



# TRINIDAD AND TOBAGO GAZETTE

## (EXTRAORDINARY)

VOL. 42

Port-of-Spain, Trinidad, Wednesday 1st October, 2003—Price \$1.00

No. 146

1890

REPUBLIC OF TRINIDAD AND TOBAGO

IN THE INDUSTRIAL COURT

No. A11 of 2003.

In the Matter of

THE INDUSTRIAL RELATIONS ACT, CHAP. 88:01

And

In the Matter of

THE RETRENCHMENT AND SEVERANCE BENEFITS ACT, 1985 (ACT NO. 32 OF 1985)

And

In the Matter of

AN APPLICATION BY THE HONOURABLE MINISTER OF LABOUR AND SMALL AND MICRO ENTERPRISE DEVELOPMENT FOR EX-PARTE INJUNCTION UNDER THE PROVISIONS OF THE INDUSTRIAL RELATIONS ACT, CHAP. 88:01 AND IN PARTICULAR UNDER SECTIONS 7(1) AND/OR 10(1)(b) AND/OR 65 THEREOF AND/OR UNDER ITS INHERENT POWERS/JURISDICTION AS A SUPERIOR COURT OF RECORD

And

In the Matter of

AN APPLICATION/REFERRAL BY THE HONOURABLE MINISTER OF LABOUR AND SMALL AND MICRO ENTERPRISE DEVELOPMENT ON BEHALF OF AND/OR IN THE INTEREST OF ALL HOURLY AND WEEKLY RATED WORKERS OF CARLISLE TIRE AND RUBBER (FREE ZONE) LIMITED UNDER THE PROVISIONS OF THE RETRENCHMENT AND SEVERANCE BENEFITS ACT, 1985 AND IN PARTICULAR SECTIONS 22 AND 23 THEREOF

Between

THE HONOURABLE MINISTER OF LABOUR AND SMALL AND MICRO ENTERPRISE DEVELOPMENT [ON BEHALF OF HIMSELF AND ALL HOURLY AND WEEKLY RATED WORKERS/FORMER WORKERS OF CARLISLE TIRE AND RUBBER (FREE ZONE) LTD.]—*Party No. 1*

And

CARLISLE TIRE AND RUBBER (FREE ZONE) LTD.—*Party No. 2*

*Ex-Parte Injunction/Order*

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*Ex-Parte*

In Chambers:

Dated this 30th day of September, 2003

Entered this 30th day of September, 2003

Before HIS HONOUR MR. ADDISON M. KHAN, *President* and HIS HONOUR MR. RAMCHAND LUTCHMEDIAL

*Appearances:*

MR. SEENATH JAIRAM, s.c., with MR. REGINALD ARMOUR of Counsel

Instructed by Ms. VANESSA GOPAUL for Party No. 1.

UPON APPLICATION for an Injunction this day made unto this Court by Senior Counsel for Party No. 1.

The above-mentioned Application having been heard by this Honourable Court on the 30th day of September, 2003 leave having been granted to file all documents herein.

*Upon Reading* the Notice filed herein on the 30th day of September, 2003.

*And upon Reading* the Affidavits of Emmanuel George, Selby Braithwaite and Lance Fraser all sworn to and filed herein on the 30th day of September, 2003 together with the exhibits thereto.

*And upon* Party No. 1 by his Counsel undertaking:

- (a) Forthwith to give notice of the terms of this Order to Party No. 2 together with the telephone number of a representative of the Attorney-at-law for Party No. 1 to whom notice may be given out of office hours of any application to set aside or vary this Order.
- (b) To serve a copy of this Order on any third party to whom Party No. 1 may give notice of its terms.
- (c) To inform Party No. 2 and any third party affected by this Order of its right to apply to this Court for this Order to be varied or discharged.

*And upon Mature Consideration and Deliberation it is Ordered that:*

(1) An injunction be granted restraining Carlisle Tire and Rubber (Freezone) Ltd. (hereinafter called "the Company" whether by its directors, officers, managers, receivers, auditors, proxies, nominees, employees, servants or agents or any of them or howsoever otherwise including one Mr. Phillip Ragoonanan be restrained from taking and/or continuing to take industrial action within the meaning of the Industrial Relations Act, Chap. 88:01 (hereinafter referred to as "the Act" on the basis that such industrial action being taken by the Company and/or its officers, servants or agents or some or any of them either on the 29th day of August, 2003 and continuing or on the 12th day of September, 2003 or any other date in relation to all hourly and weekly-rated workers or former workers of the Company is not in conformity with the Act or otherwise.

(2) That the Company whether by its directors, officers, managers, receivers, auditors, proxies, nominees, employees, servants or agents or any of them or otherwise howsoever including the said Mr. Phillip Ragoonanan engaged in industrial action be and are hereby enjoined from taking and/or continuing to take such industrial action and/or from declaring that all or any of the said hourly and weekly-rated workers/former workers have abandoned their jobs until after the hearing and determination of the issue or purported issue of retrenchment and/or unfair dismissal and/or dismissal in circumstances that are harsh and oppressive or not in accordance with the principles of good industrial relations practice of all or any of the said hourly and weekly-rated workers/former workers.

(3) That the Company whether by its directors, officers, managers, receivers, auditors, proxies, nominees, employees, servants or agents or any of them or otherwise howsoever (including the said Mr. Phillip Ragoonanan) from doing the following acts or any of them, that is to say:

- (a) removing or causing or permitting to be removed any of its assets, stock-in trade and/or receivables (hereinafter collectively referred to as "its assets") from or within and/or out of the jurisdiction of this Honourable Court or from transferring and/or in particular from selling or disposing of or charging, assigning, mortgaging, hiding or otherwise dealing with any of its assets or drawing from, charging, dissipating, pledging any of its assets and/or otherwise dealing with any account (deposit, current or otherwise) standing in its name or to its Order or otherwise diminishing the value of its assets (real property or personal property) money (and in particular all the Company's bank account whether held in its own name and/or jointly with others), save and except reasonable

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operating expenses not exceeding \$25,000.00 per month, provided that if the Company requires a greater sum than \$25,000.00 per month it shall obtain the full prior written consent of attorney-at-law on record for Party No. 1 and upon presentation of which the Company's bank (one only) is at liberty to permit withdrawal of the sum or sums so specified or failing agreement as aforesaid, the Company is at liberty to make an *inter partes* application to the Court for a sum in excess of the aforesaid \$25,000.00.

- (b) destroying, defacing, tampering with, amending, hiding, removing or transferring the books of accounts, sales and purchase records including invoices, vouchers, bills, requisitions and receipts for all things, goods or items bought and sold and all other records, accounts, ledgers, journals, books and documents including computer records (hereinafter called "the said book of accounts") that directly and indirectly touch upon and concern the business of the company and in particular all hourly-rated workers.
- (c) paying and/or declaring any dividends and/or granting increases in salaries or bonuses to any employee or worker, agent, principal or manager or receiver/manager (past or present) any lump sum payment and/or directors' fees to any director or manager (past or present) of the Company, their proxies, nominees, servants or agents or otherwise howsoever or from granting any loans to any of the aforesaid persons their proxies, nominees, servants or agents and/or any other person, entity, firm or corporation unless and until the prior written consent of the attorney-at-law on record for Party No. 1 is first had and obtained and/or an Order in that behalf is first had and obtained by an *inter partes* application from or by this Honourable Court.

(4) That the powers of the directors of the Company including the powers of the said Mr. Phillip Ragoonanan be subject to the foregoing Order, namely, paragraph 1(a), (b) and (c) hereof and be exercised in accordance therewith.

(5) That nothing in this Order shall prevent any bank from exercising any rights of set off against the Company which it may have in respect of facilities afforded by such bank before receiving notice of the terms of this Order,

be continued until after the hearing and determination of the aforesaid issues by this Honourable Court or until further Order.

*And it is further Ordered* that the Company whether by its directors, officers, managers, receivers, auditors, proxies, nominees, employees, servants or agents or any of them or howsoever otherwise including the said Mr. Phillip Ragoonanan do file in this Honourable Court not later than 10 days after the date of service of this order, 9 copies of a full list of the names of all hourly and weekly-rated workers/former workers of the Company as at the 12th day of September, 2003 together with their categories of employment, the dates of their commencement of employment, their years of service and the last wage/salary they each received and serve directly on Attorney-at-law for Party No. 1 a file copy thereof, such list to be verified under oath by a responsible officer of the Company.

*And it is further Ordered* that pursuant to section 65(2)(b) of the Act the matter/trade dispute/issue/difference of opinion as to the reasonableness or otherwise of any action taken or not taken by the Company and/or the non-payment of severance benefits whether in accordance with section 23(1)(a) and (b) of the Retrenchment and Severance Benefits Act, 1985 and/or section 22 thereof between the said hourly and weekly-rated workers/former workers and the Company shall be deemed to have been referred to the Court by the parties thereto, namely, The Honourable Minister of Labour and Small and Micro Enterprise Development [on Behalf of Himself and all Hourly and Weekly-Rated Workers/Formers Workers of Carlisle Tire and Rubber (Free Zone) Ltd.] v. Carlisle Tire and Rubber (Free Zone) Ltd. ("the Company").

*And it is also Ordered* that leave be and the same is hereby granted to serve a copy of the said affidavits of Emmanuel George, Selby Braithwaite and Lance Fraser all sworn to and filed herein on the 30th day of September, 2003 together with the exhibits thereto together with a copy of this Order on the Company with liberty to Party No. 1 to serve any other person or persons as Party No. 1 may deem fit.

*And it is further Ordered* that this Order be published once in the *Trinidad and Tobago Gazette* and once in two (2) daily newspapers circulating in Trinidad and Tobago.

*Variation and Discharge of the Order:*

*And it is further Ordered* that the company and/or any other third party served with this Order may apply to this Court at any time to vary or discharge this Order (or so much of it as affects the Company or the third party as the case may be) on condition that should the Company and/or the said third party wish to do so it must first give at least 48 hours notice (Saturdays, Sundays and Public Holidays being excluded for the computation of time) to the Attorney-at-law for Party No. 1.

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*Name and Address of the Attorney-at-law for Party No. 1:*

The Attorney-at-law on record for Party No. 1 is Ms. Vanessa Gopaul of Marie de Vere Chambers, 90, Maraval Road, Newtown, Port-of-Spain whose address for service is the same.

*And it is further Ordered* that a penal clause be endorsed hereon as shown below in red.

NOTE:—IF YOU THE WITHIN NAMED CARLISLE TIRE AND RUBBER (FREE ZONE) LTD. WHETHER BY ITS DIRECTORS, OFFICERS, MANAGERS, RECEIVERS, AUDITORS, PROXIES, NOMINEES, EMPLOYEES, SERVANTS, OR AGENTS OR ANY OF THEM OR OTHERWISE HOWSOEVER (INCLUDING MR. PHILLIP RAGOONANAN) DISOBEY THIS ORDER YOU WILL BE LIABLE TO PROCESS OF EXECUTION FOR THE PURPOSE OF COMPELLING YOU TO OBEY THE SAME.