diamonds and its main purchaser of finished products.

Respondent up-dated Statement of Case

The Company considers that the interim measures implemented are already a heavy burden for the company. The efforts made have been directed in those specific areas where adjustments had to be made. Those adjustments are in line with the claims of the Union.

- A. (1) Basic salaries have been set in proper salary scale
- (2) Basic salary of workers is increased every year based on proforma appraisal

(3) Production bonuses have been adjusted to eliminate discrepancies mainly in Brilliant sections.

B. (1) Emphasis on a shrinking Diamond market

(2) Worsening of level of productivity

(3) Lack of competitiveness on international market

C. The Company cannot sustain any increase in salary, it will be its

sign of death.

- To sustain its statement of case, the Respondent filed a nine-sheets documents which are as follows:-

(1) Balance Sheet year 2000-2005

(2) Comparison Polishing cost Beldiam (Mtius) – Jing Thua & Kunning (China)

(3) & (4) Piece-rate/Incentive bonus increases.

(Annex B & C)

(5) Increase in salary given by the company compared to that of Government.

(6) Rate of pay of all employees compared to prescribed rate.

(7) Random selection of workers and increases in salary obtained

(8) Productivity

(9) Work force movement.

- The Respondent further avers that the company has given an increase of 11.7% over and above the cost of living allowances to its employees from 1997 to 2004.
 - The applicant avers that only 4% increase above C.O.L.A has been given from 1997 to 2004.
- (1) All documents and statement of case submitted from 1997 to 2006 as well as all submissions by Applicant and Respondent Counsel
 - (2) Details of increases and changes in salaries and other conditions, e.g Incentive bonuses.
 - (3) Financial situation of the Company
 - (4) Work movement from 1998 to 2006
 - (5) International situation – Diamond Industry.

TRIBUNAL comments

- (1) **Salaries are on daily basis and based on prescribed daily salary. Increases and adjustments have not been done equitably:-**

In 2006

	Prescribed Salary	Company Initial Salary	Top Salary
Production workers	Rs116.56	Rs125.00	Rs181.00
Checkers/Sorters	Rs116.56	Rs145.00	Rs271.00
Sievers/Boilers/Helpers	Rs112.74	Rs130.00	Rs201.00
Administrators	Rs112.74	Rs146.00	Rs216.00

Asst Supervisors	Rs172.00-Rs214.00	Rs272.00	Rs290.00
Mechanics	Rs169.00-Rs228.00	Rs172.50	Rs228.00
Cleaners	Rs112.74	Rs130.00	Rs201.00
Supervisors	Rs172.00-214.00	Rs332.00	

Production workers work mainly on piece rate-incentive. Production bonus and second bonus are also paid. However when they are on leave, only basic salary is paid.

The disparity in wages earning production workers is clearly reflected as per sheet 7 of the Respondent's Statement of Case – e.g

Employees	Date of Entry	Grade	Salary as at Sept 06
			Daily
2697	08.07.97	Productive	Rs201.00
1694	18.04.94	“	Rs241.00
234	06.06.89	“	Rs181.00
6	08.08.88	“	Rs181.00

Employees of the same grade having joined the company earlier draw less in terms of basic salary than those who joined afterwards.

(2) Work Force Movement

The company in 1998 had a workforce of 276. In 2006 the number is 190.

Figures as per sheet 9 of Respondent statement of case:-

YEAR	WORKFORCE	LEAVERS	RECRUITMENT
1999	271	130	128
2000	<u>274</u>	<u>226</u>	210
2001	247	91	85
2002	261	107	111
2003	256	147	144
2004	<u>183</u>	<u>149</u>	79
189	189	123	110

The respondent clearly pointed out the following at para 1.3(1) of its statement of case – “Decreasing number of new recruits”.

“It is an undeniable factor that the company has lost the potential to expand. The workforce has dropped from 350 to 250 in 2001, this requires the regular input of newly trained personnel. In spite of serious effort made to get new workers, annual addition to the existing labour force has been negligible. What is clear is that the salary aspect is not the only factor”.

(3) Company Wages Policy

The Company Wages Policy is based mainly on the daily minimum salary as prescribed by law. As from 1987 to date there has been no attempt to have a salary revision for its employees. As pointed out in the statement of case, adjustments/increases are given on individual basis and is done piece-meal. The only general increases are those as per Government Legislation on “Cost of Living Allowance”

To increase productivity, adjustment has been made on piece-rate plus incentive bonus, production bonus, second bonus, attendance bonus and end of year bonus among other things.

The applicant in its statement of case pointed out that the employees of the company are “Skilled Workers”.

The Tribunal notes that besides the Assistant Supervisors and Supervisors – who are on promotional grades – all other grades are on a training period of 12 months.

(4) Salary increase of 11.7% or 4%

The Respondent avers that an increase of 11.7% above that of Government C.O.L.A has been paid. The Applicant counsel, however, challenged the figure and avers that only 4% increase has been given.

Referring to Sheet 5 of the Respondent Statement of Case, the figures presented are as follows:-

Average hrs basis:-	1997	-	Rss11.26 daily
	2005	-	Rs17.88 daily

A percentage increase of 58.4 compared to Government increase of 46.8% which automatically gives an increase of 11.6%.

The Tribunal had to examine salaries as presented in Sheet No. 6 of the Respondent statement of case:-

Assistant Supervisor – July 2006

Prescribed Salary	Actual Salary (July 2006)
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Rs172.00 – Rs214.00	Rs272.00-Rs290.00
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Mechanics – July 2006

Present Salary	Actual Salary (July 2006)
Rs169.00- Rs228.00	Rs172.50 – Rs228.50

The difference in the initial salary of an Assistant Supervisor is Rs100.00 and that of a mechanic is of Rs3.50.

The difference at the top salary for an Assistant Supervisor is Rs76.00 and that of an mechanic is of Rs0.50.

The Tribunal is not in a position to confirm any increase in terms of percentage.

(5) Demand and proposal

Referring to Dispute No. 1, the applicant's initial demand of 40% increase in wages/salaries was amended to a 12.5% increase for Production Workers and 18% for non-production workers. Respondent's proposal was of a 3% increase which was not acceptable to the applicant.

TRIBUNAL'S DECISIONS:-

The Tribunal having carefully examined all the documents and evidence, reach the conclusion that the employers of the company should be considered as “Skill workers” after their training period and having not received any increase, other than C.O.L.A, as from 1987, a general increase of 10% on basic salary for non-production workers and an 8% increase on basic salary form production workers be effected as from 1st October 2007. The increase recommended is over and above the increase of C.O.L.A as prescribed by legislation.

All increases/adjustments in salary made during period 1997 – June 2006 be maintained.

Dispute No. 2

The Tribunal recommends that all increases/adjustments in piece-rate wages together with the Incentive Scheme and all bonuses be maintained.

The Tribunal further recommends that a negotiation between both parties be carried out to devise a fair wage/salary structure and policies on conditions of employment. This will enable the company to attract and maintain a permanent workforce and develop harmonious industrial relations.

ANNEX A

Beldiam Piece Rate Scheme

	Table		Anomaly	Increase
Size	Target	Actual	50.50	70.70
1	325	0.1515	0.1554	0.2175
2	300	0.1616	0.1683	0.2357
3	280	0.1717	0.1804	0.2525
4.	250	0.2020	0.2020	0.2828
5.	235	0.2121	0.2149	0.3009
6.	210	0.2323	0.2405	0.3367
7.	200	0.2424	0.2525	0.3535
8.	190	0.2626	0.2658	0.3721

TABLE – DOWN-FACET				
Size	Target	Actual	40.00	56.00
1	108	0.3000	0.3704	0.5185
2	100	0.3200	0.4000	0.5600
3	93	0.3400	0.4301	0.6022
4.	83	0.4000	0.4819	0.6747
5.	78	0.4200	0.5128	0.7179
6.	70	0.4600	0.5714	0.8000
7.	67	0.4800	0.5970	0.8358
8.	63	0.5200	0.6349	0.8889
GIRDLING				
Size	Target	Actual	47.60	66.64
1	65	0.7000	0.7323	1.0252
2	63	0.7200	0.7556	1.0578
3	54	0.8400	0.8815	.12341
4.	45	1.0100	1.0578	1.4809
5.	40	1.1500	1.1900	1.6660
6.	34	1.4000	1.4000	1.9600
7.	27	1.6500	1.7630	2.4681
8.	22	2.0500	2.1636	3.0291
R-Big	70	0.6100	0.6800	0.9520
Small	100	0.4400	0.4760	0.6664

BOT - & - CUT				
Size	Target	Actual	46.00	64.40
1	67	0.6600	0.6866	0.9612
2	65	0.6600	0.7077	0.9908
3	60	0.6600	0.7667	1.0733
4.	55	0.7400	0.8364	1.1709
TOP - & - CUT				
Size	Target	Actual	45.56	63.78
1	67	0.6800	0.6800	0.9519
2	65	0.6800	0.7009	0.9812
3	62	0.6800	0.7348	1.0287
4.	56	0.7300	0.8136	1.1389
BOT - BRILLIANT				
Size	Target	Actual	53.90	75.46
1	32	1.4000	1.6844	2.3581
2	28	1.6100	1.9250	2.6950
3	26	1.8700	2.0731	2.9023
4.	21	2.3100	2.5667	3.5933
5.	20	2.4100	2.6950	3.7730
6.	19	2.5200	2.8368	3.9716
7.	17	2.9400	3.1706	4.4388
8.	15	3.5700	3.5933	5.0307
9.	14	3.8500	3.8500	5.3900
REP	30	1.7300	1.7967	2.5153
A+00	35	1.5000	1.5400	2.1560
X2UT	15	3,5000	3.5933	5.0307

TOP BRILLIANT				
Size	Target	Actual	52.49	73.49

1	30	1.5600	1.7497	2.4497
2	28	1.5800	1.8746	2.6246
3	26	1.6500	2.0188	2.8265
4.	24	1.9800	2.1871	3.0621
5.	22	2.0400	2.3859	3.3405
6.	20	2.3200	2.6245	3.6745
7.	18	2.5800	2.9161	4.0828
8	16	2.8600	3.2806	4.5931
REP	29	1.8100	1.8100	2.5341
	ALL TOP			
Size	Target	Actual	52.00	72.8
1	25	2.0500	2.0800	2.9120
2	23	2.1100	2.2609	3.1652
3	21	2.2400	2.4762	3.4667
4.	19	2.6400	2.7368	3.8316
5.	17	2,7700	3.0588	4.2824
6.	15	3.1500	3.4667	4.8533
7.	13	3.4600	4.000	5.6000
8.	12	3.8300	4.3333	6.0667
9.	11	4.2000	4.7273	6.6182
R.S REP	13	4.0000	4.0000	5.6000

	STARS			
Size	Target	Actual	49.80	69.72
1	94	0.49	0.5298	0.7417
2	88	0.53	0.5659	0.7923
3	78	0.59	0.6385	0.8938
4.	70	0.66	0.7114	0.9960
5.	63	0.73	0.7905	1.1067
6.	60	0.83	0.8300	1.1620
7.	55	0.88	0.9055	1.2676
8.	50	0.97	0.9960	1.3944
	BOT HEEL (NRB)			
Size	Target	Actual	65.60	91.84
1	10	5.33	6.5600	9.1840
2	9	5.85	7.2889	10.2044
3	8	6.66	8.2000	11.4800
4.	7	7.57	9.3714	13.1200
5.	6	8.38	10.9333	15.3067
6.	5	10.10	13.1200	18.3680
7.	5	12.62	13.1200	18.3680
8.	4	14.00	16.4000	22.9600
9.	4	16.40	16.4000	22.9600

ALL TOP HEEL				
Size	Target	Actual	70.75	99.05
1	11	5.56	6.4318	9.00
2	9	6.36	7.8611	11.01
3	8	7.22	8.8438	12.38
4.	7	7.98	10.1071	14.15
5.	6	9.59	11.7917	16.51
6.	5	11.50	14.1500	19.81
7.	5	14.15	14.1500	19.81
8.	4	15.00	17.6875	24.76
9.	4	17.50	17.6875	24.76
BLOCKING HEEL				
Size	Target	Actual	79.80	111.72
1	30	1.76	2.6600	3.7240
2	25	2.03	3.1920	4.4688
3	22	2.43	3.6273	5.0782
4.	19	2.79	4.2000	5.8800
5.	17	4.41	4.6941	6.5718
6.	16	4.82	4.9875	6.9825
7.	14	5.58	5.7000	7.9800
8.	13	6.10	6.1385	8.5938
9.	12	6.65	6.6500	9.3100

	TABLE HEEL			
Size	Target	Actual	62.90	88.60
1	40	1.21	1.5725	2.2015
2	35	1.39	1.7971	2.5160
3	33	1.46	1.9061	2.6685
4.	30	1.59	2.0967	2.9353
5.	27	2.01	2.3296	3.2615
6.	25	2.19	2.5160	3.5224
7.	21	2.74	2.9952	4.1933
8.	19	3.20	3.3105	4.6347
9.	17	3.70	3.7000	5.1800
	SAWING			
Size	Target	Actual		
1	150	0.00		
2	100	0.70		0.98
3	50	0.80		1.12
	CARVING			
Size	Target	Actual		
1.	300	0.0000		
2.	200	0.3500		0.49
3.	100	0.4300		
	FIXING			
Size	Target	Actual		
1.	249	0.0606		0.0848
2.	500	0.0909		0.1273

	FIXING			
Size	Target	Actual		
1.	249	0.2080		0.2912
2.	500	0.2580		0.3611

INCENTIVE TARGET\BONUS FOR BRILLIANT

ANNEX B

GIRDLING BRILLIANT

1997

2006

Size		Sieve	Target	Bonus	Target	Bonus
3	C	6.5-8.5	50	0.84	50	2.78
4.	D	9-11.5	45	1.01	40	3.47
5	E	12-13.5	40	1.15	35	3.98
6	F	14-15.5	34	1.4	30	4.64
7	G	16-17.5	27	1.65	25	5.57
8	H	18-19.5	22	2.05	20	6.97
9	I	Plus 20			17	8.19

BOTTOM BRILLIANT

1997

2006

Size		Sieve	Target	Bonus	Target	Bonus
1	A	4	32	1.40	28	2.99
2	B	4.5-6	28	1.61	26	3.41
3	C	6.5-7.5	26	1.87	24	3.82
4	D	8-9	21	2.31	21	4.46
5	E	9.5-10.5	20	2.41	20	4.68
6	F	11-12.5	19	2.52	17	5.50
7	G	13-14.5	17	2.94	16	6.48
8	H	15-16.5	15	3.57	14	7.40
9	I	17-18.5	14	3.85	12	8.63
10	J	19.20.5			10	10.35
11	K	21-22.5			8	12.94
	KS	C-F			15	6.90
	KS	G-I			12	8.60
	Repair	A-C	30	1.73	30	3.46
	Repair	D-E			27	3.84
	Repair	F up			20	5.19

ANNEX C

INCENTIVE TARGET\BONUS FOR BRILLIANT**TOP BRILLIANT****1997****2006**

Size		Sieve	Target	Bonus	Target	Bonus
1	A	4	30	1.56	28	2.40
2	B	4.5-6	28	1.58	26	2.70
3	C	6.5-7	26	1.65	24	3.10
Repair			29	1.81	29	2.50

ALL TOP BRILLIANT**1997****2006**

Size		Sieve	Target	Bonus	Target	Bonus
4	D	7.5-8.5	19	2.64	17	5.44
5	E	9- -0	17	2.77	15	6.17
6	F	10.5-12.5	15	3.15	12	7.70
7	G	13-14.5	13	3.46	11	8.40
8	H	15 -16.5	12	3.83	10	9.41
9	I	17-18.5	11	4.20	9	10.45
10	J	19-20.5			8	11.76
11	K	21-22.5			7	13.44
	KS	C - F			13	6.94

	KS	G up			9	10.00
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The Tribunal awards accordingly.

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Sd (Rashid Hossen)

Ag President

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Sd (Binnodh Ramburn)

Member

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Sd (Rajendranath Sumputh)

Member

Date: ...3rd September,2007