

No. 47 of 1961

PORT OF COLOMBO LABOUR
RESERVE (GRATUITIES)

AN ACT TO PROVIDE FOR THE PAYMENT OF GRATUITIES AND CERTAIN OTHER SUMS IN RESPECT OF PERSONS WHO, AT THE TIME OF THE DISSOLUTION OF THE LABOUR RESERVE ESTABLISHED UNDER THE PORT OF COLOMBO (ADMINISTRATION) ACT, WERE IN THAT RESERVE.

[19th June, 1961.]

Short title.

1. This Act may be cited as the Port of Colombo Labour Reserve (Gratuities) Act, No. 47 of 1961.

Gratuities payable by the Port Commissioner in respect of persons who, at the time of the dissolution of the Labour Reserve established under Chapter 238, were in that Reserve.

2. (1) This section shall apply to every person who, at the time of the dissolution of the Labour Reserve established under the Port of Colombo (Administration) Act, was in that Reserve.

(2) In respect of the period during which a person to whom this section applies was employed or was deemed to have been employed under the Port of Colombo (Administration) Act, the Port Commissioner shall,—

(a) where that person is an employee of the Port (Cargo) Corporation, pay to that Corporation, or

(b) where that person is not an employee of that Corporation, pay to him,

as a gratuity to him, a sum which shall,—

(i) where that period consists of twelve months or more, be calculated at the rate of fifteen days' wages for every twelve months in that period and one-fourth day's wages for every complete month in such part less than twelve months as may be left out of that period, and

- (ii) where that period is less than twelve months, be calculated at the rate of one and one-fourth days' wages for every complete month in that period :

Provided that—

- (a) where the amount of any contributions paid by employers in respect of the aforesaid person to the Provident Fund established for the Port of Colombo on May 1, 1955, and known as the "Provident Fund, Commercial Workmen, Port of Colombo", is less than the amount of the gratuity which the Port Commissioner is liable under the preceding provisions of this subsection to pay in respect of the aforesaid person, the amount of such gratuity shall be reduced by deducting therefrom the amount of such employers' contributions ; and
- (b) where the amount of such employers' contributions is equal to or more than the amount of such gratuity, the Port Commissioner shall be exempt from the liability to pay such gratuity.
- (3) The wages referred to in subsection (2) shall,—
- (a) where any person to whom this section applies is an employæ of the Port (Cargo) Corporation, be calculated at the monthly rate or daily rate applicable to him immediately on his transfer to that Corporation, or
- (b) where any person to whom this section applies is not such an employæ, be calculated at the monthly rate or daily rate which if he had been transferred to that Corporation on August 1, 1958, would have been applicable to him immediately on his transfer, and
- (c) include the cost of living allowance and the dearness allowance but shall not include any other allowance or any payment for overtime work.

Cap. 238

(4) The gratuities which the Port Commissioner is liable to pay under subsection (2) shall be paid out of the Fund maintained by him under section 7 of the Port of Colombo (Administration) Act, and, where that Fund is insufficient to pay all such gratuities, the amount of the deficiency shall be paid out of the Consolidated Fund of Ceylon.

(5) Any sum which is paid by the Port Commissioner under this section to the Port (Cargo) Corporation in respect of any employee of that Corporation shall—

(a) be credited by such Corporation to the individual account of such employee in any provident fund which such Corporation may establish for its employees, or

(b) be transferred by such Corporation to any provident fund which the Government may establish for workers under any other written law :

Provided that such sum shall, if a written request in that behalf is made by such employee to the Chairman of the Board of Directors of such Corporation, be paid by such Corporation to such employee instead of being disposed of according to the preceding provisions of this subsection.

Disposal of employers' contributions to the Provident Fund mentioned in section 2 (2).

3. (1) A person to whom section 2 applies and who is an employee of the Port (Cargo) Corporation may,—

(a) where the amount of the employers' contributions made in respect of him to the Provident Fund mentioned in subsection (2) of section 2 is credited under section 58 of the Port (Cargo) Corporation Act, No. 13 of 1958, to his individual account in any provident fund established by such Corporation, make a written request to the Chairman of the Board of Directors of such Corporation, or

(b) where the amount of such employers' contributions is transferred under the aforesaid section 58 to any provident fund established by the

Government for workers, make a written request to the administrators of that provident fund,

that such sum as he is entitled to under subsection (2) in respect of such employers' contributions be paid to him.

(2) Upon a request being made under subsection (1) by any person to whom section 2 applies and who is an employee of the Port (Cargo) Corporation, he shall,—

- (a) where the amount of the employers' contributions made in respect of him to the Provident Fund mentioned in subsection (2) of section 2 is equal to or less than the amount of gratuity payable in respect of him under section 2, be entitled to the payment of the full amount of such employers' contributions ; and
- (b) where the amount of such employers' contributions is more than the amount of such gratuity, be entitled to the payment of the amount of such employers' contributions reduced by an amount equal to the difference between the amount of such employers' contributions and the amount of such gratuity.

The amount of gratuity referred to in this subsection is the amount of gratuity without making any deduction therefrom under paragraph (a) of the proviso in subsection (2) of section 2.