

# REDUNDANCY BOARD

**RB/RN/10/2025**

## ORDER

<b>Before:</b>	Rashid Hossen	-	President
	Saveeta Deerpaul (Ms)	-	Member
	Shirine Jeetoo (Mrs)	-	Member
	Yashwinee Chooraman (Ms)	-	Member
	Feroze Acharauz	-	Member
	Christ Paddia	-	Member

**Mrs. Maria Christine Josette Lache**

**and**

**Shan Kong Company Ltd**

The Applicant, Mrs. Maria Christine Josette Lache, is seeking an Order directing the Employer, Shan Kong Company Ltd (the Employer), to pay the Applicant severance allowance for having terminated her employment without complying with section 72(5) of the Workers' Rights Act 2019, as amended. Her application is further based on Section 72 (7) and (8) of the Act (Supra).

Mr. B. Ramdenee, Counsel, appeared for the Applicant. Mr. C. Grenade, Counsel, appeared for the Employer.

In her application, the Applicant avers that: -

- (i) she was in continuous employment of the Employer since 09.09.2022 and was last employed as Factory Attendant;
- (ii) she was working on a 6-day week basis;
- (iii) she was last remunerated at monthly intervals at the basic rate of Rs 16,500 instead of Rs 17,100 per month;
- (iv) by way of letter dated 29.11.2024, the Employer gave her notice of termination of employment for 31.12.2024 on economic grounds;
- (v) she was therefore, in the continuous employment of the Employer for 27 months;

- (vi) as at the date of termination of the employment, the Employer was employing not less than 15 workers in its undertaking;
- (vii) The Employer has contravened Section 72 (5) of the Workers Rights Act by terminating her employment without giving written notice to the Redundancy Board set up under section 73, together with a statement showing cause for reduction or closure at least 30 days before the intended reduction;
- (viii) under section 72 (7) of the Workers' Rights Act, the termination of her employment is deemed to be unjustified as the Employer has acted in breach of Section 72 (5) of the Workers' Rights Act;

Applicant is praying for an Order directing the Employer to pay her severance allowance at the rate specified in Section 70 (1) of the Workers' Rights Act 2019, as amended.

The Employer avers in a Statement of Case that it contacted the Ministry of Labour and Industrial Relations and was confirmed to pay 15 days per year of service per employee in accordance with the law. Due to financial difficulties as a result of the Covid pandemic, it has had to consider a restructuring which necessitated a downsizing of the company workforce amongst others.

It further avers that it is still:

- (i) fighting to keep the Company afloat. The Company only operates twice or thrice a week due to scarcity of the main ingredients on the market (Chicken & Chokoes) necessary in the processing of the finished products.
- (ii) The selection of the Applicant for redundancy was based on seniority and skills as a matter of fairness to the other employees. The Employer has not been discriminatory in its downsizing exercise.
- (iii) A letter was written to the Ministry of Labour Industrial Relations to that effect explaining the difficulty the Company is facing and its intention of reducing its workforce and seeking for advice from the Ministry.
- (iv) The Employer believes that this redundancy is justified and is in accordance with the Workers' Rights Act and other applicable laws.

The Applicant deponed and confirmed to the averments in her Statement of Case. She produced her letter of termination in which the Employer advanced economic reasons for reduction of workforce. The Employer undertook to pay allowances due in accordance with the law. However, the Applicant never received any allowances and according to her there was no negotiations between the Employer and herself regarding termination of contract, although she agreed there was a meeting whereby the

Employer expressed its intention to close down. According to the Applicant, the business of the Employer seemed to be going on rather well.

The Employer's Chief Executive Officer, Mr Louis Marcel Veerapen, testified to the effect that the Employer's business was doing well until the Covid period. It then started having financial difficulties to the extent that it had to consider a reduction of workforce. The witness stated that he contacted the Labour Office and was advised that he was to pay each employee an allowance of 15 days per year of service. He had been labouring under the impression that the 15 days payment is in accordance with the law and that he should carry no blame for that.

Counsel for the Employer submitted that the latter has acted upon the strict advice of the officer of the Ministry of Labour and cited Section 74 (1A) (b) (iii) which according to Counsel stipulates the amount of severance allowance in a case of justified reduction of workforce. According to Counsel, the Employer was never referred to Section 72 of the Workers' Rights Act 2019, as amended. He further submitted that the Applicant has failed to demonstrate that the Employer's action was unjustified.

Counsel for the Applicant submitted that on the 13<sup>th</sup> December last the Employer agreed to pay the severance allowance to the employee whereby she was informed that it amounts to 3 months' salary per year of service.

We need to point out that on the 3<sup>rd</sup> December 2024 the Redundancy Board received a correspondence from the Ministry of Labour and Industrial Relations in relation to the notification for restructuring and downsizing of the Employer's business. This notification in itself is not in accordance with the law as it was addressed to the Ministry instead of the Redundancy Board as provided by Section 72 (5) of the Workers' Rights Act 2019, as amended :- *"Where no agreement is reached under subsection (3) or (4), or where there has been no negotiation, an employer who takes a course of action as specified in subsection (1), shall give written notice to the Redundancy Board set up under section 73, together with a statement showing cause for the reduction or closure at least 30 days before the intended reduction or closing down, as the case may be."*

Considering that the Employer agreed before the Board to pay severance allowance to the order of 3 months per year of service per employee, the matter was set aside.

The Employer's case is that it only followed the advice of the officer at the Labour Office to the effect that it only had to pay as indemnity 15 days per year of service per employee. We need only say that its ignorance of the law was at its risk and peril and that it mistakenly followed the wrong advice, if any. Apart

from holding meetings to inform the employees of the closing down of the company, there is not sufficient evidence adduced on its part to show that the requirements of Section 72 of the Workers' Rights Act 2019, as amended have been followed prior to proceeding to a reduction of workforce or closure of the company. Reference has been made to section 74 (1A) (b) (iii) which allows the Redundancy Board, in its discretion, to explore the possibility of the Employer paying to the workers a compensation of not less than 15 days remuneration for every period of 12 months of continuous employment where the reduction is considered to be justified. This particular sub-section is not applicable to the present matter in as much as there has been no conciliation or mediation that was carried out by the Board with the parties. Neither has there been any determination that the reduction of workforce is considered to be justified. The Board disabuses the Employer of the opinion that it only has to pay 15 days per year of service per employee in the present matter. Furthermore, the meetings held between the Employer and the employees were only informative with regard to the closing down of the enterprise and those meetings *per se* cannot amount to meaningful negotiations. The Employer has been in clear breach of the provisions of Section 72 of the Workers' Rights Act 2019, as amended in failing to follow the procedures laid down prior to proceeding to the reduction of workforce or closing down of its enterprise.

The Board orders the Employer to pay the Applicant severance allowance by virtue of Section 70 (1) of the Workers' Rights Act 2019, as amended.

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Rashid Hossen

*(President)*

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Saveeta Deerpaul (Ms)  
*(Member)*

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Yashwinee Chooraman (Ms)  
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*(Member)*

**Date: 18 July 2025**

