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## THE CEYLON GOVERNMENT GAZETTE

EXTRAORDINARY

අංක 11,508 — 1958 අගෝස්තු 29 වැනි සිකුරාදා — 29.8.1958

No. 11,508 — FRIDAY, AUGUST 29, 1958

(Published by Authority)

### PART I: SECTION (I) — GENERAL

#### Government Notifications

##### THE INDUSTRIAL DISPUTES ACT, No. 43 OF 1950

THE Award transmitted to me by the President of the Industrial Court constituted for the purpose of settling the industrial dispute between the Ceylon Mercantile Union and Messrs. A.V. Michael Fernando and Company, Limited, Colombo, which was referred by the Honourable the Minister of Labour, Housing and Social Services, by Order dated May 15, 1958, made under section 4 (2) of the Industrial Disputes Act, No. 43 of 1950, and published in *Ceylon Government Gazette*, No. 11,318 dated May 23, 1958, for settlement by an Industrial Court, is hereby published in terms of section 25 (1) of the said Act.

C. B. KUMARASINHA,  
Commissioner of Labour.

Department of Labour,  
Colombo, August 23, 1958.

##### Industrial Court at Colombo

I. D. No. 68

In the matter of an industrial dispute  
between

the Ceylon Mercantile Union, 22 1/3,  
Baillie Street, Colombo 1

and

Messrs. A. V. Michael Fernando and Company,  
Limited, 212, Chekku Street, Colombo 13

##### THE AWARD

This is an award under section 24 of the Industrial Disputes Act, No. 43 of 1950 (as amended by Acts Nos. 25 of 1956, 14 of 1957 and 62 of 1957). It relates to an industrial dispute between the Ceylon Mercantile Union, 22 1/3, Baillie Street, Colombo 1 (hereinafter referred to as "the Union") and Messrs. A. V. Michael Fernando and Company, Limited, 212, Chekku Street, Colombo 13 (hereinafter referred to as "the Company").

2. The Honourable the Minister of Labour, Housing and Social Services, by his Order dated 15th May, 1958, made under section 4 (2) of the said Act, has referred this industrial dispute to this Court for settlement.

The matter in dispute, as contained in the statement of the Commissioner of Labour, which accompanied the Hon'ble Minister's Order, is the payment of gratuities to 24 named persons who are members of the said Union. Mr. Bala Tampoe, General Secretary of the Union, demanded on their behalf payment of one month's salary by way of gratuity for each year of service to the company; Mr. Rajendran, who appeared for the Company, stated that in view of the provisions of the Port (Cargo) Corporation Act, No. 13 of 1958, which came into force on May 7, 1958, the Company is bound by law to pay these employees, by way of gratuity, one half of one month's salary for every 12 months of employment subject to the other conditions contained in the said Act.

3. The 24 persons mentioned in the statement of the Commissioner of Labour were monthly paid employees of the said Company which had gone out of business in December, 1957. Section 55 (1) of the Port (Cargo) Corporation Act provides that that section shall apply to every employee of a port entrepreneur of the Port of Colombo, or ceased to be that employee after October 28, 1957, whether of his own accord or upon the termination of his services by that entrepreneur; so that, this particular company, which ceased doing business in December, 1957, is caught up by section 55 (1). Section 55 (3) of the same Act makes the following provisions:—

"The monthly rate or the daily rate referred to in sub-section (2) shall, with reference to any employee to whom this section applies, be the monthly rate or the daily rate applicable to him immediately before he ceased to be in the employ of the employer who is liable under that sub-section to pay a gratuity in respect of that employee, and the one month's salary or the 15 days' wages referred to in that sub-section shall include the cost of living allowance and the dearness allowance, but shall not include any other allowance or any payment for overtime work:

Provided that in the case of any employee who was employed by the port entrepreneur of the Port of Colombo known as A. V. Michael Fernando and Company, Limited, the monthly rate or the daily rate referred to in sub-section (2) shall be that which was in force on February 1, 1958."

This particular company has been specifically mentioned in section 55 (3) of this Act for the reason that a new wage structure in the Port of Colombo to its employees has come into force on February 1, 1958, some time after this Company went out of business; so that, the salary on which the quantum of gratuity that has to be worked out is specifically laid down. Whatever

may have been the scale of wages that may have been applicable to the employees of this Company when it ceased to do business in December, 1957, is not material as the legislature has specifically laid down that this Company should pay gratuities on the salaries and wages payable to the employees of the Port of Colombo on a monthly rate or daily rate based on the rates in force on February 1, 1958. Section 55 (2) of the said Act makes the following provision :—

“ A port entrepreneur of the Port of Colombo who, during the whole or any part of the period (hereafter in this section referred to as the “ relevant period ”) commencing on December 20, 1950, and ending on the date on which the licences referred to in sub-section (1) of section 27 cease to be in force by virtue of that sub-section, was the employer of any employee to whom this section applies shall pay, if such employee is employed by the Corporation, to the Corporation, or, if such employee is not employed by the Corporation, to such employee, as a gratuity in respect of the service of such employee under such employer during the relevant period, a sum which shall . . . . .”

4. The relevant period for which the gratuity has to be paid is the period commencing from 20th December, 1950. Mr. Rajendran contended that the Company was liable under the Act to pay its employees a gratuity for the service rendered commencing from 20th December, 1950, and not for the service rendered anterior to that date; the Company took up the stand that they are bound in law to carry out its obligations and that they are bound to pay a gratuity to the 24 employees for their services commencing from 20th December, 1950, on the footing of the gratuity as laid down in the said Act.

5. Mr. Bala Tampoe, on the other hand, took up the stand that this Court is not bound to adopt either the rate of gratuity payable or the period of service for which the gratuity is payable as laid down in the said Act, but is free to consider the matter anew and lay down a scheme of payment of gratuity and fix the period of service of each employee for the calculation of the quantum payable as the Court deems just. It was conceded that of the 24 persons who are monthly paid employees of this Company, all but four have had service subsequent to 20th December, 1950. The four persons who have had service prior to December, 1950 are—

- M. S. Rajan, who has had service from 1946,
- G. L. Victoria, who has had service from 1946,
- Laddie Corera, who has had service from 1949, and
- D. P. Andrew Silva, who has had service from 1944,

and who bear numbers (1), (2), (3) and (19) in the statement of the Commissioner of Labour. If Mr. Bala Tampoe's contention is upheld, it undoubtedly will help these four persons as regards the period for which they will receive gratuity.

6. The first question that we have got to consider is whether the gratuity should be calculated on the basis of one month's salary for each year of service. It is relevant to refer to the Motor Transport Act, No. 48 of 1957, wherein a scheme of gratuity has been laid down calculating the gratuity payable to the employees of the private omnibus companies at the rate of half month's salary in the case of monthly paid employees, and 15 days' wages for employees remunerated at a daily rate. The Port (Cargo) Corporation Act, No. 13 of 1958, as referred to earlier, makes more or less similar provision with regard to the payment of gratuity, &c., *mutatis mutandis*.

7. We have given earnest consideration to the submissions made by Mr. Bala Tampoe; the legislature has undoubtedly considered this matter in all its aspects; the Government, before introducing this Bill,

must have considered all representations from all parties concerned, and we are of the opinion that we should follow the principle laid down in these two Acts and not depart therefrom. It is always useful and is in the interests of all parties concerned that there should be uniformity with regard to these payments and any departure from a standard set up is bound ultimately to create a considerable amount of conflict between employer and employee. It is always best that this Court should lay down principles which will guide all parties in the future.

8. The second point urged by Mr. Bala Tampoe was that the calculation of the period of service of an employee should not be restricted to the period commencing from 20th December, 1950, and that the payment of gratuity should be based on the entire period of service.

9. In this dispute there are two aspects one is called upon to consider; firstly, the fairness of the demand of the employee; and secondly, the capacity of the employer to pay. In the first place, the demand must be just, and in the second place, the employer who is called upon to pay must have the capacity to pay. Private companies who had been functioning in the Port of Colombo, loading and un-loading cargo, must have been in business for a considerable time, and the legislature must be deemed to have considered all the aspects of the matter before it laid down the period commencing from December 20, 1950, as the period for which gratuity should be paid.

10. Having considered the submissions of Mr. Bala Tampoe and of Mr. Rajendran, we are of the opinion that the period for the purpose of calculating the gratuity payable to these employees should commence from 20th December, 1950, as laid down in the Port (Cargo) Corporation Act, No. 13 of 1958. Beyond laying down the principle upon which payment of gratuity should be made, we have not before us material for the calculation of the quantum of gratuity which each employee should receive. Provision is made in section 55 (4) of the Port (Cargo) Corporation Act for every port entrepreneur of the Port of Colombo, upon being directed to do so by the Chairman of the Board of Directors or by an officer of the Corporation who is authorised in that behalf by the Chairman, to furnish to the Chairman or such other officer any information which the Chairman or such authorised officer may require in regard to any matters which are specified in sub-section (2) of section 55 and which relate to the entrepreneur. Section 55 (2) provides that every port entrepreneur of the Port of Colombo shall pay to the Corporation the gratuity payable to any employee if that employee is employed by the Corporation; and if that employee is not employed by the Corporation, to the employee himself. It was stated by Mr. Bala Tampoe and agreed by Mr. Rajendran that of the 24 persons, all but three have entered the employment of Port (Cargo) Corporation. The three persons who have not taken up employment under the Corporation are: D. L. Van Langenberg (No. 21), S. E. L. Van Langenberg (No. 22), and R. Ernst (No. 23). We make order that the gratuity payable to the persons, other than those persons employed by the Corporation should be deposited by the Company within two months of the publication of this Award in the *Gazette* with the Commissioner of Labour, or with an officer authorised by the Commissioner of Labour, who will pay same to the persons concerned. If there is any dispute with regard to the calculation of the quantum of payment due to these persons, the Commissioner of Labour or the officer authorised by him will make the calculation and his decision shall be final.

11. Our Award, therefore is:

- (1) the period for which gratuity is payable by the Company to the 24 employees is the period commencing from December 20, 1950;

- (2) the rate at which gratuity shall be payable is one half of a month's salary (including allowances, but not including any overtime payments) for every 12 months of employment during the period referred to in sub-para. (1) above ;
- (3) the gratuity payable on the above calculations to the employees Numbered (21), (22) and (23), that is D. L. Van Langenberg, S. E. L. Van Langenberg and R. Ernst should be deposited by the Company with the Commissioner of Labour within two months of the publication of this Award.

12. We make Award accordingly.

H. A. DE SILVA,  
(President).

H. K. DE KRETZER,  
(Member).

B. E. DE PINTO,  
(Member).

Dated this 12th day of August, 1958,  
Colombo 3.

## Price Orders

Price Control Order No. 50.

SUBSIDIARY FOODSTUFFS

THE CONTROL OF PRICES ACT, No. 29 OF 1950

### Order

BY virtue of the powers vested in the Controller of Prices (Food) by section 4, read with section 3 (2) of the Control of Prices Act, No. 29 of 1950, I, Sellappah Sinnatambe, Assistant Controller of Prices (Food) for Vavuniya District, do by this Order—

- (i) revoke with effect from this date the following Price Orders :—
- (a) the Food Price Order No. V 47 dated 20th June, 1958, and published in the *Ceylon Government Gazette Extraordinary* No. 11,373 of 25th June, 1958, in respect of all items mentioned therein except dried fish ;
- (b) the Food Price Order No. V 48 dated 17th July, 1958, and published in the *Ceylon Government Gazette Extraordinary* No. 11,432 of 19th July, 1958 ;
- (c) the Food Price Order No. V 49 dated 8th August, 1958, and published in the *Ceylon Government Gazette Extraordinary* No. 11,472 of 11th August, 1958.
- (ii) fix with immediate effect the prices specified in columns 2 and 3 of the First Schedule hereto to be a wholesale dealers maximum wholesale price per cwt. gross and the maximum retail price per pound nett respectively, above which the articles specified in the corresponding entry in column 1 of the same Schedule shall not be sold in the areas mentioned in the First Schedule ;
- (iii) fix with immediate effect the prices which are for the time being fixed by me as the maximum wholesale price per cwt. gross and the maximum retail price per pound nett for the places mentioned in Schedule 1 ; increased by the amounts specified in columns 2 and 3 of the Second Schedule hereto to be respectively the maximum wholesale price per cwt. gross and the maximum retail price per pound nett above which the articles specified in column 1 of the First Schedule hereto shall not be sold within the areas specified in the corresponding entries in column 1 of the Second Schedule hereto ;
- (iv) direct that for the purpose of this Order—
- (a) any sale of any quantity of any article for the purpose of resale or any sale of any article in a quantity of 28 lb. or more at a time shall be deemed to be a sale by wholesale ;
- (b) any sale of any quantity less than 28 lb. of any article for the purpose of consumption or use shall be deemed to be a sale by retail.
- (v) direct that in every area where maximum prices are fixed by this Order, no person shall sell any article specified in column 1 of the First Schedule hereto which is adulterated with any other article ;
- (vi) direct that in every area where maximum prices are fixed by this Order, every trader, who has any article specified in column 1 of the First Schedule hereto, in his possession or under his control at any place or in any vehicle shall exhibit conspicuously at that place or on that vehicle a notice in which there shall be set out the maximum prices for such article specified in column 1 of the First Schedule fixed by this Order in that area ;
- (vii) direct that for the purpose of this Order " pound " or " lb. " shall be deemed to be the standard pound avoirdupois weight ;
- (viii) direct that in every area where maximum prices are fixed by this Order, every person who sells any article specified in column 1 of the First Schedule by wholesale shall, and every person who sells any article specified in column 1 of the same Schedule by retail shall, on demand, give the purchaser thereof a receipt in which there shall be set out—
- (a) the date of the sale ;
- (b) the quantity of such article sold (by weight) ;
- (c) the price paid for the quantity sold ; and
- (d) the nature of the transaction, that is to say, whether the sale was by wholesale or by retail.
- (ix) direct that the maximum wholesale and the maximum retail prices referred to in columns 2 and 3 of the Schedules hereto shall include the prices of wrapper, if any, in which such article is sold.

Signed at the Vavuniya-Kachcheri, at 3 p.m. on 25th August, 1958.

S. SINNATAMBE,  
Assistant Controller of Prices (Food), Vavuniya District.

FIRST SCHEDULE

*Divisional Revenue Officer's Division of Vavuniya South—(T. D.)—Asikulam, Vavuniya, Nochimodda, Nedunkulam and Puthukulam  
Divisional Revenue Officers Divisions of Vavuniya South—(S. D.)—Madukande and Iratperyakulam*

Column 1 Description	Column 2		Column 3	
	Maximum Wholesale Price per Cwt. Gross		Maximum Retail Price per Lb. Nett	
	Rs.	c.	Rs.	c.
1. Onions (all varieties other than red onions) ..	22	2	0	24
2. Coriander ..	42	22	0	42
3. Cummin seed ..	121	94	1	22
4. Dry chillies ..	78	27	0	80
5. Green gram ..	47	37	0	47
6. Oorid (whole) ..	49	16	0	50
7. Gram dhal ..	42	0	0	42
8. Masoor dhal ..	62	78	0	62
9. Red onions ..	27	22	0	30
10. Potatoes ..	31	40	0	33
11. Maldiva fish ..	253	10	2	50
12. Mustard ..	73	8	0	72
13. Common salt ..	—		0	6

SECOND SCHEDULE

Column 1 Area	Column 2		Column 3	
	Excess over the Wholesale Dealer's Maximum Wholesale Price per Cwt. Gross referred to in Column 2 in Schedule 1		Excess over the Retail Dealer's Maximum Retail Price per Lb. Nett referred to in Column 3 in Schedule 1	
	Rs.	c.	Rs.	c.
1. In the D. R. O. Division of Vavuniya South (T. D.) comprising of Maruthankulam, Maruthamadu, Rasenthirankulam } In the D. R. O. Division of Vavuniya South (S. D.) comprising of Sudaventhapulam, Ulukulama excluding Maruthamadu }	0	25	0	1
2. In the D. R. O. Division of Vavuniya South (T. D.) Periyapulyankulam, Vakaikaddenaolukkulam, Valawaithakulam and Maruthamaddu Village in the V. H. Division of Ullukulam in V. S. S. D. ..	0	50	0	1
3. In the D. R. O. Division of Vavuniya North—Nedunkerny, Mankulam, Olumadu, Kanagarayankulam and Pulyankulam ..	0	50	0	1
4. In the D. R. O. Division of Vavuniya North—Parantan, Manavalanpaddamurrippu, Tanduvan, Kachhilamadu, Unchal-kaddu ..	0	75	0	2
5. In the D. R. O. Division of M. P. P.—Mullyavallai, Thanyuttu, Mullaitivu and Vellaimullivaikal ..	1	0	0	2
6. In the D. R. O. Division of M. P. P.—Kumulamunai, Puthukuddyerruppu and Ambalavanpokkanai ..	1	25	0	2
7. In the D. R. O. Division of M. P. P.—Kokulai and Kukuthoduvai ..	1	50	0	3

*Note.*—These prices do not constitute fixed prices at which the above must be sold. They are the MAXIMUM prices above which sales should not take place.