

18/09/09 - 21

**AWARD**

**OF**

**THE ARBITRATION TRIBUNAL**

**OF**

**THE REPUBLIC OF THE FIJI ISLANDS**

**NO.6 OF 2006**

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**AWARD**

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**THE ARBITRATION TRIBUNAL**

In the Dispute Between

**NATIONAL UNION OF FACTORY AND COMMERCIAL  
WORKERS**

and

**FLOUR MILLS OF FIJI LIMITED**

NUFCW: Mr J Raman  
FMF : Mr J Apted

**DECISION**

This is a dispute between the National Union of Factory and Commercial Workers (the "Union") and Flour Mills of Fiji Limited (the "Employer") concerning the payment of overtime to salaried staff members.

A dispute was reported by the Union on 11 April 2005. The report was accepted on 23 August 2005 by the Chief Executive Officer who referred the dispute to a Disputes Committee. As the Employer failed to nominate a representative to the Committee, the Minister authorized the Chief Executive Officer to refer the Dispute to an Arbitration Tribunal for settlement pursuant to section 5A(5)(a) of the Trade Disputes Act Cap.97.

The Dispute was referred to the Permanent Arbitrator on 3 October 2005 with the following terms of reference:

***"..... for settlement over the Company's refusal to pay overtime pay to all salaried staff members contrary to clause 6 of the Collective Agreement".***

The Dispute was listed for a preliminary hearing on 28 October 2005. As there was no appearance by or on behalf of the Employer, the Dispute was relisted for mention on 25 November 2005. At the request of the parties the Dispute was listed for further mention on 27 January 2006. On that day the parties informed the Tribunal that the Dispute had been settled. A copy of a Memorandum of Agreement dated 23 January 2006 and signed by the parties was handed to the Tribunal on that day. The parties indicated that a consent Award in terms was sought from the Tribunal.

**CONSENT AWARD**

The Award of the Tribunal is in the terms set out in the Memorandum of Agreement dated 23 January 2006 which is signed by the parties and a copy of which is annexed to this Consent Award.

**DATED** at Suva this 8<sup>th</sup> day of February 2006

*W. Palaniappan*  
.....

**ARBITRATION TRIBUNAL**

## MEMORANDUM OF AGREEMENT

This Memorandum of Agreement is this 23<sup>rd</sup> day of January, 2006

**BETWEEN** National Union of Factory and Commercial Workers ("**the Union**")  
of the one part

**AND** Flour Mills of Fiji Limited ("**FMF**") of the other part.

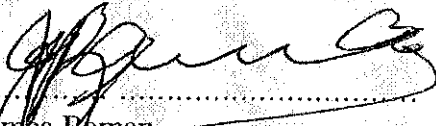
**WHEREAS** a trade dispute reported by the Union against FMF was referred to the Arbitration Tribunal for settlement on 3 October 2005 for settlement over the company's refusal to pay overtime pay to all salaried staff members under clause 6 of the Collective Agreement ("**the Trade Dispute**").

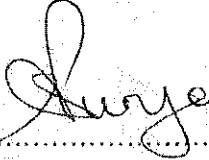
**NOW THEREFORE IT IS AGREED** that the Trade Dispute should be settled upon the following terms -

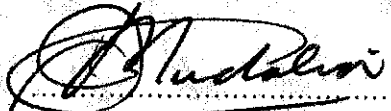
1. All employees who are paid a salary below \$10,000 per annum shall be granted overtime in accordance with the overtime provisions in the Collective Agreement for all time worked in excess of that performed on a normal working day, and all work performed on days other than normal working days.
2. Employees referred to in clause 1 above shall have their current salaries converted to hourly rates as per their current pay slips and shall continue to be paid the said rates and any overtime payment shall be calculated according to the converted hourly rates.
3. Union members who are paid salaries of \$10,000 and over per annum shall not be entitled to payment of overtime for any overtime worked in excess of that performed on a normal working day and all work performed on days

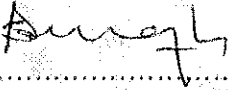
- other than normal working days, but shall be granted time off in lieu of overtime payments.
4. Union members eligible under in clause 3 above shall have their day off mutually agreed between themselves and FMF, which shall be notified to the members concerned 7 days in advance.
  5. Neither the employees referred to in clauses 1 and 2 nor the employees referred to in clauses 3 and 4 above shall be entitled to payment of any arrears or back pay.
  6. This agreement shall take effect from Monday 25 July 2005.
  7. The parties will negotiate on subsequent arrangements for the employees referred to clauses 3 and 4 during the next round of negotiations over the Collective Agreement which will be in 2006.

In witness whereof, the parties hereto have set their signatures at Suva on the abovementioned date.

  
.....  
**James Raman**  
**General Secretary**  
**National Union of Factory and**  
**Commercial Workers**

  
.....  
**Sanjay Punja**  
**Chief Executive**  
**Flour Mills of Fiji Limited**

  
.....  
**(Witness)**  
**National Union of Factory and**  
**Commercial Workers**

  
.....  
**(Witness)**  
**Flour Mills of Fiji Limited**