

IN THE TRADE DISPUTE PANEL  
OF SOLOMON ISLANDS.

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) Case No: L9/20 of 1994.

IN THE MATTER of the Trade Disputes  
Act 1981

AND IN THE MATTER of a trade dispute  
referral

BETWEEN: SINUW  
Applicant

AND: SOLOMON KITANO MENDANA HOTEL  
LIMITED  
Respondent

Hearing: 5th December 1994

Decision: 6th December 1994

Panel: A. N. Tongarutu - Chairman  
C. Karaori - Employee Member.  
J. Korinihona - Employer Member.

Appearances: James Ilifanoa, Legal Officer, SINUW,  
for the Applicant.  
Belany Tekulu, Personnel Manager,  
for the Respondent.

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## FINDINGS

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On the 29th of November 1994 the applicant (hereinafter referred to as the union) referred a trade dispute to the Panel between itself as representative of its member employees of the hotel and the respondent (hereinafter referred to as the employer). The dispute centered on the union's claim for an 8% wage increase across the board for 1994 and its refusal to settle for a 5.5% increase offered by the employer. The referral hinged on the question as to whether the employer's offer would adequately cover the increase in the cost of living for the year 1994 considering that the cost of living in the last quarter of this year increased to 9.8%. At the commencement of the proceedings Mr Ilifanoa submitted an amendment to the union's claim from 8% to 9.7% and the cost of living amended to 14.6% on the grounds that the statistics produced by the Central Bank and the precedent set by the Panel's findings in the trade dispute cases of **SINUW v Solomon Islands National**

**Provident Fund** (1994) and **SINUW v Hastings Deering Ltd** (1994) where the Panel applied the 2/3 RPI formula and awarded an 8% increase on wages across the board. The CBSI's 1994 quarterly report showed that the cost of living accelerated from 10% in January 1994 to 14.6% in September this year and that on the basis of these figures, 9.7% would be an appropriate increase. These amendments were not disputed by the employer.

Since February this year the union, being initially represented by Mr. T.Kangovai negotiated its log of claims with the employer which amongst other issues included a 25% wage increase across the board on wages, allowances and incentives. The employer's counter offer was for a 10% increase across the board for this year and next year. The union accepted the reduction to 10% but rejected the employer's terms of application to this year and 1995 for the reason that it would not only mean a 5% increase per year but would also prevent the union from wage negotiations in 1995. The matter was left in abeyance until October 1994 when the parties entered into a new recognition agreement and the union dropped its claim to 8% in response to the employer's offer of 5% on the wage increase, 80c per journey on transport allowance, \$500.00 on house rent, no acting allowance and no changes to the LSB. On the 7th of November however, Mr. Kangovai was prepared to settle for a 5.5% on wage increase to apply to all allowances and incentives except for transport allowance which was to remain at \$1 per journey. This was accepted by the employer and negotiations were concluded until mid November when the union conveyed its intention to the employer to revoke Mr. Kangovai's agreement on the grounds that whilst he was mandated to negotiate on behalf of the union he was not mandated to settle on any lesser percentage than 8%. To the respondent a settlement had been concluded and confirmed with the General Secretary (Ag) of the union and a request for fresh negotiations was in their opinion ridiculous and childish causing the employer to have no confidence in the union to represent its employees. Nevertheless it reluctantly responded to the union's request and it was on this second round of negotiations that the parties reached a deadlock on the wage claim but reached a settlement on the other

issues in the log of claim. The union's case was premised on the statistics provided by the Central Bank which showed an increase in the cost of living and that the 5.5% was an unreasonable offer in that it would not correlate with the increase in the cost of living. To apply the 2/3 RPI formula would mean an 8.5% increase on wages. The employer maintained its initial offer of 5.5% on the grounds that the union had accepted a 5.5% wage increase and that the two figures in the RPI for the months of December 1993 and January 1994 showed a monthly average of 4.9%, three monthly average of 4.3% and a twelve monthly average of 6.2%. An average of these figures would be 5.03% and the 5.5% would be reasonable. Apart from these figures the employer submitted that due to the nature of the hotel's business operation it could not be compared with the Hastings Deering case because the company had a monopoly on bulldozers in this country and the Solomon Islands National Provident Fund cannot go bankrupt. Any comparative analysis would be with other hotels. This year the hotel was placed in a competitive market with other similar businesses. Its major operations are on accommodation, restaurant and functions and due to this increased competition in and around town with other hotels and motels including restaurants the hotel is not in a good position to afford any increase above that which is offered. The occupancy rate of the hotel has dropped from 70% in 1993 to 64% in 1994. At this rate it would in the long run force the company to reduce the number of the work force in order to maintain its operation. This the hotel had no intention to do and a 5.5% wage increase would be affordable at this stage and the employment of its one hundred and thirty staff maintained during the next 12 months. In addition to that the employer offers free accommodation, housing rental of five hundred dollars (\$500), own staff houses, no rent subsidies, free electricity on a maximum of sixty dollars (\$60.00) monthly, free water, and flexible advances. Mr Yamagata further submitted that an 8% increase would not seriously affect the hotel's financial operation but a 5.5% increase would be fair to the hotel considering the work performance of the staff and their irresponsibility in the removal of empty bottles from the hotel. Most of the staff had undergone some form of training but had not showed any sign of development and that staff qualifications and the standard of

performance had to be taken into consideration in any wage increase. Throughout the year annual increments were awarded to members of staff.

The Panel in its assessment on the verbal and written submissions found that the first round of negotiations had been concluded and that both parties had confirmed a 5.5% increase. Mr. Kangovai was a legitimate representative of the union and that the employer trusted him to be so and negotiated in good faith. The internal policies and administrations of the union are not matters which should be used to revoke any contractual obligation entered into by legitimate representatives of the union. But for the employer's consent although reluctantly to re-open for fresh negotiations, the negotiations had been concluded in October. The Panel was of the opinion that if the employer had refused to re-open the negotiations the parties would be legally bound to honour the settlement reached at the first round of negotiations and that the referral to the Panel would have been struck out. Having said this the Panel is of the opinion that it is not obliged to stick with its precedental awards in that each case is considered under its own peculiar circumstances. The statistics of the Honiara Retail Price Index and the statistics provided by the quarterly report of the Central Bank have always been the Panel's primary guidelines in any wage awards and in this case found it fair and reasonable to apply the barest minimum of the 2/3 RPI and considered 8% to be a reasonable wage increase. The cases of Hastings Deering and the Solomon Islands National Provident are different to the hotel business especially when it is facing competition with similar enterprises in the country and more so in view of section 6(4) of the Trade Disputes Act 1981. The Panel also noted that the union had not pursued representation of its members in other areas. For instance, further training to enhance the work output of the employees which it represents.

#### Award

The employer is to pay to its employees who are members of SINUW an 8% wage increase across the board to be backdated to 1st of January 1994 and that 5.5% of this increase is to be paid this year and the remaining 2.5% to be paid in the first half of next

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year. This however will not prevent any wage negotiations for 1995.

**Appeal**

Pursuant to the Trade Disputes Act 1981 the parties may appeal to the High Court on a point of law within 14 days from the date of this Findings .

**Panel Expenses**

Pursuant to section 11 of the Trade Disputes Act 1981 the respondent is to pay to the Ministry of Commerce, Employment & Trade the sum of one hundred dollars (\$100.00) being for panel expenses within 14 days of receipt of this Findings.

On behalf of the Panel

A.N.Tongarutu

**CHAIRMAN/TRADE DISPUTES PANEL**