

PERMANENT ARBITRATION TRIBUNAL

AWARD

RN 931

Before:

Rashid HOSSEN	-	Ag President
Binnodh RAMBURN	-	Member
Rajendranath SUMPETH	-	Member

In the matter of:

Syndicat des Travailleurs des Etablissements Privés

And

Mr Laval Yip Fat Chung

These two disputes have been referred by the Minister of Labour, Industrial Relations & Employment for Arbitration by virtue of **Section 82 (1) (f) of the Industrial Relation Act 1972 as amended.**

The points in dispute are:-

- 1. Whether Management should grant a salary increase of 12% to all workers.**
- 2. Whether the meal allowance granted to workers should be increased to Rs 50./day.**

In its Statement of Case, the Applicant avers:-

1. Whether management should grant a salary increase of 12% to all workers.

- Previously the workers were employed by Laval Transport Ltd. having Mr. Laval YipTat Chung as the director.
- The workers are now employed by Mr. Laval Yip Tat Chung on the same terms and conditions of employment, except that the 06 days work has been reduced to 05 days per week.
- The employees are compensated for the increase in cost of living solely by the annual cost of Living Allowance (C.O.LA) compensation exercise effected in July.
- Mr. Laval Yip Tat Chung have solid contract with several enterprises for the carriage of containers for the purpose of importing and exporting of goods.
- The work consists of loading and unloading of goods from 20/40 feet containers.
- The work is very hard as the loading and unloading are performed manually.
- The actual average basic salary paid by Mr. Laval Yip Tat Chung is Rs 1610/- per week.
- Factors impacting on salary/pay packet.
- Reduction of overtime work.
- Price increases on basic and current necessities and services.
- Depreciation of our local currency.

- The workers have not been fully compensated in respect to inflation rate and the table below illustrates.

YEAR	CPI	PAID	DUE	BALANCE DUE	
	%	Rs	Rs	Rs	%
2000-2001	5.5	175./=	302.50/=	127.50/=	2.32
2001-2002	5	180./=	275.00/=	95.00/=	1.73
2002-2003	6.5	250./=	357.50/=	107.50/=	1.95
2003-2004	5.1	220./=	280.50/=	60.50/=	1.1
2004-2005	4.5	190./=	247.50/=	57.50/=	1.05
2005-2006	6.2	280./=	341.00/=	61.00/=	1.11
			TOTAL	509.00/=	9.25

Calculated on average salary for range 5000-6000=5500

2. Whether Meal Allowance granted to workers should be increased to Rs 50./= daily.

- A meal allowance is paid to the workers as per the Road Haulage Industry Remuneration Order.
- The Road Haulage Industry Remuneration Order prescribes for the minimum sum to be paid.
- Mr. Laval Yip Tat Chung actually pays a sum of Rs 30/- as meal allowance. Compared to the nature of the work perform by the workers, necessitates a consistent meal
- The market price of a consistent meal has gone up considerably i.e more than Rs 50/-.

The Applicant Union prays the Tribunal to order payment of 12% salary increase and a meal allowance of Rs 50./- as and when overtime is performed.

In its Statement of Case, the Respondent avers:-

Introduction

Laval Yip Tat Chung (also known as Laval Transport) is the owner manager of a small business in the road haulage industry and is operating with two lorries and employing in all eight employees (i.e. two Grade I lorry drivers and six lorry helpers).

The terms and conditions of employment of the employees are regulated by the Road Haulage Industry Remuneration Order Regulations G.N. 8 of 1990 as subsequently amended.

Grounds in opposition to union's demands

1. *"Whether management should grant a salary increase of 12% to all workers"*

Management objects to the union's demand for a salary increase for the following reasons:

- (a) Basic salaries presently paid to both drivers and lorry helpers are way above the rates prescribed by the Road Haulage Industry Remuneration Order Regulations G.N.8 of 1990. In fact the basic salary paid to drivers is nearly 33% more than the minimum legal rate whereas that of lorry helpers is nearly 17% above the minimum legal rate.
- (b) There is an incentive scheme which is in place whereby lorry helpers have the possibility of earning more money (within their normal working hours) whenever they have completed their daily task and are required to perform additional work.
In case the additional work which they are required to perform goes beyond their normal finishing time, they are then paid either the incentive bonus or the statutory overtime pay whichever is the higher.
- (c) Several important clients have ceased to provide business as a result of the precarious economic situation presently prevailing and the declining tendency of haulage business on the market has even compelled management to shift to a 5 day working week since

July 2006 with a view to cut down operating costs.

- (d) Operational costs have increased significantly over the past years that any attempt to increase further the basic wages, would '*de facto*' compel management to revise upwards the trips' tariff and which - at this present economic juncture - cannot be envisaged at all because of the fierce competition which exists on the market. More so in the road haulage industry there is not a level playing field for all operators because not all operators of our size strictly adhere to all the provisions laid down by law with regard to terms and conditions of employees.
- (e) In the year 2005, management had - in a spirit of understanding and co-operation exceptionally acceded to a request of the union and had granted 5% increase on the basic wages of all employees over and above the statutory additional remuneration under the Additional Remuneration Act No. 15 of 2005.
- (f) Should the union feel that its members deserve a higher basic wage, it would be proper and reasonable that representations be made by the union to the National Remuneration Board which is empowered to make appropriate recommendations to the Minister Of Labour, who will decide as to whether or not to come up with a revised Remuneration Order Regulations prescribing higher rates of basic pay which would then put all operators on the same footing.
- (g) Having regard to the present bleak economic situation, and to the shrinking tendency of the road haulage business (especially for small size road haulage operators), there is little scope for improvement at least in the foreseeable future and so if the union insists for an increase in basic wages without paying due attention to all the circumstances presently prevailing, this may actually jeopardize the job of its very members.

2. *"Whether meal allowance granted to workers should be increased to Rs.50.00 daily"*

Workers are presently paid **Rs.30.00** daily as meal allowance whenever they have completed their normal day's work and are required to work beyond 6:00 p.m. The meal allowance as

contained in the Road Haulage Industry Remuneration Order Regulations G.N. 8 of 1990 as amended is **Rs.15.00** daily.

This statutory rate of Rs.15.00 as meal allowance came into effect in January 1994 (i.e. as per Government Notice No.223 of 1993) and has remained static up to this present date whereas management has since **three years ago** already increased the said allowance to **Rs.30.00**. Insisting to have the said meal allowance increased to Rs.50.00 daily is absolutely unreasonable and management again believes that this item should be referred to the National Remuneration Board as it is a matter which concerns the road haulage operators' community at large.

As its name implies, meal allowance is but an allowance and is not to be construed by the union as being the cost of an average meal.

Conclusion

After having carefully taken into consideration the various points raised above and in the light of relevant evidence which will be adduced when the case will be heard on its merits, the Tribunal will - in its wisdom - no doubt conclude that the union's present demands at this juncture, are not reasonable and should simply be set aside.

On 28.05.08, both parties informed the Tribunal that they have reached an agreement as follows:-

The Union accepts the proposal of Management for a monthly increase of 3% as from April 2008 and the meal allowance is revised to Rs 40./-

Both parties moved for an award in terms of the settlement.

The Tribunal awards accordingly.

Rashid HOSSEN

(Ag. President)

Binnodh RAMBURN

Member

Rajendranath SUMPUTH

Member

Date: 9th June, 2008