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## THE CEYLON GOVERNMENT GAZETTE

අංක 14,908 — 1970 මැයි 29 වැනි සිකුරාදා — 1970.5.29

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### PART I: SECTION (I) — GENERAL

(Separate paging is given to each language of every Part in order that it may be filed separately)

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#### Appointments, &c., by the Governor - General

No. 184 of 1970

No. D. 252/Rect/4.

#### ROYAL CEYLON AIR FORCE—PROMOTION APPROVED BY HIS EXCELLENCY THE GOVERNOR-GENERAL

To be Temporary Wing Commander with effect from 1st March, 1970:—

Squadron Leader DON BANDULA SANATH WEERATNE  
(01040) Admin.

By His Excellency's command,

G. V. P. SAMARASINGHE,  
Permanent Secretary,  
Ministry of Defence and External Affairs.

Colombo, May 16, 1970.  
5-648

#### Other Appointments, &c.

No. 185 of 1970

#### NOTARIES ORDINANCE (CAP. 107)

THE Honourable the Minister of Home Affairs has appointed Miss PATHMINI SELVADURAI to be a Notary Public throughout the judicial division of Nuwara Eliya and to practise as such in the English language.

5-653

#### Government Notifications

L. D.—B. 15/36.

#### THE PRISONS ORDINANCE

##### Notice under Section 35 (1)

BY virtue of the powers vested in me by section 35 (1) of the Prisons Ordinance (Chapter 54), I, Alexander Fairlie Wijemanne, Minister of Justice, do hereby appoint Messrs. D. S. Gunasekera, D. E. Perera, R. Stanley Wijetunge and U. B. Rajakaruna to be members of the Local Visiting Committee for the Open Prison Camp, Anuradhapura for a period of one year commencing on 21st April, 1970.

ඒ. එෆ්. ඩී. ජේ. ජයවර්ධන,  
Minister of Justice.

Colombo, May 15th, 1970.  
5-608/1

L. D.—B. 15/36.

#### THE PRISONS ORDINANCE

##### Notice under Section 35 (1)

BY virtue of the powers vested in me by section 35 (1) of the Prisons Ordinance (Chapter 54), I, Alexander Fairlie Wijemanne, Minister of Justice, do hereby appoint Messrs. D. S. Gunasekera, D. E. Perera, R. Stanley Wijetunge and U. B. Rajakaruna to be members of the Local Visiting Committee for the Anuradhapura Prison for a period of one year commencing on April 21, 1970.

ඒ. එෆ්. ඩී. ජේ. ජයවර්ධන,  
Minister of Justice.

Colombo, May 15th, 1970.  
5-608/2

#### SPECIAL NOTICE REGARDING FORWARDING OF NOTICES FOR PUBLICATION IN THE WEEKLY GAZETTE

ATTENTION is drawn to the Important Notice, appearing at the end of each part of this Gazette, regarding dates of publication of the future weekly Gazettes and the latest times by which Notices will be accepted by the Government Printer for publication therein. All notices for publication in the Gazette received out of times specified in the said notice will be returned to the senders concerned.

Department of Government Printing,  
Colombo, December 14, 1968.

L. W. P. PERERA,  
Government Printer.

### THE CONTROL OF PRICES ACT

IT is hereby notified under section 4 (7) of the Control of Prices Act (Chapter 173), that the Minister of State has approved the Control of Prices (Imported Textiles) Order No. 2 of 1970, made by the Controller of Prices (Miscellaneous Articles) and published in *Gazette Extraordinary* No. 14,899/5 of 1st April, 1970.

ANANDATISSA DE ALWIS,  
Permanent Secretary to the Ministry of State.

Colombo, 19th May, 1970.

5—680

### THE CONTROL OF PRICES ACT

IT is hereby notified under section 4 (7) of the Control of Prices Act (Chapter 173), that the Minister of State has approved the Control of Prices (Barbed Wire) Order No. 3 of 1970, made by the Controller of Prices (Miscellaneous Articles) and published in *Gazette Extraordinary* No. 14,899/4 of 31st March, 1970.

ANANDATISSA DE ALWIS,  
Permanent Secretary to the Ministry of State.

Colombo, 19th May, 1970.

5—679

My No. C/I. 897.

### THE INDUSTRIAL DISPUTES ACT, CHAPTER 131

THE Award transmitted to me by the Arbitrator to whom the Industrial dispute which had arisen between United Building Workers' Union, 71, Malay Street, Colombo 2, and Mr. U. N. Gunasekera, The Proprietor, M/s. U. N. Gunasekera, 19, Deal Place A, Colombo 3, was referred by Order dated March 17, 1969, made under section 4 (1) of the Industrial Disputes Act, Chapter 131, as amended for settlement by arbitration is hereby published in terms of section 18 (1) of the said Act.

R. L. GUNASEKERA,  
Commissioner of Labour.

Department of Labour.  
Colombo 5, 15th May, 1970.

In the Matter of an Industrial Dispute  
between

United Building Workers' Union,  
71, Malay Street, Colombo 2,  
and

Mr. Upali Nissanka Gunasekera, 170, Inner Flower Road, Colombo 3, and Lady Chrysobel Rose Thelma Rajapakse, 53, Horton Place, Colombo 7, the Proprietors of Messrs. U. N. Gunasekera, 19, Deal Place A, Colombo 3

#### The Award

This is an Award under section 17 of the Industrial Disputes Act, Chapter 131, of the Legislative Enactments of Ceylon (1956 Revised Edition), as amended by Acts Nos. 14 of 1957, 62 of 1957 and 4 of 1962. It relates to a dispute between United Building Workers' Union, 71, Malay Street, Colombo 2 (hereinafter referred to as the "Union"), and Messrs. U. N. Gunasekera, presently of 110, Reid Avenue, Colombo 4 (hereinafter referred to as the "Employer"). The Acting Commissioner of Labour by his statement dated 3rd October, 1968, declared the matters in dispute between the aforementioned parties to be the eight demands of the Union listed in the Schedule thereto and which I have dealt with individually later in this Award. The Honourable Minister of Labour and Employment by virtue of the powers vested in him under section 4 (1) of the aforesaid Act on 2.11.68 referred the dispute between the United Building Workers' Union, 71, Malay Street, Colombo 2, and the Firm of Messrs. U. N. Gunasekera, 19, Deal Place A, Colombo 3, to me for arbitration.

Accordingly, notices were issued to the parties to appear as a "call date" on 23rd November, 1968, for preliminary appearances and fixing of dates for hearing.

On 23rd November, 1968, Mr. R. L. Jayasuriya, Advocate, instructed by Mr. Arnold de Silva, Proctor, represented Mr. U. N. Gunasekera only and submitted his answer. The statement of the United Building Workers' Union was already filed on 14th November, 1968. The caption in this first reference included Lady Chrysobel Rose Thelma Rajapakse, 53, Horton Place, Colombo, who was neither present nor represented, nor was there any answer filed of record by her. Apparently the notice to her was not served. The court was informed later that she was out of the Island. A re-issue of the notice was avoided on the production of the certificate of registration of the firm of Messrs.

U. N. Gunasekera, marked R1, where the business name is marked "U. N. Gunasekera", and the nature of the business "Building Engineers and Contractors". This document R1 was shown to the representative of the Union and the Court being satisfied, informed the Permanent Secretary that the caption of this reference should be accordingly, amended (as subsequently done by the Honourable Minister of Labour and Employment by fresh reference dated 17.3.69). The inquiry continued confining the dispute as between the United Building Workers' Union (hereinafter called the "Union"), and Messrs. U. N. Gunasekera (hereinafter called the "Employer").

An attempt was made towards settlement of the matters in dispute, but as there was no likelihood of any compromise, Mr. Panditha, representing the Union, on 30.1.69 related at some length the attempts made to discuss their demands with the Employer.

It would appear from the preliminary observations that the bone of contention has been the membership of the workers of Messrs. U. N. Gunasekera in the United Building Workers' Union. According to the evidence of Mr. Dissanayake the Assistant Commissioner of Labour a referendum was conducted on 10th and 11th November, 1964. From the total strength the voting did not have 40 per cent. either of the total work force or even of those present at the date of the referendum.

The general principle is that if there is 40 per cent. the Union can represent the membership in matters in relation to wages without coming personally. If there is less than 40 per cent. the Union can represent only on matters personal to the members.

After the results of this referendum was made known to the Employer and the Union on 5th December, 1964, the file was closed and the matter ended.

According to the file of the Assistant Commissioner of Labour relating to the Employer there are twelve demands (R7) referred to the Authorised Officer for settlement by conciliation on 15th March, 1965, and his report of 28th October, 1965 (R8), recommends the grant of the demands made by the Union.

Thereafter by letter of 29th November, 1965, the Employer repudiating the "settlement" of the Authorised Officer, desired to know the number of workers on whose behalf the Union has made these demands and the reasons for the demands.

By letter dated 31.8.1968 (R12) the Employer was informed that according to the Union 80 per cent. of the workers are members of the Union. There are no other Unions in this establishment. To the question by court as to how this dispute came up before this court if the Union has less than 40 per cent. membership the Assistant Commissioner of Labour states that it has been decided by the Head Office. Generally, the department refers where the dispute is of such a nature that it involves a large number of people and a large number of demands.

On 21.2.1969 Mr. R. L. Jayasuriya, Advocate, representing the Employer drew the attention of court to the subject matters of this dispute. "The scope of the dispute", submitted Counsel for the Employer, "was important in view of section 19 of the Industrial Disputes Act". The reference related to all the workers and the Union was not representative of all the workers. The argument of Counsel for the Employer continued for a number of dates of inquiry and the representative of the Union ably addressed court on this preliminary objection. Nevertheless, the court expressed the view that the matters in dispute should be considered and that the preliminary objection not being a legal objection of Counsel for Employer, will be taken into account in the course of the Award, after the evidence, as to whether it would be just and equitable in this particular case to make an Award affecting all the workers or to what extent this Award should apply.

The court is of the view that the matters in dispute under this reference are of a general nature and this Award should apply to all the workers.

It is quite obvious that an Award, to take effect only to a section of the workers will cause industrial unrest and would not be just and equitable by the other workers in the same establishment.

In the absence of any error on the face of the record and the want of any hard and fast rule in our law requiring a sufficient membership of workers in the Union, this Court is of the view that it is outside the scope of this reference to embark on a voyage of discovery and enter into an apparently academic discussion to determine, in the circumstances of this case, the status of the Union.

The subject matter of the Industrial Dispute is the 8 demands as mentioned in the Reference and may now be dealt with:

*Demand No. 1.*—"That either a free mid-day meal be provided or a meal-allowance of 60 cents be paid to all the workers."

Under the Wages Board Ordinance, the minimum wages payable to workers in the Building Trade No. 7 of 1968, marked R4, the minimum wages payable to workers is laid down. The Employer, Mr. U. N. Gunasekera, has always paid

more than the minimum wages as fixed by the Wages Board to his workers. The Document marked R6 regarding the wages of various categories of workers is not challenged by the Union. In fact, the evidence of witness Ekanayake supports the Employer's version of the wages given, though he is under the erroneous impression that he is under-paid.

No worker can claim a free mid-day meal as of right. In the present instance, the representative of the Union does not seem to pursue this demand for a free mid-day meal or a subsidy of 60 cents, save to lead the witness Ekanayake to demand the same. Mr. Gunasekera, the witness who is also employed in the staff, giving evidence for and on behalf of the Employer states that for one year in respect of 249 workers the value of the lunch and tea (vide demand No. 2) would add up to Rs. 62,150.40. According to the Employees Provident Fund Act, the value of meals has to be added to the 6 per cent. of the Employer's contribution and the total expenditure would be Rs. 65,876.40 in respect of tea and lunch for 249 workers per year (page 227). The cost of the meals will be Rs. 46,612.80 and tea will be Rs. 15,537.60, making a yearly expenditure of Rs. 62,150.40 (page 226). On an average the cost of meals would be half the profits.

I accept the evidence of witness Gunasekera on matters relative to this dispute, his Employer's financial position and the profits, and expenses to be incurred by the Employer.

It is quite possible that free or subsidised mid-day meals are given in certain establishments to workers, but the Court is unaware of the terms and conditions of service of similar or comparable firms of the Building Trade, in the private sector, where free or subsidised mid-day meals are provided for their workers.

Taking into consideration all the circumstances affecting the establishment of the Employer, this Court considers it neither just nor equitable to saddle the Employer with this additional expenditure.

Therefore the demand of the Union for the free mid-day meal or an allowance of 60 cents is rejected.

*Demand No. 2.*—"All workers be provided with 2 cups of tea a day or be paid 20 cents in lieu thereof."

Witness Ekanayake, the mason and worker, under the Employer, giving evidence for the Union referred to the 2 cups of tea given by Messrs. Zublin & Company to their workers under a Collective Agreement. This is a good gesture on the part of the Employer, as a cup of tea is always welcome and presumed to be an incentive to the worker. Witness Gunasekera for the Employer states that the office provides tea to the office staff. The cost of 2 cups of tea would on an average be ten to fifteen per cent. of the profits, totalling an expenditure of about Rs. 15,537.60 (vide demand 1) in respect of 249 workers. The profits are hopelessly inadequate for:

In 1965 it was 2.24 per cent.  
In 1966 it was 3.88 per cent.  
In 1967 it was 2.90 per cent.  
In 1968 it was 2.84 per cent.

The witness, Ekanayake for the Union, has also stated under cross-examination that he is unaware that the State Engineering Corporation gives tea to the workers, but he knows that Tudawe Brothers do not give a cup of tea to the workers (page 198 of the proceedings). Hence, the grant of a free cup of tea does not appear to be a practice.

Considering these circumstances, it does not appear to be just or equitable that two cups of tea or 20 cents in lieu thereof should be given. However, considering the nature of the work in this building trade of the Employer, this court presumes that an incentive to the worker will help the Employer in his business. It would also be a healthy trend for the worker to enjoy fringe benefits. With some financial adjustments and at some inconvenience the court considers that one cup of tea or 10 cents in lieu thereof would be just and reasonable. This is granted as a special concession to the worker, who is expected to be mindful of his duty, and to ensure industrial peace.

The award, therefore, is the grant of one cup of tea or 10 cents in lieu thereof, and is not to be taken as a precedent, or as applicable generally to workers in similar Building Enterprises, in the private sector. This award is to take effect in respect of contracts undertaken after the publication of this award.

*Demand No. 3.*—"All workers should be granted bonus as is granted to overseers and Baases."

On the evidence of the witness Gunasekera for the Employer, the office employees receive about two months' basic salary as bonus or even more. Overseers are also being paid bonus in the same way as office workers. In the case of "Baases", the bonus would be a little less, or a range of about Rs. 100 to about Rs. 300. This is not calculated on a monthly basis. It is an estimate calculated by the Employer himself. The quantum of bonus to the workers last year was about 5½ days wages. This disparity seems unreasonable. The witness has

discussed with the Employer, but was asked to put down 5½ days wages and pay. It started with one day and has gone up to 5½ days. The office employees are paid bonus in April. There appears to be a just grievance on the grant of the bonus to the workers. There is undoubtedly a disparity in the bonus granted to the office staff, Overseers and Baases of about 2 months' basic salary and the 5½ days wages of the workers.

Without prejudice to the existing bonus now enjoyed by the employees, Court would recommend, as far as possible, the firm to decide on a scheme to increase the bonus presently granted to the workers by at least a further 5½ days wages, if not more on the increased percentage of profit made in the future.

In view of the present low profits and the financial position of the Employer and taking into consideration the fact that a bonus of 5½ days wages is granted in addition to the wages over and above the minimum wage, under the Wages Board Ordinance, this Court does not consider it just or equitable to interfere with the prevalent practice. There will be no award on this demand for bonus.

*Demand No. 4.*—"Travelling fare should be paid to all workers when shifting them from one work-site to another, as is being paid to Overseers and Baases."

This is a reasonable demand.

Under cross-examination by the representative of the Union, witness Gunasekera for the Employer states that transport allowance is paid to Overseers depending on their travelling. For the workers, the Employer has ordered the Overseers to pay them. "We have given them money and we ask them to pay" (page 257). Witness Ekanayake for the Union states that he has heard that of late payment is made or transport provided when shifting from one work site to another. "I have not been shifting from one work-site to another" (213). Counsel for the Employer also marks R (A), being receipt of witness Ekanayake for the payment of travelling expenses.

In the circumstances, there is no doubt that the Employer provides transport or pays the worker in respect of this demand or matter in dispute. There will be no Award on demand No. 4.

*Demand No. 5.*—"All temporary workers be made permanent."

Witness Gunasekera for the Employer states that the total strength of workers in 249 (223). There are no temporary workmen. There is a separate labour force which belongs to special contractors. The Employer has a permanent labour force of 249. "The trend is not to have permanent labour forces" states the witness Gunasekera for the Employer.

In view of the foregoing evidence and the absence of any evidence by the witness for the Union that there are temporary employees directly under the Employer, this demand or matter in dispute does not arise. There is, therefore, no award on demand No. 5.

*Demand No. 6.*—"All workers be granted annual increments."

This demand has to be considered with due regard to the nature of the building trade, and in the light of the evidence of the witness for the Union and for the Employer.

The general principle adopted with regard to annual increments in the Industrial sector is not followed by the Employer (page 246). Witness Gunasekera for the Employer explained that "if we are guaranteed increased work next year, then, of course, we can plan out that increment, but without knowing what the next year contracts are going to be it is not possible. One or two may have received increments on the basis of ability or other reasons."

The labour force of the Employer was at one time about 1,300 now reduced to 249. There were then about 50 building sites under construction but now there are only 13. From Ratmalana to Fort there are only 2 boards of U. N. Gunasekera. In any event, it seems that there is definitely a keen competition with about 25 other reputed companies engaged in the Building Trade. Even the State Engineering Corporation undertakes private contracts. These firms may offer attractive terms to the worker and the skilled or semi-skilled worker is at liberty to seek employment elsewhere.

The witness Ekanayake, a permanent employee for the Union, state in his evidence that he has received an increment of 85 cents, though not annually. He is paid Rs. 6.40 or Rs. 6 as against the wages under Wages Board Ordinance of Rs. 4.47. Witness also states that after about 3 or 4 years increment is made at the rate of 5 or 10 cents. He started with Rs. 4.75 and after 9 years he receives Rs. 6. Further, the work, conduct and attendance of each worker are to be reviewed annually for considering the increment.

Considering the nature of the Building Trade and the fact that there is a keen competition from the private sector and State Engineering Corporation, in the Building Trade accepting private contracts, Court does not consider it just and equitable to interfere with the present scheme of increments. It cannot be automatic. There is no award.

**Demand No. 7.**—“ All workers who report for work on rainy days should be paid the day's wages as in the case of Overseers and Baases.”

According to the evidence of witness Ekanayake for the Union since the formation of the Union on or about 1965 this benefit is given.

(Page 129). There is also the evidence of witness Gunasekera for the Employer: “ even on rainy days if he turns up at 8 O'clock he is taken into the site and the wages are given ” (page 262). It, therefore, appears that the Employer does in fact comply with this demand.

It is unfortunate that this demand was included as a matter in dispute. Court is of the view that the Employer has been very fair and reasonable with respect to the conditions of service of his workers. It is therefore ordered that this practice be extended to all workers.

**Demand No. 8.**—“ A system of granting short leave to the workers to be introduced.”

According to the witness Ekanayake for the Union, short leave is not permitted to all workers in the same manner. The Overseer grants short leave at his discretion to his favourites. Witness Ekanayake also states that he thinks there is one hour short leave per week.

Witness Gunasekera for the Employer states that workers are employed 8 hours per working day with one hour off for lunch. In each 4-hour shift we allow a tea interval of 15 minutes, although under the Wages Board Ordinance Employers are not obliged to do so.

The cost per day of the working hours lost in this was Rs. 74.70 per day, or Rs. 1,940.20. per month.

On the basis of 8 hours per month, cost of short leave is Rs. 448.20 per month in respect of 249 workers.

No doubt a more regular and comprehensive system of granting short leave will be welcome but this Court is reluctant to impose such a system on this Establishment engaged in a Building Trade. The system of granting short leave already operating appears satisfactory, bearing in mind that it must depend upon the exigencies of service, as it may otherwise jeopardise the expeditious completion of work on which depends business expansions and profits. The system of short leave prevalent in the public service cannot be compared with or applied to the private sector nor even to the entire public sector until such time there is co-ordination of the private and public sectors, and there is a more practical, positive and purposeful approach to the Industrial Law.

I therefore order that the existing system be allowed to continue but be extended to all workers without favour or prejudice.

M. S. ABDULLA,  
Arbitrator.

Dated at Colombo, this 14th day of April, 1970.

5—577

My No. C/I. 638.

### THE INDUSTRIAL DISPUTES ACT, CHAPTER 131

THE Award transmitted to me by the Arbitrator to whom the industrial dispute which had arisen between Jathika Sevaka Sangamaya, 532, Galle Road, Colombo 3 and the Port (Cargo) Corporation, Colombo, was referred by Order dated January 21, 1969 made under Section 4 (1) of the Industrial Disputes Act, Chapter 131, as amended and published in *Ceylon Government Gazette* No. 14,839 of January 31, 1969 for settlement by arbitration is hereby published in terms of Section 18 (1) of the said Act.

R. L. GUNASEKERA,  
Commissioner of Labour.

Department of Labour,  
Colombo 5, 15th May, 1970.

In the matter of an Industrial Dispute  
between

Jathika Sevaka Sangamaya, 532, Galle Road, Colombo 3  
and

The Port (Cargo) Corporation, Colombo 1.

#### Award

This is an Award made under Section 17 of the Industrial Disputes Act, No. 43 of 1950, Chapter 131 of the Legislative Enactments of Ceylon (1956 Revised Edition) as amended by the Industrial Disputes Amendment Acts, Nos. 14 and 62 of 1957, 4 of 1962 and 39 of 1968 (read with Industrial Disputes (Special Provisions) Act, No. 37 of 1968.

It relates to an Industrial Dispute between Jathika Sevaka Sangamaya (hereinafter referred to as “ the Sangamaya ”) and Port (Cargo) Corporation (hereinafter referred to as “ the Corporation ”).

The Honourable the Minister of Labour and Employment acting under Section 4 (1) of the aforesaid Act by his Order dated the 21st day of January 1969 referred the above dispute to me for settlement by arbitration. The matter in dispute as specified by the Commissioner of Labour in his Statement of 19. 1. 1969 is whether the claim of the Sangamaya for the appointment of Mr. A. C. M. Farook to the post of Establishment Assistant (Labour) in the Port (Cargo) Corporation is justified and to what relief is the said Mr. A. C. M. Farook entitled.

The Respondent Corporation is a Public authority established by Act No. 13 of 1958 for the purpose of providing certain services in the Port of Colombo and in such other Ports as may be determined by the Minister from time to time. The following provisions govern the recruitment of Officers and Servants:—

- (i) Under Section 5 (1) (b) the Corporation can employ such Officers and Servants as may be necessary for carrying out the work of the Corporation.
- (ii) Under Section 50 of the said Act any Officer in the Public Service may be taken in temporarily or permanently to the Staff of the Corporation.
- (iii) The Corporation was obliged to employ under Section 52 every person who was a qualified worker in the Port of Colombo.

Mr. A. C. M. Farook who was recruited to the Corporation under Provision of Section 50 had been a Public Servant in the Quasi Clerical Service of Government, and was originally recruited on secondment from Government. The terms of his appointment are contained in correspondence marked A/1, A/2 and A/3. It is in evidence that Mr. Farook was employed in the Nucleus Staff established for the purpose of effecting a take over of the Port even prior to the legal Establishment of the Corporation. His services in connection with Port Work commenced before the recruitment of Section 52 Employees commenced. His services commenced on 17. 2. 1958. Thereafter the Corporation made an offer of permanent employment in the Port to Mr. Farook who promptly accepted the offer. Thereby Mr. Farook indicated his intention of joining permanently under Section 50 of the Act, and in the normal course of events he would have been in the permanent service of the Corporation as from 17. 6. 1961. However, in view of a Treasury letter which prohibited any further action being taken in view of the Government's policy to create a Corporation service, all further action to confirm these Government servants including Mr. Farook was stopped. Ultimately Government did not create the proposed Corporation service and Mr. Farook was permanently appointed to the Staff of the Corporation on 1. 11. 1963, resulting in Mr. Farook's permanent service in the Corporation being reduced by almost 2½ years. The Corporation admits these facts.

Mr. Farook worked in the Labour Branch from the inception of the Corporation. In September 1961 Mr. Farook was appointed Head Clerk of the Labour Section by the Management of the Corporation. The Corporation finally decided to appoint Mr. Farook permanently to the Staff of the Corporation only after his work as Head Clerk of the Labour Branch had been tested by the Corporation for a period of two years.

After Mr. Farook's appointment, permanently, to the Staff of the Corporation, he was informed that if he joined any other Corporation he would forfeit his Pension rights for the period of service under Government. This information was communicated to Mr. Farook by Circular No. A/9 dated 5.9.1966 and Mr. Farook had no alternative in view of such Circular but to stay in the service of the Corporation and seek his promotion within the Corporation.

Act No. 13 of 1958 does not show any preference or give prior rights to any category of the employees of the Corporation whether they be direct recruits, ex-government servants or ex-company employees. They all become servants of the Corporation with equal rights for promotion.

The Post of Establishment Assistant (Labour) fell vacant due to the retirement of the previous holder, who was the immediate superior of Mr. Farook. By now Mr. Farook had functioned as Head Clerk of the Labour Section for a period of 5½ years. Due to this class relationship between the two posts, it is not denied by the Corporation that Mr. Farook was exceptionally well qualified to gain a full knowledge of the duties pertaining to the post of Establishment Assistant (Labour). It is also in evidence that before the previous holder retired from the post Mr. Farook had acted in the Post for a period of six months when the permanent holder was away on leave.

When the Post of Establishment Assistant (Labour) was about to fall vacant the Corporation advertised the post on 23. 2. 1967 by document A/29. The Board of Directors were informed that one vacancy in the Executive scale IV to the Personnel Division was to be filled in terms of the approved

scheme of recruitment. Mr. Farook applied for the post on 7. 3. 1967. It is in evidence that Mr. Farook commenced to act as Establishment Assistant (Labour) on 8. 3. 1967.

A Selection Board consisting of Mr. A. W. A. Abeyagunasekara, Chairman, Mr. P. D. S. Jayasinghe, Working Director, Mr. H. A. De Silva, General Manager, and Mr. K. M. U. Jayanetti, Personnel Manager, interviewed thirteen applicants.

The schedule of applications together with the notes of the Interview Panel, and the list of Selections have not been produced by the Corporation. There is a minute by the Personnel Manager in A/33 dated 14.6.68 made over an year after this interview had taken place, that these papers could not be traced. There is, however, evidence of a conclusive nature that Mr. Farook was selected for appointment, Mr. Jayasinghe the Vice-Chairman in his evidence states that, out of those who were interviewed, Mr. Farook was best in order of merit, and that he was the only person selected for the post of Establishment Assistant (Labour).

The Sangamaya, in the course of a number of sittings held by this Tribunal, called Mr. A. C. M. Farook and Mr. P. D. S. Jayasinghe. I am satisfied on the evidence of the two witnesses that Mr. Farook was the only one selected for the post of Establishment Assistant (Labour) and as Mr. Farook has not received the letter of appointment appointing him permanently to the post of Establishment Assistant (Labour) with effect from 8.3.67, this industrial dispute has arisen.

Two months after the interview on 25.6.67 the applicant Union protested to the Corporation over the delay in the appointment of Mr. Farook. In this letter the Sangamaya drew attention to the fact that another Union was trying to impose a new condition of employment which would deprive Mr. Farook of his appointment. The Sangamaya further pointed out that the imposition of such a rule had at no time been contemplated in the Corporation Act or by the Treasury or by any State-sponsored Corporation nor was it made a condition of employment for ex-Government servants. The Sangamaya further pointed out that the imposition of an eight-year rule for some of the government clerks would tantamount to discrimination and victimisation.

The Ceylon Mercantile Union on 29.9.67 by R/4 protested at the delay in filling vacancies in Executive Scale IV referring specifically to the advertisement A/10 and the interview held on 15.4.67. In this letter there is no reference to a request by the C. M. U. that a new 8-year rule should be brought in for some of the ex-Government servants.

On 30. 1. 68 the Corporation had a conference with the C.M.U. (R/26). At this conference it would appear that the Chairman of the Corporation had agreed to accept the C. M. U. suggestion that those who had been formerly in the Executive Clerical Grades of the Government Service be eligible for promotion immediately, and that other Staff should become eligible after 8 years from the date of appointment to the permanent service of the Corporation. In support of this request the C. M. U. has not put forward any cogent reasons. It has only pointed out that the C. M. U. had pressed for the reversion of all Government Staff at the inception of the Corporation and that Government servants had been given 50% of their substantive salaries on appointment to the Corporation. The point seems to have been overlooked that all Government servants including Executive Clerical Grade Officers of Government had been given the 50% increase and that there was no reason why any discrimination should be made between groups of ex-Government Officers in considering them for promotion in the Corporation. It has also been overlooked that all Corporation Officers drawing salaries as low as Rs. 215 per month had been made eligible for appointment to Executive Scale IV posts and that consequently promotions were to be considered not on salary position or seniority but on merit. An Officer drawing Rs. 215.00 per month could be promoted over Mr. Farook or anyone else on the basis of merit. Further it has not been realised that it was obligatory on the part of the Corporation to consult other Unions on a matter which adversely affected members of those Unions. It is manifest that this criterion for promotion was not a requirement of the Corporation for the efficient discharge of the duties in the higher post. This new stipulation had nothing to do with the fitness or ability of the Officer to discharge the duties pertaining to an Executive Scale IV post. It was related to the origins of an Officer in Government Service. It was manifestly an unreasonable proposal which compelled the Corporation to shut their eyes to the services performed by Mr. Farook for more than 9 years in the Port, that is from 17. 2. 58 to 15. 4. 67.

By A/21 the Applicant Union on 28. 2. 68 protested to the Corporation over the delay in filling the post of Establishment Assistant (Labour). There was no reply to this letter nor did the Corporation take any action to implement the discussions held with the C. M. U. on 30.1.68.

On 3. 3. 68 Mr. A. W. Silva, Establishment Assistant (Non-Labour) asked for an acting allowance for covering up to the duties of Establishment Assistant (Administration) from 1. 7. 68 (R/6). This allowance was granted.

On 5. 6. 68 (A/31) the Chairman had directed the Personnel Manager to appoint Mr. Wickramasinghe. On the same date a letter of appointment was issued to Mr. Wickramasinghe (A/28) stating that he had been appointed to a post in Executive Grade IV with effect from 5th June 1968, on the interview held on 15. 4. 67. On the same date the Applicant Union protested at the appointment of Mr. Wickramasinghe, and the non-appointment of Mr. Farook (A/23). Mr. Farook in his evidence speaks of the sequence of events after the 5th June. There is the uncontradicted testimony of Mr. Farook that the then Personnel Manager informed him that Mr. Wickramasinghe was to be appointed to the post of Establishment Assistant (Labour), and that, when Mr. Farook protested, arrangements were even made to give him some other work which would not place him immediately under Mr. Wickramasinghe. Mr. Wickramasinghe did not assume duties as Establishment Assistant (Labour). Instead later Mr. Wickramasinghe was posted to fill the vacancy of Establishment Assistant (Administration). The moment Mr. Jayasinghe, the Working Director, saw the papers relating to the appointment of Mr. Wickramasinghe he emphatically stated that Mr. Wickramasinghe was not selected by the Panel of which he was a member (Vide A/30). He further stated that he could not agree with the Personnel Manager's minute at A/31. He was emphatic that the interview was held to fill *one vacancy*.

According to the Corporation, the post of Establishment Assistant (Administration) was vacant since 1.7.66. No documentary evidence has been placed before me by the Corporation to indicate that the Board of Directors or the Interviewing Panel had been informed on 15.4.67, that the posts of Establishment Assistant (Labour) and Establishment Assistant (Administration) were to be filled on the results of the interview. If in fact Mr. Wickramasinghe had been selected for appointment on 15.4.67, to the post of Establishment Assistant (Administration), there was no reason why he should not have been appointed to this vacant post immediately thereafter. No such action was taken presumably because it was unnecessary to fill the post of E.A. (A), as the acting arrangements made, whereby Mr. A. W. Silva, E.A. (Non-Labour), acted as E.A. (A), was considered adequate by the Corporation. It would appear that after Mr. Wickramasinghe was appointed to the Executive Scale to fill the post of E.A. (L), and in view of the opposition of the Working Director, Mr. Farook and the Union, the Personnel Manager tried to make out that Mr. Wickramasinghe was originally selected on 15.4.67, and finally appointed on 5.6.68, to the post of E.A. (A). Consideration of A/28 and R/19 makes it clear that Mr. Wickramasinghe between 5th June, 1968 and 1st August, 1968, was an Establishment Assistant who was not doing the work of E.A. (A) during that period. If, as suggested by the Corporation the truth is that Mr. Wickramasinghe was originally appointed as E.A. (A), then there is no reason why he could not have been posted to that post on 5.6.68 and Mr. A. W. Silva informed that he ceased to be Acting E.A. (A) as from 5.6.68.

The Corporation has appointed Mr. Wickramasinghe, who admittedly came second in order of merit at the interview held on 15.4.67, to an Executive Scale IV post with effect from 5th of June, 1968. Thereafter, from 1st August, 1968, Mr. Wickramasinghe has functioned as E.A. (A). He is no longer a contestant for the post of E.A. (L). The post of E.A. (L) has been filled by Mr. Farook on an acting basis from 8.3.67, for a period of almost 3 years. In these circumstances, the Tribunal is free to consider the claims of Mr. Farook for permanent appointment to the post of E.A. (L) without any complications on account of the candidate who came second at the interview. There are no rival claims for the post.

At the time when Mr. Wickramasinghe was appointed, apart from the Applicant Union, three other Port Trade Unions protested against the non-appointment of Mr. Farook (R/11, R/9 and R/10). These unions protested against the unprincipled action of the Corporation.

On 18.6.68, the Corporation by A/24 replied to A/23. By A/24 the Applicant Union was informed that due to representations made by the C. M. U. the Corporation had decided that "certain ex-Government Officers in the General Clerical Class and the Quasi Clerical Service will become eligible after completion of 8 years service in the Corporation from the time they were made permanent in the Corporation's service".

I desire to point out that this letter was written almost 1½ years after the post of E.A. (L) was advertised and the interview held. There is no indication that this new suggestion was to be made retrospective, or that it was to apply to the post of E.A. (L) which had been advertised on 23.2.67. The C.M.U., at R/26, had suggested that all those who were not in the Executive Clerical Grades should be subject to the new 8-year rule. But the Corporation, in A/24, refers to "certain Officers" of this class to whom this restriction is to apply. There is no clear indication as to whom this new restriction is to apply. It is clear that certain ex-Government Officers in the G. C. C. and Q. C. S. will not be subject to this new bar. This brings out clearly the discriminatory nature of this bar, and the fact that there is only one purpose to be served by this restriction, and that is, to eliminate Mr. Farook from obtaining the benefits of being selected at the interview held on 15.4.67. This action of the Corporation, instead of ensuring industrial peace, will only tend to create industrial unrest.

On 27.6.68, the Corporation issued R/18 to Mr. Wickremasinghe. This is the formal letter of appointment referred to in paragraph 3 of A/28. Since the issue of these letters, Mr. Wickremasinghe has continued to function as an Officer, in Executive Scale IV. A decision by the Tribunal on the claims of Mr. Farook for appointment to Executive Scale IV does not involve the reversion of Mr. Wickremasinghe to his original post. The appointment of Mr. Wickremasinghe only serves to emphasise the inequity of delaying any further the permanent appointment of Mr. Farook, who acted in the post of E.A. (L) for 16 months prior to the date on which Mr. Wickremasinghe assumed duties, in a post in Executive Scale IV.

The Corporation has, on 1.7.69, by A/37 advertised posts in Grade III and stipulated that only officers who have two years' service in Grade IV would be eligible to apply. If Mr. Farook had received his letter of appointment in the normal manner soon after 15.4.67, he would have been qualified to apply for promotion to Grade III. This proves that the continuance of Mr. Farook in the post of E.A. (L), merely in an acting capacity, is causing serious loss and inconvenience to Mr. Farook and that the issue of the letter of appointment is imperative.

The Ceylon Mercantile Union and the other unions objected to the appointment of all Government Servants permanently on the Staff of the Corporation. One of the issues in the strike of 1963 was the appointment of Government servants. The committee which inquired into the strike did not recommend that an 8 years rule, as suggested by A/24, should be imposed on Government servants or even on its Q. C. S. Officers. The recommendation of the committee was that "7 supernumerary posts be created in Grade I Class I of the Corporation Clerical Service and these supernumerary posts be filled by the promotion of deserving officers in the Corporation's service. Any loss of promotional prospects of permanent officers of the Corporation as alleged by the C. M. U. can only be met in this way". This was the solution of the committee in the contest between ex-Government Officers and the C. M. U. men who were section 52 employees and direct recruits. The Corporation, at paragraph 4 of its answer, has totally mis-stated the recommendation of the committee in stating that the committee recommended that the Q. C. S. Officers should be considered as supernumerary officers. There is no recommendation to this effect in the report.

The Samarasinghe Committee never considered that it was necessary to protect former E. C. C. II officers from open competition with former Q. C. S. officers. At the interview held on 15.4.67, there were no direct recruits or section 52 employees who were in the run for Executive Scale IV posts. Both Mr. Farook and Mr. Wickramasinghe were ex-Government Officers, and the committee was always of the view that an E. C. C. II Officer would have no difficulty in standing up to open competition with Q. C. S. Officers. The interview Panel of 15.4.67, considered the merit of both Mr. Farook and Mr. Wickramasinghe and decided that Mr. Farook was the better officer and selected him for appointment. It is completely irrelevant to use the Samarasinghe Committee Report as a reason for the non-appointment of Mr. Farook, who had been already selected for appointment.

The bona-fides of the Corporation in this matter is liable to question, for the Samarasinghe Committee had not recommended an 8-year bar for the Q. C. S. Officers, and the Corporation and the Treasury had never endorsed such recommendation as stated in paragraphs 4 and 5 of the Statement of the Respondent Corporation. If there had been such a stipulation it would have been included in the advertisement of the Corporation long before A/10 was issued. But the evidence is that up to date no such stipulation has been made in any Corporation Notice.

Subsequent to that statement of the Corporation in A/24 regarding the 8-year rule for Q. C. S. Officers, the Corporation has appointed Q. C. S. Officers to Executive Scale IV posts, namely Messrs. N. M. N. T. Perera and M. Abeyasekera. The letter of appointment issued to Mr. N. M. N. T. Perera is marked A/27. It must be pointed out that both Mr. Perera and Mr. Abeyasekera, who are ex-Q. C. S. clerks, were among the applicants who were considered by the Interview Panel on 15.4.67.

These two Q. C. S. Officers were appointed on an interview held on 20th July, 1968. If as contended by the Corporation that if the 8-year rule was in operation after 18.6.68 (A/24), then on 20th July, 1968, the Corporation should not have selected Messrs. Perera and Abeyasekera. The Corporation further issued the letter of appointment to Mr. Perera on 16th November, 1968. When there were protests, this letter was cancelled. Thereafter both Mr. Perera and Mr. Abeyasekera were appointed to Executive Grade IV posts from 1st May, 1969. The fact of the appointment of these two Q. C. S. Officers directly contradicts the position taken up by the Corporation in regard to Mr. Farook. Both Mr. N. M. N. T. Perera and Mr. M. Abeyasekera are members of the C. M. U. If the 8-year rule was brought into operation by A/24 this clearly shows that these two Q. C. S. Officers should not have been appointed as they also received appointment to the Corporation along with others only on 1.11.63. From this it would appear that the 8-year rule applies only to Q. C. S. Officers who are not members of the C. M. U. In the face of the appointment of

these two clerks the Corporation cannot really contend that there is even now an 8-year rule in operation in regard to former Q. C. S. clerks.

The statement filed by the Corporation, and the cross examination of Messrs. Farook, Jayasinghe and Madawela, brings out the real reason why Mr. Farook has not been given his letter of appointment up to date. It is the opposition of the Ceylon Mercantile Union to Mr. Farook's appointment. The Corporation fears that unless it gives in to the unjustified opposition it will face Industrial rest created by the C.M.U. To withhold the letter of appointment to Mr. Farook due to a fear of possible C.M.U. action is an act of gross victimisation. It brings up a novel principle in the matter of promotions. It gives a Trade Union the right to oppose the promotion of non-members even if the management considers the person promoted eminently qualified for promotion. It would be conceding the right to a Trade Union to oppose the promotion even after selection by the Employer. The Corporation has marked in evidence the L. B. de Silva's Report on promotion of Bank Clerks (R/27). This Report emphasises the fact that promotions are in the Employers' discretion. It further points out that for proper labour relations to be maintained the procedure and criteria for promotions to be made should be reasonably acceptable to the employees. This does not mean that the consent of the employees or their Union is necessary for the adoption of the procedure and criteria. Nowhere in R/27 is there any mention that a Trade Union has the right to suggest a disqualification as a criterion after an Officer has been selected for promotion, or that the Management is bound to adopt the criteria suggested by a Trade Union for fear of Trade Union action.

It is clear that the present situation is entirely due to the weak policy of the Corporation. Instead of telling the C.M.U. straightaway that their proposals are unjust and unacceptable, the Corporation has not taken action to issue Mr. Farook a letter of appointment, and, in consequence, Mr. Farook is now acting for almost 5 years. This is clearly unfair and unjust by Mr. Farook. The inequity of this action is emphasised by the subsequent appointment of two Q. C. S. Clerks to the Executive Scale IV posts.

The Award of Mr. C. E. Amerasinghe, in the dispute between the C.M.U. and Baur and Company dated 24.1.69, and contained in *Government Gazette* No. 14,842 of 21.2.69, which has been cited at the inquiry lays down certain useful Proceedings which I enumerate here:—

1. That the question of promotion is one principally for the Employer.
2. That more length of service is not the sole criterion.
3. That it is only in a case where an Employer has acted with "mala fides" that a Tribunal would be justified in interfering with the exercises of his discretion.
4. That where victimisation is alleged, it is for the party so alleging to establish it by reliable evidence.

The evidence in this case establishes the following:—

- (1) That the Employer, in the exercise of his discretion, has selected Mr. Farook to act in the post with effect from 8.3.67. Therefore, in this case, there is no need for the Tribunal to interfere with the Employer's discretion in the selection of Mr. Farook. Having regard to all the criteria, which the Employer thought was relevant at the time of selection, the Employer selected Mr. Farook.
- (2) The evidence leaves no doubt that the non-issue of the letter of appointment appointing Mr. Farook permanently to the post with effect from 8.3.67 was due to victimisation brought about by pressure from the C.M.U.
- (3) In every circumstance of victimisation the Tribunal is entitled to interfere, when proof of such victimisation has been established. In this instance the Applicant has proved that there was no 8-year rule at the time of advertisement, and that subsequent to the interview at which Mr. Farook was selected, unsuccessful Q.C.S. Officers have been both selected and appointed permanently. In this situation, the failure to issue the letter of appointment to Mr. Farook is an act of victimisation committed by the Corporation. The fact that this act of victimisation was due to pressure from the C.M.U. is irrelevant. It still constitutes victimisation by the Employer.
- (4) An examination of the basis of the opposition by the C.M.U. has brought out the fact that it is both untenable and discriminatory. The C.M.U. originally put forward an 8-year rule to further the prospects of Mr. Wickramasinghe. When subsequently its members Mr. N. M. N. T. Perera and Mr. M. Abeyasekera, who were ex Q. C. S. Clerks, were selected for appointment, the C.M.U. did not support the application of the 8-year rule to these two officers. This alone shows that this 8-year rule in fact never existed and has been breached soon after its enunciation by A/24. Therefore, subjecting Mr. Farook only of all Q.C.S. Clerks so far selected, for promotion, to this 8-year rule, would be an act of gross victimisation.

No. CIE/72/63.

In the circumstances, I hold that the claim of the Jathika Evaka Sangamaya for the appointment of Mr. A. C. M. Farook to the post of Establishment Assistant (Labour) in the Port Cargo Corporation, is justified. I also further hold that Mr. A. C. M. Farook is entitled to the following relief:—viz.: the issue of the letter of Appointment appointing Mr. A. C. M. Farook to the Executive Scale IV with effect from 8.3.67 and the payment of all monies consequently due to him.

A. C. KANAGASINGAM,  
Arbitrator.

Dated at Colombo, this 8th day of April, 1970.

5-575

No. T. 23/Co. 154/68.

### THE INDUSTRIAL DISPUTES ACT, CHAPTER 131

THE Award transmitted to me by the Arbitrator to whom the industrial dispute which had arisen between Mr. T. Rasquinho, 10, Nimalka Gardens, Colombo 3, and Messrs. Walker Sons and Company Limited, P. O. Box 166, Main Street, Colombo 1, was referred by order dated 27th September, 1969, made under section 4 (1) of the Industrial Disputes Act, Chapter 131, as amended by the Industrial Disputes (Amendment) Acts, Nos. 14 and 62 of 1957 and 4 of 1962, and published in *Ceylon Government Gazette* No. 14,875 of 9th October, 1969, for settlement by arbitration is hereby published in terms of section 18 (1) of the said Act.

R. L. GUNASEKERA,  
Commissioner of Labour.

Department of Labour,  
Labour Secretariat,  
Colombo 5, 15th May, 1970.

A-846

In the matter of an Industrial Dispute  
between

Mr. T. Rasquinho, 10, Nimalka Gardens, Colombo 3,

and

Messrs. Walker Sons and Company Limited, P. O. Box 166,  
Main Street, Colombo 1.

#### Order

The Honourable the Minister of Labour and Employment, by his Order dated 27th September, 1969, under section 4 (1) of the Industrial Disputes Act, Chapter 131 of the Legislative Enactments of Ceylon (1956 Revised Edition), as amended by Acts Nos. 14 of 1957, 62 of 1957, 4 of 1962 and 39 of 1968 (read with Industrial Disputes (Special Provisions) Act, No. 37 of 1968), referred the aforesaid dispute to me for settlement by arbitration.

The matter in dispute between the parties referred to me is whether the terms and conditions of service of Mr. T. Rasquinho (Travelling Salesman) were altered to his detriment, in and after 1963, by the Management of the said Messrs. Walker Sons & Company Limited and, if so, to what relief Mr. Rasquinho is entitled.

Statements and answers as required by the Regulations under the Act were duly filed and I commenced my inquiry on 2.12.69, and continued on the following dates:—

9.2.1970

31.3.1970

20.4.1970.

Mr. R. L. Jayasuriya, instructed by Mr. Hermon Perera and Wijenayake, appeared for Mr. T. Rasquinho. Mr. Mark Fernando, instructed by Messrs. Julius & Creasy, appeared for Messrs. Walker Sons & Company Limited.

When the inquiry was resumed on 27.4.70, the parties to the dispute submitted to me that all matters in dispute as between them have now been resolved satisfactorily, and that there is no dispute, whatsoever, as between them.

In the circumstances, I make no award.

D. DEVARAJAN,  
Arbitrator.

Dated at Colombo, this twenty-seventh day of April, 1970.

5-579

### THE INDUSTRIAL DISPUTES ACT, CHAPTER 131

THE Award transmitted to me by the President, Labour Tribunal, to whom the Industrial Dispute which had arisen between H. V. Fonseka, 6/1, Uyana Road, Panadura, of the one part and T. M. Soysa, 5, Havelock Place, Colombo 5, H. C. E. Soysa, "Sriyantha", Panadura, H. A. V. Soysa, No. 8, De Fonseka Place, Colombo 5, Dr. H. C. H. Soysa, No. 19, Bethesda Place, Colombo 5, Dharmapriya Mahinda, No. 5, Havelock Road, Colombo 5, Mrs. P. D. J. Soysa, "Sriyantha", Panadura, S. W. Soysa, 12/5, Spathodia Avenue, Colombo 5, Mrs. G. C. Ediriweera, C/o Dr. G. C. Ediriweera, Horana, Proprietors of Gartmore Estate, Maskeliya, of the other part was referred by order dated 11th June, 1967, made under section 4 (1) of the Industrial Disputes Act, Chapter 131, as amended and published in *Ceylon Government Gazette* No. 14,755 of 30th June, 1967, for settlement by arbitration is hereby published in terms of section 18 (1) of the said Act.

R. L. GUNASEKERA,  
Commissioner of Labour.

Department of Labour,  
Colombo 5, 14th May, 1970.

In the matter of an Industrial Dispute  
between

H. V. Fonseka, 6/1, Uyana Road, Panadura.

and

(1) T. M. Soysa, 5, Havelock Place, Colombo 5, (2) H. C. E. Soysa, "Sriyantha", Panadura, (3) H. A. V. Soysa, 8, De Fonseka Place, Colombo 5, (4) Dr. H. C. H. Soysa, 19, Bethesda Place, Colombo 5, (5) Dharmapriya Mahinda, 5, Havelock Road, Colombo 5, (6) Mrs. P. D. J. Soysa, "Sriyantha", Panadura, (7) S. W. Soysa, 12/5, Spathodia Avenue, Colombo 5, (8) Mrs. G. C. Ediriweera, c/o Dr. G. C. Ediriweera, Horana, Proprietors of Gartmore Estate, Maskeliya.

ID/LT. 1/167/67.

#### Award

The Honourable the Minister of Labour, Employment and Housing, by his order dated 11th June, 1967, under section 4 (1) of the Industrial Disputes Act, Chapter 131 of the Legislative Enactments of Ceylon (1956 Revised Edition) as amended by Acts Nos. 14 of 1957, 62 of 1957 and 4 of 1962, referred this dispute to this Tribunal for settlement by arbitration.

The statement of the matters in dispute accompanying the reference by the Commissioner of Labour states the dispute as follows:—

"The matter in dispute between Mr. H. V. Fonseka and the above-mentioned proprietors of the Gartmore Estate, Maskeliya, is to what relief Mr. H. V. Fonseka is entitled consequent on his relinquishing his post as Superintendent of Gartmore Estate."

When this matter was taken up for inquiry on the 18th of February, 1970, Mr. S. Jeganayagam appeared for the applicant. Mr. T. M. Soysa, who was present in person, represented all the partners.

It was agreed between the parties that Mr. H. V. Fonseka, the person in respect of whom this reference has been made, is now dead.

Accordingly, I make no award.

B. W. J. F. RODRIGO,  
President, Labour Tribunal (1).

Dated at Colombo, this 19th day of February, 1970.

5-574

No. W. 105/B/165.

### THE INDUSTRIAL DISPUTES ACT, CHAPTER 131 OF THE LEGISLATIVE ENACTMENTS OF CEYLON (1956 REVISED EDITION)

#### Order under Section 4 (1)

WHEREAS an industrial dispute in respect of the matter specified in the statement of the Commissioner of Labour which accompanies this Order exists between The Ceylon Estates Staff's Union, 13, Kande Vidiya, Kandy, of the one part, and Mr. Ranold Ker Cuthbertson of 25, Melville Street, Edinburgh, Miss Marjory Violet Gordon, 18, Belgrave Crescent, Edinburgh, Mr. Eric Ian Cuthbertson of 25, Melville Street, Edinburgh, Mrs. Celia Luck, Moorland House, Follifoot, Harrogate, Yorkshire, and Mrs. Katherine Gregson, Lanton Tower, Jedburgh, Edinburgh, Scotland, the proprietors of Gowerakelle Estate

Demodera, C/o. Messrs. George Steuart and Co. Ltd., 45, Queens Street, Colombo 1, and the Nahavilla Estates Company Ltd., the proprietors of Nahavilla Group, Demodera, C/o. Messrs. George Steuart and Co. Ltd., 45, Queen Street, Colombo 1, of the other part:

Now, therefore, I, Mohamed Haniffa Mohamed, Minister of Labour and Employment, do, by virtue of the powers vested in me by section 4 (1) of the Industrial Disputes Act, Chapter 131 of the Legislative Enactments of Ceylon (1956 Revised Edition), as amended by Acts Nos. 14 of 1957, 62 of 1957, 4 of 1962 and 39 of 1968 (read with Industrial Disputes (Special Provisions) Act, No. 37 of 1968) hereby appoint Mr. V. Suppiah, No. 54, Ward Place, Colombo 8, to be the Arbitrator and refer the aforesaid dispute to him for settlement by arbitration.

M. H. MOHAMED,  
Minister of Labour and Employment.

Colombo, 16th May, 1970.

THE INDUSTRIAL DISPUTES ACT, CHAPTER 131, OF  
THE LEGISLATIVE ENACTMENTS, CEYLON  
(1956 REVISED EDITION)

In the matter of an industrial dispute

between

The Ceylon Estates Staffs' Union, 13, Kande Vidiya, Kandy.  
of the one part

and

1. (a) Ronald Ker Cuthbertson, 25, Melville Street, Edinburgh,  
(b) Miss Marjory Violet Gorton, 18, Belgrave Crescent,  
Edinburgh, (c) Eric Ian Cuthbertson, 25, Melville Street,  
Edinburgh, (d) Mrs. Celia Luck, Moorland House, Follifoot,  
Harrogate, Yorkshire, and (e) Mrs. Katherine Gregson, Lanton  
Tower, Jedburgh, Roxburgh, Scotland, the Proprietors,  
Gowerakelle Estate, Demodera, C/o. Messrs. George Steuart &  
Co. Ltd., Colombo 1.

and

2. Messrs. Nahavilla Estates Co. Ltd., the Proprietors of  
Nahavilla Group, Demodera, C/o. Messrs. George Steuart &  
Co. Ltd., Colombo 1.

of the other part.

STATEMENT OF MATTER IN DISPUTE

The matter in dispute between the aforesaid parties is whether the termination of the services of Mr. C. Candasamy (Medical Assistant of Gowerakelle Estate, Demodera) as Medical Assistant on Nahavilla Group, Demodera, with effect from 1st September, 1968, and the consequent reduction of his salary by the Management of Gowerakelle Estate, Demodera, are justified and to what relief he is entitled.

Dated at the office of the Commissioner of Labour, Colombo, this 17th day of April, 1970.

R. L. GUNASEKERA,  
Commissioner of Labour.

5-618

Miscellaneous Departmental Notices

L.-5930.

THE CEYLON STATE MORTGAGE BANK

AT a meeting held on the 18th January, 1968, the Board of Directors of The Ceylon State Mortgage Bank resolved specially and unanimously—

(1) that a sum of Rs. 14,259.17 is due from Merennege Reginald Peter Fernando of 271, Angulana, Moratuwa, on account of principal and interest up to 18.11.67 and further interest at 5½ per centum per annum on the sum of Rs. 11,689.26 from 19.11.67 till date of payment on Bond No. 418 dated 14th March, 1960, attested by M. T. Gunawardena, Notary Public.

(2) that in terms of Section 62 (1) of The Ceylon State Mortgage Bank Ordinance (Cap. 398 Legislative Enactments of 1956) that Mr. M. Vincent Perera, Auctioneer of 161/32, Hultsdorf Street, Colombo 12, be authorised and empowered to sell by Public Auction on a date to be hereinafter fixed after the expiry of 21 days from the

date of publication of this Resolution in the Government Gazette the following property:—

All that allotment of land marked Lot A of the land called Wetakeiyagahawatta together with the buildings thereon bearing Assessment Nos. 271 and 271B situated at Sea Beach Road, Angulana, within the Village Committee Area of Mampesbawa in the Palle Pattu of Salpiti Korale in the District of Colombo, Western Province; containing in extent one rood and thirteen perches (0A. 1R. 13P.) exclusive of the roads and railway reservation passing through the land, according to Survey Plan No. 1341 dated 26th April, 1950, made by W. A. L. de Silva, Licensed Surveyor, mortgaged to this Bank as security by Mr. Merennege Reginald Peter Fernando by Bond No. 418 dated 14th March, 1960, attested by M. T. Gunawardena, Notary Public, for the recovery of the sum of Rs. 14,259.17 due under the said Bond together with interest at 5½ per centum per annum on the sum of Rs. 11,689.26 from 19.11.67 to date of sale and costs and monies recoverable under Section 63 of The Ceylon State Mortgage Bank Ordinance.

H. B. KAPUWATTE,  
General Manager.

Colombo, 9th April, 1970.

5-647

L.-3424.

THE CEYLON STATE MORTGAGE BANK

AT a meeting held on the 6th December, 1967, the Board of Directors of The Ceylon State Mortgage Bank resolved specially and unanimously—

(1) that a sum of Rs. 18,285.10 is due from Mrs. Agnes Seneviratne of No. 108, Gravets Road, Panadura, on account of principal and interest up to 1.10.67 and further interest at 5½ per centum per annum on the sum of Rs. 11,917.14 from 2.10.67 till date of payment on Bond No. 184 dated 27th August, 1957, attested by E. F. de Silva, Notary Public.

(2) that in terms of Section 62 (1) of The Ceylon State Mortgage Bank Ordinance (Cap. 398 Legislative Enactments of 1956) that Mr. L. W. Kuruppu, Auctioneer of Gravets Road, Panadura, be authorised and empowered to sell by Public Auction on a date to be hereinafter fixed after the expiry of 21 days from the date of publication of this Resolution in the Government Gazette the following property:—

All that divided portion of land marked Lot F in Survey Plan No. 1828 dated 10th April, 1957, made by M. D. S. Gunatileke, Licensed Surveyor, of the contiguous allotments of land called 'A' Madangahawatta and 'B' Erabadugahawatta and Madangawatta situated along Gravets Road bearing Assessment No. 108, Gravets Road in Udahamulla Pattiya within the Urban Council Limits of Panadura in the Panadura Badda of the Panadura Totamune in the District of Kalutara, Western Province; and containing in extent one rood and twenty-three decimal five perches (0A. 1R. 23.5P.) according to the said Plan No. 1828, mortgaged to this Bank as security by Mrs. Agnes Seneviratne by Bond No. 184 dated 27th August, 1957, attested by E. F. de Silva, Notary Public, for the recovery of the sum of Rs. 18,285.10 due under the said Bond together with interest at 5½ per centum per annum on the sum of Rs. 11,917.14 from 2.10.67 to date of sale and costs and monies recoverable under Section 63 of The Ceylon State Mortgage Bank Ordinance.

H. B. KAPUWATTE,  
General Manager.

Colombo, 12th April, 1970.

5-654



**RECONSTITUTION OF GRAMA SEVAKA DIVISIONS IN THE TALPE PATTUWA D.R.O. DIVISION IN GALLE DISTRICT**

IT is hereby notified for general information that No. 182—Magedara G. S. Division in Talpe Pattuwa D. R. O. Division in the Galle Administrative District has been divided into two G. S. Divisions named Magedara and Uduwella-Ella Ihala with effect from 1.6.1970.

(a) The following colonisation schemes/villages fall into G. S. Division of Magedara No. 182 :—

- |                     |                  |
|---------------------|------------------|
| 1. Magedara (part). | 5. Iddaketiya.   |
| 2. Magedara Colony. | 6. Yatamalagala. |
| 3. Pattare.         | 7. Kaludiyawala. |
| 4. Karuwalagala.    |                  |

(b) The following villages fall into G. S. Division of Uduwella-Ella Ihala No. 182 A :—

- |                     |                    |
|---------------------|--------------------|
| 1. Magedara (part). | 5. Uduwella.       |
| 2. Wilawila.        | 6. Ratamalaketiya. |
| 3. Kalumada.        | 7. Pohodeniya.     |
| 4. Ella Ihala.      |                    |

2. The Magistrate's and Rural Court and Police Station which has jurisdiction over these new G. S. Divisions, Births, Deaths and Marriages Registrar's Division, Electoral District and Local Body to which these Divisions belong appear below for general information.

1 G. S. Division	2 Magistrate's Court	3 Rural Court	4 Births' Deaths and Marriages Division	5 Local Body	6 Electoral District	7 Police Station
182—Magedara	Galle	Kottawa	Walawe	Polpagoda V. C.	No. 59—Baddegama	Yakkalamulla
182A—Uduwella-Ella Ihala	Galle	Kottawa	Walawe	Polpagoda V. C.	No. 59—Baddegama	Yakkalamulla

P. A. T. GUNASINGHE,  
Government Agent, Galle District.

The Kachcheri,  
Galle, 25th April, 1970.  
5—571/1

**RECONSTITUTION OF GRAMA SEVAKA DIVISIONS IN THE FOUR GRAVETS D. R. O. DIVISION IN GALLE DISTRICT**

IT is hereby notified for general information that No. 109—Ihalagoda G. S. Division in Four Gravets D. R. O. Division in the Galle Administrative District has been divided into two G. S. Divisions named Ihalagoda West and Ihalagoda East with effect from 1.6.1970.

(a) The following colonisation schemes/villages fall into G. S. Division of Ihalagoda West No. 109 :—

- |                  |                    |
|------------------|--------------------|
| 1. Ambagahawila. | 5. Indigahatota.   |
| 2. Andigoda.     | 6. Nawandannagoda. |
| 3. Badungoda.    | 7. Enderagoda.     |
| 4. Obadagoda.    |                    |

(b) The following village falls into G. S. Division of Ihalagoda East No. 109A :—  
Ihalagoda.

2. The Magistrate's and Rural Court and Police Station which has jurisdiction over these new G. S. Divisions, Births, Deaths and Marriages Registrar's Division, Electoral District and Local Body to which these Divisions belong appear below for general information.

1 G. S. Division	2 Magistrate's Court	3 Rural Court	4 Births' Deaths and Marriages Division	5 Local Body	6 Electoral District	7 Police Station
109—Ihalagoda West	Galle	Akmeemana	Akmeemana	Akmeemana V. C.	No. 61—Akmeemana	Akmeemana
109A—Ihalagoda East	Galle	Akmeemana	Akmeemana	Akmeemana V. C.	No. 61—Akmeemana	Akmeemana

P. A. T. GUNASINGHE,  
Government Agent, Galle District.

The Kachcheri,  
Galle, 6th May, 1970  
5—571/2

L. D.—B. 23/50.

**THE MORTGAGE ACT**

BY virtue of the powers vested in me by section 3 (c) of the Mortgage Act (Chapter 89) and on the recommendation of the Board made under section 114 (2) of the said Act, I, Pasikku Henneidge Piyasiri de Silva, Director of Commerce, do by this notification declare the Hatton National Bank Ltd. to be an approved credit agency for the purposes of that Act.

P. H. P. DE SILVA,  
Director of Commerce.

Colombo, 24th April, 1970.  
5—573/1

L. D.—B. 16/53.

**THE TRUST RECEIPTS ORDINANCE**

BY virtue of the powers vested in me by section 5 (1) (a) of the Trust Receipts Ordinance (Chapter 86), I, Pasikku Henneidge Piyasiri de Silva, Director of Commerce, do by this notification declare the Hatton National Bank Ltd. to be an approved credit agency for the purposes of that Ordinance.

P. H. P. DE SILVA,  
Director of Commerce.

Colombo, 24th April, 1970.  
5—573/2

**IMPORTANT NOTICE REGARDING PUBLICATION OF GAZETTE**

THE Weekly issue of the *Ceylon Government Gazette* is normally published on Fridays. If a Friday happens to be a Public Holiday the *Gazette* is published on the working day immediately preceding the Friday. Thus the last date specified for the receipt of notices for publication in the *Gazette* also varies depending on the incidence of public holidays in the week concerned.

The Schedule below shows the dates of publication and the latest time by which notices should be received for publication in the respective weekly *Gazettes*. All notices received out of times specified below will not be published. Such notices will be returned to the sender by post for necessary amendment and return if publication is desired in a subsequent issue of the *Gazette*. It will be in the interest of all concerned if those desirous of ensuring the timely publication of notices in the *Gazette* make it a point to see that sufficient time is allowed for postal transmission of notices to the Government Press.

The Government Printer does not accept payment of subscriptions for the Government *Gazettes*. Payments should be made direct to the Superintendent, Government Publications Bureau, P. O. Box 500, Secretariat, Colombo 1.

**Schedule**

1970

<i>Month</i>	<i>Date of Publication</i>	<i>Last Date and Time of Acceptance of Notices for publication in the Gazette</i>
MARCH	Thursday 5. 3.70 .. 12 Noon	Friday 27. 2.70
	Friday 13. 3.70 .. 3.30 p.m.	Thursday 5. 3.70
	Friday 20. 3.70 .. 3.30 p.m.	Friday 13. 3.70
	Thursday 26. 3.70 .. 3.30 p.m.	Thursday 19. 3.70
APRIL	Friday 3. 4.70 .. 3.30 p.m.	Wednesday 25. 3.70
	Friday 10. 4.70 .. 3.30 p.m.	Friday 3. 4.70
	Friday 17. 4.70 .. 3.30 p.m.	Wednesday 8. 4.70
	Friday 24. 4.70 .. 3.30 p.m.	Friday 17. 4.70
	Thursday 30. 4.70 .. 3.30 p.m.	Thursday 23. 4.70
MAY	Friday 3. 5.70 .. 3.30 p.m.	Thursday 30. 4.70
	Friday 15. 5.70 .. 3.30 p.m.	Friday 8. 5.70
	Friday 22. 5.70 .. 3.30 p.m.	Friday 15. 5.70
	Friday 29. 5.70 .. 3.30 p.m.	Friday 22. 5.70
JUNE	Friday 5. 6.70 .. 3.30 p.m.	Friday 29. 5.70
	Thursday 11. 6.70 .. 3.30 p.m.	Friday 5. 6.70
	Thursday 18. 6.70 .. 12 Noon	Thursday 11. 6.70
	Thursday 25. 6.70 .. 12 Noon	Thursday 18. 6.70

L. W. P. PEREIRA,  
Government Printer.

Department of Government Printing,  
Colombo, March 5, 1970.