



PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA

INDUSTRIAL DISPUTES (AMENDMENT)

ACT, No. 32 OF 1990

[Certified on 31st August, 1990]

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AN ACT TO AMEND THE INDUSTRIAL DISPUTES ACT
BE it enacted by the Parliament of the Democratic Socialist
Republic of Sri Lanka as follows :—

1. This Act may be cited as the Industrial Disputes (Amendment) Act, No. 32 of 1990. Short title.

2. Section 31A of the Industrial Disputes Act, (herein after referred to as the "principal enactment") is hereby amended by the substitution for subsection (2) of that section of the following new subsection :— Amendment of section 31A of Chapter 131.

"(2) The Minister in charge of the subject of Justice may, with the concurrence of the Minister in charge of the subject of Labour, make regulations, prescribing—

(a) the manner in which applications under section 31B may be made to a labour tribunal; and

(b) the procedure to be observed by a labour tribunal in any proceedings before that tribunal under this Part.

3. Section 31c of the principal enactment is hereby repealed and the following new section substituted therefor :—

"Duties and powers of labour tribunals in regard to applications under section 31B.

31c. (1) Where an application under section 31B is made to a labour tribunal, it shall be the duty of the tribunal to make all such inquiries into that application and hear all such evidence as the tribunal may consider necessary and thereafter make, not later than six months from the date of such application, such order as may appear to the tribunal to be just and equitable.

(2) A labour tribunal conducting an inquiry shall observe the procedure prescribed under section 31A, in respect of the conduct of proceedings before the tribunal."

Replacement of section 31C of the principal enactment.

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Replacement
of section
31D of the
principal
enactment.

4. Section 31D of the principal enactment is hereby repealed and the following section substituted therefor:—

“Appeal to
High Court
on question
of law
arising
out of the
order of a
labour
tribunal.

31D. (1) Every order made by a labour tribunal at the conclusion of proceedings on an application made under section 31B, shall be pronounced forthwith or within a reasonable time at a sitting of the tribunal on a date which shall be notified in advance to all the parties to such application.

(2) Save as provided in subsection (3) an order of a labour tribunal shall be final and shall not be called in question in any court.

(3) Where the workman who, or the trade union which, makes an application to a labour tribunal, or the employer to whom that application relates is dissatisfied with the order of the tribunal on that application, such workman, trade union or employer may, by written petition in which the other party is mentioned as the respondent, appeal from that order on a question of law, to the High Court established under Article 154P of the Constitution, for the Province within which such labour tribunal is situated.

(4) Every employer who—

(a) appeals to a High Court established under Article 154P of the Constitution, against an order of a labour tribunal or makes an application in revision against any such order; or

(b) makes an application for the issue of an order in the nature of a writ of *certiorari*, prohibition, *procedendo* or *mandamus* against the President of a labour tribunal, in respect of an order made by such President,

shall furnish to such labour tribunal, security in cash—

(i) in any case where the order which is the subject of such appeal or application directs only the payment of a sum of money to the workman, of an amount equal to such sum;

- (ii) in any case where the order which is the subject of such appeal or application directs only the reinstatement of the workman, of an amount equal to twelve times the monthly salary or wages of such workman at the time his services were terminated ;
- (iii) in any case where the order which is the subject of such appeal or application directs both the payment of a sum of money to the workman and his re-instatement, of an amount equal to such sum and twelve times the monthly salary or wages of such workman at the time his services were terminated.

Where an employer is required under the preceding paragraphs of this subsection to furnish security of an amount equal to twelve times the monthly salary or wages of a workman, such monthly salary or wages shall, in the case of a daily paid workman, be deemed to be twenty-six times the daily wages of such workman.

(5) The President of every labour tribunal shall cause all moneys furnished as security under subsection (4), to be deposited in an account bearing interest, in any approved bank in Sri Lanka.

(6) Every petition of appeal to a High Court established under Article 154P shall bear uncanceled stamps to the value of five rupees and in every case where the applicant is required to furnish security, be accompanied by a certificate issued under the hand of the President of the labour tribunal to the effect that the appellant has furnished such security. The petition of appeal shall be filed in the High Court within a period of thirty days (including the day on which the order appealed from was made but excluding Sundays and Public Holidays) reckoned from the date of the order from which the appeal is preferred.

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(7) A High Court established under Article 154^r of the Constitution shall hear and finally dispose of an appeal preferred to it under subsection (3) from an order of a labour tribunal or an application in revision made against any such order, within six months of the date on which such appeal or application was filed in the High Court.

(8) Every application referred to in paragraph (b) of subsection (4) shall be accompanied by a certificate issued under the hand of the President of the labour tribunal to the effect that the applicant has furnished the security he is required to furnish by that subsection.

(9) The provisions of Chapter XXVIII of the Code of Criminal Procedure Act, relating to appeals from Magistrates' Courts to the Court of Appeals shall, *mutatis mutandis*, apply in regard to all matters connected with the hearing and disposal of an appeal preferred under this section.

(10) In this section—

“approved bank” means any bank, which the Minister in charge of the subject of Finance, having regard to the interests of the depositors may appoint from time to time for the purposes of this section, by notification published in the *Gazette*; and

“employer” includes a person who has ceased to be an employer and is referred to in subsection (6) of section 31B.”

5. The following new sections are hereby inserted immediately after section 31D, of the principal enactment and shall have effect as section 31DD, 31DDD and 31DDDD of that enactment:—

Insertion of
new sections
31DD, 31DDD
and
31DDDD in
the princi-
pal enact-
ment.

“Appeal to
Supreme
Court from
High Court
and powers
of Supreme
Court on
appeal.

31DD. (1) Any workman, trade union or employer who is aggrieved by any final order of a High Court established under Article 154P of the Constitution, in the exercise of the appellate jurisdiction vested in it by law or in the exercise of its revisionary jurisdiction vested in it by law, in relation to an order of a labour tribunal, may appeal therefrom to the Supreme Court with the leave of the High Court or the Supreme Court first had an obtained.

(2) The Supreme Court shall, have sole and exclusive cognizance by way of appeal from any order made by such High Court, in the exercise of the jurisdiction vested in such High Court by subsection (3) of section 31D, and it may affirm, reverse or vary any such order of such High Court and may issue such directions to any labour tribunal or order a new trial or further hearing in any proceedings as the justice of the case may require and may also call for and admit fresh or additional evidence if the interests of justice so demands and may in such event, direct that such evidence be recorded by such High Court or any labour tribunal.

(3) The Supreme Court shall hear and finally dispose of an appeal preferred to it under subsection (1), within one year of the date on which such appeal is filed in the Supreme Court.

Applications
to Court
of Appeal
and appeals
therefrom
to Supreme
Court to
be disposed
of within
one year.

31DDDD. (1) Where an application is made to the Court of Appeal for the issue of an order in the nature of a writ of *certiorari*, prohibition, *procedendo* or *mandamus*, against the President of a labour tribunal in respect of an order made by such President, the Court of Appeal shall hear and finally dispose of such application within one year of the date on which such application is filed in the Court of Appeal.

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(2) Where an appeal is preferred to the Supreme Court against an order of the Court of Appeal on any such application as is referred to in subsection (1), the Supreme Court shall hear and finally dispose of such appeal within one year of the date on which such appeal is filed in the Supreme Court.

Payment of security on determination of appeal or application.

31DDDD. (1) Where a High Court established under Article 154P of the Constitution, on an appeal preferred to it under section 31D or on an application in revision made to it against the order of a labour tribunal—

(a) affirms the order of the labour tribunal which is the subject of such appeal or application, and no appeal is preferred under section 31DD to the Supreme Court, from such order of the High Court, within the time allowed therefor, the President of such labour tribunal shall cause the security furnished under section 31D (4), together with the accumulated interest thereon, to be paid to the workman ;

(b) reverses the order of the labour tribunal which is the subject of such appeal or application, and no appeal is preferred under section 31DD to the Supreme Court, from such order of the High Court within the time allowed therefor, the President of such labour tribunal shall cause the security furnished under section 31D(4), together with the accumulated interest thereon, to be returned to the employer ;

(c) varies the order of the labour tribunal which is the subject of such appeal or application and no appeal is preferred under section 31DD to the Supreme Court, from such order of the High Court, within the time allowed therefor, the President of

the labour tribunal shall cause the sum required to satisfy the order of the High Court, together with interest on that sum, to be paid to the workman out of the security furnished under section 31D(4), and shall cause the balance, if any, of such security and interest thereon, to be returned to the employer.

(2) Where the Court of Appeal, on an application made to it for the grant of an order in the nature of a writ of *certiorari*, prohibition, *procedendo* or *mandamus*, in respect of an order of a labour tribunal—

- (a) refuses the application, and no appeal is preferred to the Supreme Court against such refusal, within the time allowed therefor, the President of the labour tribunal shall cause the security furnished under section 31D(4), together with the accumulated interest thereon, to be paid to the workman;
- (b) quashes the order of the labour tribunal, and no appeal is preferred to the Supreme Court against the order of the Court of Appeal, within the time allowed therefor, the President of such labour tribunal shall cause the security furnished under section 31D(4), together with the accumulated interest thereon, to be returned to the employer;
- (c) varies the order of the labour tribunal, and no appeal is preferred to the Supreme Court from the order of the Court of Appeal, within the time allowed therefor, the President of such labour tribunal shall cause the sum required to satisfy the order of the Court of Appeal, together with interest on that sum, to be paid to the workman out of the security furnished under

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section 31b(4) and shall cause the balance, if any, of such security and interest thereon, to be returned to the employer.

(3) Where the Supreme Court in any of the following causes, that is to say, on an appeal preferred to it under section 31b under Article 154P of the Constitution, or on an appeal preferred to it against an order of such High Court on an application in revision made to such High Court against an order of a labour tribunal, or on an appeal preferred to it from an order of the Court of Appeal allowing or refusing an application for the grant of an order in the nature of a writ of *certiorari*, prohibition, *procedendo* or *mandamus* against the President of a labour tribunal in respect of an order made by such President, or varying the order of such labour tribunal—

(a) affirms the order of the labour tribunal which is the subject of such appeal, the President of such labour tribunal shall cause the security furnished under section 314 (4), together with the accumulated interest thereon, to be paid to the workman ;

(b) reverses the order of the labour tribunal which is the subject of such appeal, the President of such labour tribunal shall cause the security furnished under section 31b (4), together with the accumulated interest thereon, to be returned to the employer ;

(c) varies the order of the labour tribunal which is the subject of the appeal, the President of such labour tribunal shall cause the sum required to satisfy the order of the Supreme Court, together with interest on that sum, to be paid to the workman

out of the security furnished under section 31D (4) and shall cause the balance, if any, of such security and interest thereon, to be returned to the employer.”.

6. Section 39 of the principal enactment is hereby amended as follows :—

Amendment
of section
39 of the
principal
enactment.

- (1) in subsection (1) thereof, by the repeal of paragraph (ff) of that subsection ;
- (2) in subsection (2) thereof, by the substitution for the words “made by the Minister”, of the words and figures “made under subsection (1) of this section or under subsection (2) of section 31A”.

7. (1) Where on the date of commencement of this Act, any application made to a labour tribunal under section 31B is pending before such tribunal, it shall be the duty of the tribunal to make all such inquiries into that application and hear all such evidence as it may consider necessary, and thereafter make, not later than six months from the date of commencement of this Act, such order as may appear to the tribunal to be just and equitable.

Pending
actions.

(2) Where on the date of commencement of this Act, any appeal preferred to a High Court established under Article 154P of the Constitution against an order of a labour tribunal or an application in revision made to it against an order of such tribunal or any application made to the Court of Appeal for the issue of an order in the nature of a writ of *certiorari*, prohibition, *procedendo* or *mandamus*, against the President of a labour tribunal, in respect of an order made by such President, or any appeal preferred to the Supreme Court against an order of such High Court or the Court of Appeal in relation to an order of a labour tribunal, is pending before any such court, the High Court, the Court of Appeal or the Supreme Court, as the case may be, shall hear and finally dispose of such appeal or application not later than one year from the date of commencement of this Act.

8. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

Sinhala
text to
prevail in
case of
inconsistency.

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