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Industrial Disputes (Special Provisions) Act, No. 37 of 1968

Date of Assent : September 4, 1968

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Industrial Disputes (Special Provisions)
Act, No. 37 of 1968

L. D.—O. 22/67.

AN ACT TO PROVIDE FOR THE REMOVAL OF CERTAIN DIFFICULTIES IN THE SETTLEMENT OF INDUSTRIAL DISPUTES AND OTHER MATTERS UNDER THE INDUSTRIAL DISPUTES ACT WHICH HAVE ARISEN IN CONSEQUENCE OF DECISIONS MADE BY THE SUPREME COURT AND DECISIONS MADE ON APPEAL TO HER MAJESTY IN COUNCIL, AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[Date of Assent: September 4, 1968]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Industrial Disputes (Special Provisions) Act, No. 37 of 1968.

Short title.

2. (1) Every president of a labour tribunal shall be appointed by the Public Service Commission and, subject to the provisions of sub-section (2), every president of a labour tribunal appointed by the Judicial Service Commission prior to the relevant date shall be deemed to have been, and to be, validly appointed by the Public Service Commission.

Validation of appointments of presidents of labour tribunals.

(2) Nothing in sub-section (1) shall be deemed or construed to validate any order of any labour tribunal which was subsequently quashed by any relevant decision of the Supreme Court on appeal or on application by way of writ:

Provided, however, that nothing in the preceding provisions of this sub-section shall be deemed or construed to preclude or prevent such appeal or application by way of writ from being entertained, heard and decided *de novo* by the Supreme Court, as hereafter provided in this Act.

3. Where a labour tribunal had made order, before the relevant date, rejecting or dismissing any application on the ground that such application had been made at a time when the president of such tribunal had been appointed by the Public Service Commission, such order of such tribunal shall be

Special provisions applicable to certain rejected or dismissed applications.

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deemed to have been, and to be, null and void and such tribunal is hereby empowered, authorized and required, and shall have jurisdiction, to entertain, hear and determine such application *de novo* under the principal Act.

Special provisions relating to industrial court panels, industrial courts, and references made to such courts, &c.

4. (1) Subject to the provisions of sub-section (3), every panel appointed by the Governor-General under sub-section (1) of section 22 of the principal Act, and every industrial court constituted from such panel by the Minister, whether before or on or after the relevant date, shall be deemed to have been, and to be, validly appointed and constituted.

(2) Subject to the provisions of sub-section (3), every reference of any industrial dispute under the principal Act, whether before or on or after the relevant date, to any industrial court referred to in sub-section (1), shall be deemed to have been, and to be, a valid reference and every industrial court shall be deemed to have been, and to be, duly authorized to settle every industrial dispute referred to such court under the principal Act.

(3) Nothing in sub-section (1) or sub-section (2) shall be deemed or construed to validate any award of any industrial court where such award was subsequently quashed by any relevant decision of the Supreme Court on application by way of writ:

Provided, however, that nothing in the preceding provisions of this sub-section shall be deemed or construed to preclude or prevent such application by way of writ, from being entertained, heard and decided *de novo* by the Supreme Court as hereafter provided in this Act.

Special Provisions relating to appointments and nominations of arbitrators, and references made to such arbitrators, &c.

5. (1) Subject to the provisions of sub-section (3), every arbitrator nominated or appointed under the principal Act, whether before or on or after the relevant date, shall be deemed to have been, and to be, validly nominated or appointed.

(2) Subject to the provisions of sub-section (3), every reference of any industrial dispute under the principal Act, whether before or on or after the relevant date, to any arbitrator referred to in sub-section (1), or to any labour tribunal shall be deemed to have been, and to be, a valid reference, and every

arbitrator and labour tribunal shall be deemed to have been, and to be, duly authorized to settle every industrial dispute referred to such arbitrator or labour tribunal under the principal Act.

(3) Nothing in sub-section (1) or sub-section (2) shall be deemed or construed to validate any award of any arbitrator or any labour tribunal where such award was subsequently quashed by a relevant decision of the Supreme Court on application by way of writ:

Provided, however, that nothing in the preceding provisions of this sub-section shall be deemed or construed to preclude or prevent such application by way of writ, from being entertained, heard and decided *de novo* by the Supreme Court as hereafter provided in this Act.

6. Where any order of any labour tribunal was subsequently quashed by a relevant decision of the Supreme Court on appeal or on application by way of writ on the ground that the president of such tribunal, not having been validly appointed, had no jurisdiction to make such order, the following provisions shall apply in the case of such appeal or application by way of writ, as the case may be:—

Special provisions relating to certain relevant decisions of the Supreme Court in respect of orders of labour tribunals.

(a) such decision of the Supreme Court shall be deemed to have been, and to be, null and void;

(b) such appeal or application by way of writ shall be deemed to be an appeal or application which was not decided by the Supreme Court, but to be an appeal or application made *de novo* to such Court on the relevant date;

(c) the Supreme Court is hereby empowered and authorized, and shall have jurisdiction, to entertain, hear and decide such appeal or application *de novo*; and

(d) the practice and procedure to be followed by the Supreme Court in entertaining, hearing and deciding such appeal or application *de novo* shall be as determined by order of the Chief Justice.

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Special provisions relating to certain relevant decisions of the Supreme Court in respect of awards of arbitrators, labour tribunals and industrial courts.

7. Where any award of any industrial court, arbitrator or labour tribunal on a reference under the principal Act was subsequently quashed by any relevant decision of the Supreme Court on application by way of writ, on the ground that such industrial court was not validly constituted, or such arbitrator or president of such tribunal was not validly appointed to exercise jurisdiction in the matter to which such reference related, the following provisions shall apply in the case of such application by way of writ:—

- (a) such decision of the Supreme Court shall be deemed to have been, and to be, null and void;
- (b) such application shall be deemed to be an application which was not decided by the Supreme Court, but to be an application by way of writ made *de novo* to such Court on the relevant date;
- (c) the Supreme Court is hereby empowered and authorized, and shall have jurisdiction, to entertain, hear and decide such application *de novo*; and
- (d) the practice and procedure to be followed by the Supreme Court in entertaining, hearing and deciding such application *de novo* shall be as determined by order of the Chief Justice.

Special provisions relating to certain actions under the principal Act.

8. (1) Where any action which was instituted against any person before a Magistrate prior to the relevant date in respect of any order or award under the principal Act, was not entertained or was dismissed by order of such Magistrate on the ground that the industrial court, arbitrator or president of the labour tribunal which made such order or award was not validly constituted or appointed to make such order or award, the following provisions shall apply:—

- (i) the order of such Magistrate shall be deemed to have been, and to be, null and void;
- (ii) such action shall be deemed to be an action instituted *de novo* before such Magistrate on the relevant date;
- (iii) such Magistrate is hereby empowered, authorized and required, and shall have jurisdiction, to entertain, hear and decide such action *de novo*; and

(iv) the practice and procedure to be followed by such Magistrate in entertaining, hearing and deciding such action *de novo* shall be as determined by order of the Chief Justice.

(2) For the purposes of this section, the term "action" includes any application, petition, suit or prosecution, or any other proceedings by whatsoever name or designation called.

9. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of the principal Act or any other written law, and accordingly shall be read and construed as one with the principal Act or such other written law:

This Act to prevail in the event of any conflict or inconsistency with the principal Act or any other written law.

Provided, however, that in the event of any conflict or inconsistency between the provisions of this Act and the provisions of the principal Act or any other written law, the provisions of this Act shall prevail over the provisions of the principal Act or such other written law to the extent of such conflict or inconsistency.

10. The provisions of this Act shall, for all purposes and in all respects, be as valid and effectual as though those provisions were in an Act for the amendment of the Ceylon (Constitution) Order in Council, 1946, enacted by Parliament after compliance with the requirement imposed by the proviso to subsection (4) of section 29 of that Order in Council.

The provisions of this Act to be regarded as amendments to the Ceylon (Constitution) Order in Council, 1946.

11. In this Act, unless the context otherwise requires—

Interpretation.

"appeal" means any appeal under section 31D of the principal Act;

"application", in relation to a labour tribunal, means an application under section 31B of the principal Act;

"principal Act" means the Industrial Disputes Act, as amended from time to time;

"relevant date" means March 9, 1967;

"relevant decision", in relation to the Supreme Court, means a decision made by such Court prior to the relevant date.