



IN THE INDUSTRIAL COURT OF KENYA AT MOMBASA.

(Before: Charles P. Chemmuttut, J.,

J.C. Odaga & J.M. Kilonzo, Members.)

CAUSE NO.98 OF 2001.

AMALGAMATED UNION OF KENYA METAL WORKERS.....Claimants.

- v -

BAHARINI RETREADING & RUBBER LTD.....Respondents.

Issue in Dispute:-

“Recognition”.

Justus Maina Otakwa, Assistant General Secretary, for the Claimants (hereinafter called the Union).

J.N. Namasake, Principal Executive Officer, F.K.E., for the Respondents (hereinafter called the Company).

A W A R D.

In exercise of the 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), the Minister for Labour referred this dispute to the Court on 25th October, 2001; and his reference, together with the statutory certificate from the Labour Commissioner under Section 14 (9)(e) of the Act, were received by the Court on 30th October, 2001. Consequently, the Union submitted their written memorandum on 13th December 2001, and the Company belatedly filed their reply statement yesterday, i.e. on 27th August 2002.

This morning, however, the parties presented to the Court a memorandum of settlement of this matter, duly signed by Mr. Justus M. Otakwa and Mr. David Wegullo, Assistant General Secretary and Area Secretary respectively, on behalf of the Union, and Mr. Moiz Alibhai, Director, on behalf of the Company. The same was witnessed by Mr. J.N. Namasake, Principal Executive Officer, F.K.E. The parties prayed that an award by consent be entered in terms of the settlement, which is reproduced below:-

- “1. That a fresh check-off be signed by employees willing to be members of the Union.
2. That once the Union attains 51% of the 8 unionisable employees, the Company will go ahead and recognise the Union.
3. That in view of the agreement in (1) & (2) above, the parties request the court to award as per this agreement.”

In my view, the terms of the settlement are fair and reasonable; and as prayed for by the parties, I make this award in terms thereof.

DATED and given at Mombasa this 28th day of August, 2002.

Charles P. Chemmuttut,

JUDGE.