



INDUSTRIAL DISPUTES TRIBUNAL

AWARD

IN RESPECT OF

AN INDUSTRIAL DISPUTE

BETWEEN

WEST INDIES YEAST COMPANY LIMITED - COMPANY

AND THE

TRADES UNION CONGRESS - UNION

Reference:

By memorandum dated 10th December, 1985 the Honourable Minister of Labour, in accordance with the provisions of Section 11(1) of the Labour Relations and Industrial Disputes Act, 1975, referred to the Industrial Disputes Tribunal for settlement, the dispute between the West Indies Yeast Company Limited and the Trades Union Congress.

The Terms of Reference to the Tribunal were as follows -

"To determine and settle the dispute between West Indies Yeast Company Limited on the one

hand and certain unionised workers employed by the Company and represented by the Trades Union Congress of Jamaica on the other hand,

over the dismissal of Mr. William Barrett".

The Division of the Tribunal selected in accordance with Section 8(2) of the Act was comprised of -

Mr. L.P. Brown	-	Chairman
Mr. C.J. Burgess	-	Member, Sec. 8(2)(c)(ii)
Mr. D. Hunter	-	Member, Sec. 8(2)(c)(iii)

The Company was represented by -

Mr. Peter Mais	-	Attorney-at-Law
Mr. Michael Mills	-	Plant Manager
Mr. Hubert Hamilton	-	Supervisor

The Union was represented by -

Mr. Trevor Waite	-	Asst. General Secretary
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The Union submitted inter alia that -

By letter dated August 29, 1985 Mr. William Barrett was dismissed by the Company. The letter of dismissal stated that Mr. Barrett was caught removing a container with Company goods (a pail of granulated sugar) at the main gate. For this he was suspended pending enquiries by the Security Company. From information provided his service was terminated in accordance with the rules and penalties under Schedule #2 of the Labour Agreement between the Company and the Union.

In all discussions at the local level and Ministry level the Company failed to establish that Mr. Barrett was in breach of Schedule #2 of the Labour Agreement on August 26, 1985. Schedule #2 provides that the penalty for theft is dismissal.

According to the Company, Mr. Barrett was seen by a Supervisor on August 26, 1985 making for the guard house at the gate with a carton under his arm. He then returned to his working area. The supervisor who saw him went to the guard house to determine what Mr. Barrett was doing at the gate. According to the Company, the security guards were unwilling to co-operate when the supervisor asked questions. The Company responded to the lack of co-operation by the security guards in relation to the pail of sugar by asking the Security Firm (Guardsmen) to withdraw the two security guards and never assign them to do work with the Company again. Subsequently, the Company requested a report on the incident from the Security Company's Head Office. The report took the form of two statements from the same guards who were on duty at the time of the pail of icing sugar being discovered.

The Union contends that the two security guards who were present at the gate on August 26, 1985 cannot be relied upon as they were obviously seeking to exonerate themselves and in the process to incriminate Mr. Barrett. The Company by not conducting any local enquiry failed to get the facts surrounding how the pail of sugar got to the gate. There is no evidence linking Mr. Barrett to the pail of sugar except the allegations made by the security guards. The Company fired Mr. Barrett without giving him an opportunity to defend himself against the allegations.

The Union requested that Mr. Barrett be reinstated or be given such relief as the Tribunal considers appropriate.

Findings:

The Tribunal finds that, in view of the following, inter alia

- (i) No Company official saw Mr. Barrett with the pail of icing sugar;
- (ii) the security guards did not apprehend Mr. Barrett when he was alleged to have brought the pail of icing sugar to the guard house; and
- (iii) the lack of prompt cooperation by the Security guards when confronted by the Company official with pail of icing sugar in the guardhouse.

Mr. Barrett was unjustifiably dismissed.

The Tribunal considers the circumstances appropriate for an award as follows:

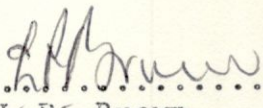
AWARD

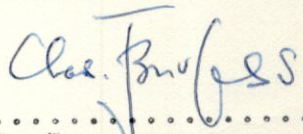
Unless Mr. Barrett is reinstated not later than the 21st July, 1986, he should be compensated in the sum of Twelve Thousand, One Hundred & Fifty-nine Dollars. (\$12,159.00).

DATED THIS

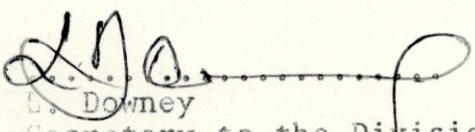
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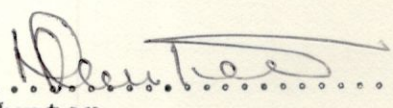
DAY OF JULY, 1986


.....
L.P. Brown
CHAIRMAN


.....
C.J. Burgess
MEMBER

WITNESS -


.....
L. Downey
Secretary to the Division
of the Tribunal


.....
D. Hunter
MEMBER