



IN THE INDUSTRIAL COURT OF KENYA

AT NAIROBI.

(Present: Charles P. Chemmutut, J.)

CAUSE NO.34 OF 2000

KENYA CHEMICAL & ALLIED WORKERS' UNION.....Claimants.

- v -

ORBIT CHEMICAL INDUSTRIES LTD.....Respondents.

Issue in Dispute:-

“Refusal by the Managing Director of the Company to sign the Collective Bargaining Agreement.”

W.D. Ogutu, National General Secretary, for the Claimants (hereinafter called the Union).

J.M. Ogode, Human Resources Manager, for the Respondents (hereinafter called the Company).

A W A R D.

The issues in dispute which led to the refusal by the Managing Director of the Company to sign the collective agreement were:-

- 1. Public Holidays and Sundays.**
- 2. Sick Leave.**
- 3. Maternity Leave.**
- 4. Casual Employees.**
- 5. Night Shift Allowance.**

On 8th March 2000, the Minister for Labour referred this dispute to the Court for consideration and determination under powers vested in him by Section 8 of the Trade Disputes Act, Cap.234, Laws of Kenya (which is hereinafter referred to as the Act); and the reference, together with the statutory certificate from the Labour Commissioner under Section 14, subsection (9) (e) of the Act, were received by the Court on 13th March 2000. The dispute was then listed for mention on 5th April 2000 when Messrs. D.W. Ogutu, National General Secretary and L.W. Kariuki, Senior Executive Officer, F.K.E., who appeared for the parties respectively, were directed to submit or file their respective written memoranda or statements on or before 2nd May and 5th June 2000, and the dispute was fixed for hearing on 27th June 2000. Mr. Ogutu submitted his memorandum on 28th April 2000, and Messrs. J.M. Ogode, Human Resources Manager and A.A. Kader, Administration Manager, filed a joint reply statement, on behalf of the Company, on 27th September, 2000.

Meanwhile, there were attempts by the parties to arrive at an amicable settlement of the matter, and I adjourned the case on several occasions and gave some time to the parties to patch up their differences instead of indulging in litigation. Therefore, during their meeting held on 13th March 2001, (the minutes copy of which are on the record), the parties resolved issues Nos.1,2,3 and 5, leaving issue No.4, re: Casual Employees, for consideration and determination by the Court. The memorandum of compromise was duly signed by Messrs. Ogutu and Kariuki for the parties respectively. But to-day, the parties presented a final memorandum of settlement to the Court, in which they have also amicably settled the remaining issue; i.e. issue No.4, re: Casual Employees. The said memorandum of settlement is signed by Mr. Sachin Chandaria, Director, M.A. Pirmohamed, Financial Controller, and Mr. J.M. Ogode, Human Resources Manager, on behalf of the company, and Mr. D.W.

Ogutu, National General Secretary and Mr. Christopher Ongera, Shopsteward, on behalf of the Union. The terms of the amicable settlement are as follows:-

1. Public Holidays and Sundays.

Any gazetted Public Holiday and Sundays shall be a holiday with full pay. An employee required by the Company to work on gazetted Public Holiday and Sundays shall be paid overtime at double rate.

2. Sick Leave.

Parties have agreed to retain the clause in the draft C.B.A.

3. Maternity Leave.

A female employee shall be entitled to a maternity leave of 60 days with full pay.

4. Casual Employees.

The Company shall employ 50 casual workers (whose list is attached hereto) as permanent employees. As a result of this agreement, the casual clause is hereby removed from the Collective Bargaining Agreement.

5. Night Shift Allowance.

This clause will remain as in the draft C.B.A.

The parties prayed that the dispute be marked as settled and the file closed.

In my opinion, the terms of the settlement are fair and reasonable, and as prayed for by the parties, I mark this dispute as settled and close the file.

DATED and given at Nairobi this 23rd day of May, 2002.

Charles P. Chemmuttut,

JUDGE.