

C/128/2022

Complaint against the State Trading Corporation (STC) in Rodrigues from a group of Casual Unloaders (Harbour Workers)

A group of harbour workers of the State Trading Corporation (STC) in Rodrigues lodged a written complaint before the Ombudsman wherein they, in the main, alleged that they had been working for STC Rodrigues since 1990 and were not aware of the types of jobs they had to perform and the terms and conditions attached to their working agreement. They averred that they had written to request STC Rodrigues for clarification thereon, without success. The said workers further alleged that the prevailing situation was causing prejudices to them insofar as they had never enjoyed any sick, casual or vacation leave as provided for law.

Most of the workers reckon 32 years of service and 9 years ago, they were informed by the STC, Rodrigues that each worker would receive a sum of Rs 1000/ per year representing their lumpsum. Unfortunately, some of the workers had retired with the sum of Rs 1000 per year of service and since many amongst them would soon be reaching the retirement age, they were wondering if the said lumpsum was fair and reasonable as per the labour law in force.

In view of the seriousness of the allegations concerning the rights of workers, the General Manager of the State Trading Corporation, Mauritius was requested to enlighten the Office of the Ombudsman on the complaint made by these workers while stating the types of work agreements of the workers including the terms and conditions attached or agreed upon as well as the benefits entitlement during their employment and on their retirement.

In response to our investigation, the STC, Mauritius reported as follows:

(i) The STC had actually recourse to about 40 Casual Unloaders at STC Rodrigues Division on a freelance basis. These Casual Unloaders were called upon to provide their services for the unstuffing of containers, for an average of 05 days during a month, for products such as rice, sugar and flour, on arrival of vessels from Mauritius (at least twice a month). The Causal Unloaders were well aware of their working conditions and earnings which had been reviewed over the past thirty (30) years, particularly, following several representations and meetings Management had with them. The actual

daily wages of the Casual Unloaders were Rs 710.84 and they were also being paid an additional unstuffing allowance of Rs 482.40 on 2000 bags of 50 kg each.

(ii) The services of the Casual Unloaders had effectively been sought back in February 1990 for unloading of bags of rice, flour and sugar. At that time, it was the Ministry of Employment which had submitted an initial list of forty-four (44) unemployed persons and thereafter, another batch, to be considered as casual unloaders on a purely “as and when required basis”.

(iii) Since the past few years, the Casual Unloaders had made representations to be considered as employees of the STC. It was not been possible to promote them to permanent unloaders since their conditions of work were different given that they were required to work an average of 05 days per month only. The STC had sought legal advice of the State Law Office in 2004 and the latter had ruled that their work was considered to be of an accessory nature and that, accordingly, they may not be considered as employees of the STC based upon provisions of the then labour law.

(iv) In 2011, a mutual agreement was signed between the Casual Unloaders and the STC wherein the said workers agreed to the impossibility for the STC to entertain their claims and that STC is in no way ill-treating them. They were also briefed on the detailed calculation of their daily wages and to the provision made for certain benefits as a gesture of STC's contribution to their welfare, for instance, payment of end-of-year bonus; provision of two pairs of uniforms; one pair of safety shoes per year; dust mask, eyes, goggles, tea, towels and soaps; contributions towards the National Pension Fund (Now the “Contribution Sociale Généralisée”); and provision of insurance cover under the ‘Occupational Insurance Coverage Policy’.

(v) In 2013, the STC Board agreed to revise the basic daily wages including the introduction of payment of Rs 1,000 of service allowance for each year of service and payment of Rs 5,000 as funeral grant to their heirs or nearest relatives.

(vi) In 2018, a Management Team comprising of the Chairman, General Manager, Human Resource Manager, Officer-in-Charge of the Administration Division and Officer in Charge of Rodrigues Division met the representatives of Causal Unloaders and their advisor with the objective to sorting out their persistent request for permanent employment and to increase the actual amount of service allowance payable. However,

before proceeding further with discussions/negotiations, the Casual Unloaders insisted that Management recognized their Union, i.e, Port Mathurin Harbour Workers Union (PMHWU) as a bargaining agent on their behalf.

(vii) The advice of the State Law Office was sought, and the latter advised that the question of recognition of the Port Mathurin Harbour Workers Union (PMHWU) will have to be dealt with in accordance with the relevant provisions of the Employment Relations Act. A Procedure Agreement, after recommendation of SLO, was drafted and presented to the Casual Unloaders for vetting in February 2020. Though they gave their verbal assent, no further action, for instance, finalization and signature of the Procedure Agreement was made possible because of the emergence of Covid-19 pandemic, including the lockdown period, and closing of Rodrigues' border.

(viii) The STC also informed that in view of the promulgation of the Workers' Rights Act 2019, a fresh advice was being sought from the State Law Office concerning the terms and conditions of the work of the Casual Unloaders.

(ix) On 15th February 2023, the STC Board had, upon the advice of the SLO, approved revision of the terms and conditions pertaining to the services rendered by the casual Unloaders in Rodrigues which included, among others, increased benefits and grant of leave.

(x) On 31st July 2023, the STC informed this Office that a Collective Agreement between the STC and the representative of the Casual Unloaders was signed on 20th July 2023 in Rodrigues.

In August 2023, the Office wrote and informed the representative of the group of workers about the Collective Agreement, and he was requested to inform us whether they were satisfied with our intervention but they did not reply to our letter. This Office hopes that its intervention was fruitful in improving the terms and conditions of employment of these workers.