

**AWARD**

**OF**

**THE ARBITRATION TRIBUNAL**

**OF**

**THE REPUBLIC OF THE FIJI ISLANDS**

**NO 49 OF 2006**

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In the Dispute Between

**MINE WORKERS UNION OF FIJI**

and

**EMPEROR GOLD MINING COMPANY LIMITED**

MWU : Mr P Rae with Mr S Chandra  
EGM : Mr A Narayan

**DECISION**

This is a dispute between the Mine Workers Union of Fiji (the Union) and Emperor Gold Mining Company Limited (the Employer) concerning the termination of employment of Anmol Kumar and Pranesh Chetty (the Grievors).

A trade dispute was reported on 11 November 2004 by the Union. The report was accepted on 8 February 2005 by the Chief Executive Officer who referred the Dispute to conciliation. During the course of the conciliation proceedings the parties agreed in writing to refer the Dispute to voluntary arbitration. As a result the Minister authorized the Chief Executive Officer to refer the Dispute to an Arbitration Tribunal for settlement pursuant to section 6 (1) of the Trade Disputes Act Cap 97.

The Dispute was referred to the Permanent Arbitrator on 18 April 2005 with the following terms of reference :

***"..... for settlement over the termination of employment of Mr Anmol Kumar and Pranesh Chetty with effect from 1 Seoptember 2004. The union contends that the decision to terminate Mr Kumar and Mr Chetty is too harsh and unjustified and therefore seeks that they be re-instated without loss of pay and benefits."***

The Dispute was listed for a preliminary hearing on 29 April 2005. As there was no appearance by or on behalf of the Union, the Dispute was listed for mention on 27 May 2005. On that day the parties were directed to file their preliminary submissions within 21 days and the Dispute was listed for hearing on 5 September 2006.

Due to unforeseen circumstances it became necessary to vacate the hearing date and the Dispute was relisted for mention on 30 September 2005. On that day the Dispute was re-listed for hearing on 29 November 2005.

The Employer had filed its preliminary submissions on 12 August 2005 and the Union filed a brief submission on 27 September 2005.

When the Dispute was called for hearing, the Employer indicated that it had not been served with a copy of the Union's submission and the Union indicated that it only received a copy of the Employer's submission on the morning of the hearing. As a result neither party was in a position to proceed and the hearing date was vacated. The Union was directed to file and serve further preliminary submission by 31 December 2005. The Dispute was relisted for mention on 27 January 2006.

As the Union only filed its further submission on 26 January 2006, the Dispute was relisted for mention on 24 February 2006. As there was no appearance by or on behalf of the Employer, the Dispute was again listed for mention on 24 March 2006. At the request of the parties the Dispute was relisted for mention on 28 April and 26 May 2006.

The hearing of the Dispute commenced on 12 September 2006 in Suva. During the course of proceedings on the third day of the hearing (14 September) the parties informed the Tribunal that they had reached a settlement of the Dispute. The parties indicated that they were seeking a consent Award from the Tribunal. The terms of the consent Award were read out by the Employer's representative and were confirmed by the Union's representative.

#### **CONSENT AWARD**

- 1) Both Grievors are to be re-instated to their former position of team workers at the current rate of pay, with re-instatement to take effect from 18 September 2006
- 2) Both Grievors are to undergo a full induction with the Employer.

- 3) The Employer will pay both Grievors three months basic pay at the current rates.
- 4) Save for the three months referred to in paragraph 3 above, the balance of the period will be treated as leave without pay.

**DATED** at Suva this                      day      of      October      2006

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**ARBITRATION TRIBUNAL**