

**IN HER MAJESTY'S PRIVY COUNCIL**

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Appeal from the Supreme Court of Mauritius

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**BETWEEN**

**MARINE WORKERS UNION & ORS.**

**APPELLANTS**

**VERSUS**

**THE MAURITIUS MARINE AUTHORITY**

**RESPONDENT**

**IN THE PRESENCE OF:**

**FEE SIAN YOUNG KIANG YOUNG AND ANOR**

**CO-RESPONDENTS**

# INDEX OF REFERENCE

In the Privy Council

## RECORDS OF PROCEEDING

Between :—

THE MARINE WORKERS UNION AND ORS

APPICANTS

*VERSUS*

THE MAURITIUS MARINE AUTHORITY

RESPONDEN

In the presence of :

YOUNG KIANG YOUNG, FEE SIAN AND ANOR

CO-RESPONPENTS

Record No. 24576

SUPREME COURT OF MAURITIUS

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IN THE PRIVY COUNCIL

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ON APPEAL FROM THE SUPREME COURT OF MAURITIUS

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PART 1

In the matter of:-

1. The Marine Workers Union, a registered trade union having its registered office at the Mauritius Marine Authority, Port-Louis,
2. Premananda Ponamballum, a skipper of the Mauritius Marine Authority, residing at Market Road, St. Pierre,
3. Clement Moutou, a Lightkeeper and Signalman of the Mauritius Marine Authority, residing at 15, Gustave Colin Street, Beau Bassin,
4. Maurice Paruit, Chief Artificer of the Mauritius Marine Authority, residing at 13, Victor Singery Street, Rose Hill,

Applicants

v/s

The Mauritius Marine Authority of Port Louis,

Respondent

In the presence of:-

1. Young Kiang Young, Fee Sian, an Accountant Clerk of the Mauritius Marine Authority, residing at 57, Emmanuel Anquetil Street, Port Louis,
2. Roger Requin, Principal Establishment Officer of the Prime Minister's Office, Port-Louis,

Co-Respondents

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No. 1  
Proceipe

## RECORD OF PROCEEDINGS

No. 1

### PROECIPE

For a summons calling upon the abovenamed respondent and co-respondents to appear before the Honourable the Judge sitting at Chambers on a day to be fixed, to show cause why an Order should not be made making executory the award dated the 2nd August, 1980, of the Arbitration Committee appointed by the Mauritius Marine Authority (the respondent) on the 4th July, 1980, in accordance with an agreement dated the 13th July, 1979, between inter alia, the Mauritius Marine Authority Employees Union and the respondent; which said award has been filed in the Registry of the Supreme Court on the 12th December 1980; with costs against the respondent.

For the reasons set out in the annexed affidavit.

Under all legal reservations.

Dated at Port Louis, this 12th day of December, 1980

(s) P. Balmano  
Attorney for the Applicants

No. 2

### AFFIDAVIT OF P. PONAMBALLUM AND C. MOUTOU

12th December 1980

No. 2  
Affidavit of P. Ponamballum  
and C. Moutou  
12 Dec. 1980

I, Premananda Ponamballum, a skipper residing at Market Road, St. Pierre, make my solemn affirmation as a Hindu;

And I, Clement Moutou, a Lightkeeper and Signalman of the Mauritius Marine Authority residing at 15, Gustave Colin Street, Beau Bassin; make oath and we both say as follows:-

1. We are two of the applicants in this matter and we are authorised to affirm and swear this affidavit on behalf of all the other applicants.
2. Following a dispute between the Mauritius Marine Authority (the respondent) and its employees, represented by their trade unions, concerning the salaries and other conditions of service of the employees, on the 13th July, 1979, an agreement was arrived at between the respondent on the one side and (a) the Mauritius Waterside Workers Union, and (b) The Mauritius Marine Authority Employees Union on the other side, whereby the parties agreed to resolve the points of difference between them in the manner set out in the agreement which is the Annexe "A" to this affidavit and to the correctness of which we respectively affirm and swear.

3. On the 1st April, 1980, the first applicant, The Marine Workers Union was registered. This trade union represents certain classes of employees of the respondent and has been granted recognition by the respondent in respect of those classes of employees under the Industrial Relations Act, 1973.

4. On the 4th July, 1980, after consultation with, and with the agreement of the three trade unions of employees of the respondent, namely

- a) The Mauritius Marine Authority Employees, and <sup>Union</sup>
- b) The Mauritius Waterside Workers Union, and
- c) The Marine Workers Union,

No. 2  
Affidavit of P. Ponamballum  
and C. Mouton  
12 Dec. 1980

10 by a letter of the same date, the respondent appointed an Arbitration Committee - in accordance with the agreement of the 13th July, 1979 - in the terms set out in the Annexe "B" to this Affidavit, to the correctness of which we respectively affirm and swear.

5. The names of the arbitrators agreed upon by all the parties were:

- a) Mr. Francis J. Lefebvre, Arbitrator
- b) Mr. R. Requin, Principal Establishment Officer (Establishment Division) - Assessor
- c) Mr. Y.K. Young, Accounts Officer, Mauritius Marine Authority, Assessor

6. The two co-respondents are the above-named assessors.

20 7. The points at issue between the respondent and its employees and the terms of reference of the Arbitration Committee are set out in the Annexe "C" to this affidavit. We respectively affirm and swear to the correctness of the document.

8. The Arbitration Committee gave an opportunity to all the interested parties of being heard and written statements of case were lodged with the Arbitration Committee by the respondent and the trade unions of employees.

9. On the 2nd August, 1980, the Arbitration Committee made a report of its findings and award. The two assessors (the co-respondents) concurred in the said report and award.

30 10. After the report and award had been completed, the Arbitrator, Mr. Francis J. Lefebvre, submitted it to the respondent and left Mauritius.

11. On a request made by (a) the Mauritius Marine Authority Employees Union and (b) the Marine Workers Union (the first applicant) as well as by the other applicants in this matter and other employees of the respondent, who are all interested parties in the award, the first co-respondent has lodged the report and award and other relevant documents in the Registry of the Supreme Court.

12. The respondent has failed, up to now, to implement the award.

No. 2  
Affidavit of P.Ponamballum  
and C. Moutou  
12 Dec. 1980

13. In the circumstances, it is urgent and necessary that an Order be made by The Honourable Judge sitting at Chambers making executory the award of the Arbitration Committee; with costs against the respondent.

14. We pray accordingly.

Respectively solemnly affirmed )  
by the first deponent and sworn )  
by the second deponent at Chambers,) (s) P. Ponamballum  
Supreme Court, this 12th day of ) (s) C. Moutou  
December, 1980 )

Before me,

(s) J. FORGET  
Master & Registrar

Annex A  
To  
Document No. 2

ANNEX A  
TO  
DOCUMENT No. 2  
(Omitted)

Annex B  
To  
Document No. 2

ANNEX B  
TO  
DOCUMENT No. 2  
(Omitted)

Annex C  
To  
Document No. 2

ANNEX C  
TO  
DOCUMENT No. 2  
(Omitted)

No. 3  
Judge's Summons  
15th Dec. 1980

No. 3  
JUDGE'S SUMMONS  
15th December 1980  
(Omitted)

No 4  
Judge's Order  
19th Dec. 1980

No. 4  
JUDGE'S ORDER  
19th December 1980  
(Omitted)

No 5  
**AFFIDAVIT OF: P. M. MOOROOGAN**  
9th January 1981

No 5  
Affidavit of  
P. M. Moorogan  
9th Jan 1981

I, Payeneesamy Moorghen Moorogan, Temporary Director General of the Mauritius Marine Authority, make my solemn affirmation as a Hindu and say as follows:-

1. I am authorised to affirm this affidavit.
2. I have taken cognizance of the affidavit solemnly and sworn respectively by Premananda Ponamballum and Clement Moutou, both of whom are employees of the Mauritius Marine Authority, hereinafter referred to as the Authority.
- 10 3. Paragraphs 1 to 12 of the affidavit are admitted.
4. With regard to the implementation of the Award, the Minister responsible for ports has in the exercise of his powers under section 9(1) of the ports Act 1975 directed the Authority not to implement the Award.
5. The Authority is accordingly unable to implement the Award as under section 9(1) of the Ports Act 1975 it is bound to follow the direction of the Minister.
6. In the circumstances the order prayed for cannot be granted.

Solemnly affirmed by the abovenamed )  
deponent at Chambers, Supreme Court )  
House, this 9th day of January, 1981 )

(s) P.M. Moorogan

Before me,  
(s) A Stephen  
Chief Registrar  
Supreme Court

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No 6  
**JUDGE'S ORDER**  
12th January 1981  
(Omitted)

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No 6  
Judge's Order  
12th Jan. 1981

No. 7  
**AFFIDAVIT OF P. PONAMBALLUM AND C. MOUTOU**  
16th January 1981

No. 7  
Affidavit of P.Ponamballum  
and C. Moutou  
16 Jan. 1981

30 I, Premanda Ponamballum, a skipper residing at Market Road, St. Pierre, make my solemn affirmation as a Hindu;

And I, Clement Moutou, a Lightkeeper and Signaller of the Mauritius Marine Authority residing at 15, Gustave Colin Street, Beau Bassin; make oath

And we both say as follows:-

1. We have <sup>used</sup> personally the affidavit solemnly affirmed on behalf of the respondent on the 9th January, 1981.

No. 7  
Affidavit of P. Ponamballum  
and C. Moutou  
16 Jan. 1981

2. We record the admission made on behalf of the respondent in paragraph 3 of that affidavit.
3. In reply to paras. 4, 5 and 6 of that affidavit, we maintain that -
- 1) the agreement of the 13th July, 1979, referred to in para. 2 of our affidavit of the 12th December, 1980, was arrived at a meeting under the chairmanship of the Minister and with his concurrence;
  - 2) The Government of Mauritius was thus also a party to the agreement and proved it;
  - 3) The Minister is therefore estopped from refusing to implement the award;
- 10 4. We are also advised and we verily believe that -
- a) the direction given by the Minister to the respondent cannot affect the right of the applicants to apply for the award to be made executory;
  - b) the direction given by the Minister, even if binding upon the Respondent, is not binding upon the other parties to the award and upon the Honourable the Judge at Chambers;
  - c) the direction given by the Minister can only affect the implementation by the respondent of the award; it cannot affect the right of the applicants to request that the award be made executory;
  - d) the ground invoked by the respondent is not one which, under article 1028
- 20 of the Code of Civil Procedure, can be invoked before the Honourable the Judge at Chambers; it must accordingly be set aside.

Solemnly affirmed and sworn by )  
the abovenamed deponents, at ) (s) P. Ponamballum  
Chambers, Supreme Court, Port- ) (s) C. Moutou  
Louis, this 16th day of January, 1981.

Before me,  
(s) A. Stephen  
Chief Registrar  
Supreme Court

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No. 8  
**JUDGE'S ORDER**  
21st January 1981

No 8  
Judge's Order  
21st Jan. 1981

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Mr. M. Gujadhur, Q.C., replacing Sir Gaetan Duval, Q.C., who is instructed by Mr. Attorney F. Balmano, appears for the applicants.

Mr. D. Ramsewak, Ag. Assistant Parliamentary Counsel, appears for the respondent.



Mr. Gujadhur puts in an affidavit, registered in Reg. A 423 no. 8997 and moves that the matter be adjourned to the 27th January, 1981, in order to be taken along with a similar case which has been fixed to that date.

No 8  
Judge's Order  
21st Jan. 1981

Mr. Ramsewak not objecting and by consent of parties, I adjourn the matter to Tuesday, the 27th day of January, 1981, at 10.00 a. m.

Chambers, this 21st day of January, 1981.

(s) C. Moollan  
Senior Puisne Judge

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No. 9  
**JUDGE'S ORDER**  
27th January 1981  
(Omitted)

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No. 9  
Judge's Order  
27th Jan. 1981

No. 10  
**AFFIDAVIT OF: M. MOOROOGAN**  
4th February 1981

Affidavit of M. Moorogan

No 10  
Affidavit of  
M. Moorogan  
4th Feb 1981

I, Payeneesamy Moorghen Moorogan, Temporary Director General of the Mauritius Marine Authority, hereinafter referred to as the Authority, do make solemn affirmation as a Hindu and say as follows:-

1. I have taken cognizance of the affidavit solemnly affirmed and sworn by  
20 Premananda Ponamballum and Clement Moutou respectively on 16th January 1981.
2. I am authorised by the Authority to affirm this affidavit.
3. Although the Minister had concurred in the setting up of the arbitration, he was not a party to the agreement of 13th July 1979 and to the terms of reference agreed between the Authority and its employees for reference to the Arbitrator.
4. The Government was not at any time a party to the agreement of 13th July 1979 and had not at any time approved the agreement even though the Minister had, as Prime Minister of the country, tried to reconcile the parties and ensure that the go-slow started by the employees of the Authority did not continue.
5. The Minister is not estopped from exercising his powers under Section 9(1) of  
30 the Ports Act 1975 as he has never given any undertaking to implement any award.

No 10  
Affidavit of  
M. Moorogan  
4th Feb 1981

6. In view of the averments contained in paragraphs 3 and 4 of the affidavit of the applicants I am advised that the case could more appropriately be dealt with and tried in Court and pray that it be referred to the competent Court.

Solemnly affirmed by the abovenamed )  
deponent at Chambers, Supreme Court ) (s) P. M. Moorogan  
House, this 4th day of February, 1981 )

Before me,  
(s) A. Stephen  
Chief Registrar  
Supreme Court

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No. 11  
**JUDGE'S ORDER**  
6th February 1981  
(Omitted)

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No. 11  
Judge's Order  
6th Jan. 1981

10

No. 12  
**PROCEEDINGS IN CHAMBERS**  
20th March 1981  
**IN THE SUPREME COURT OF MAURITIUS**

No 12  
Proceeding in Chambers  
20 March 1981

In the matter of:-

The Marine Workers Union & Ors Applicants

v.

The Mauritius Marine Authority Respondents

20 In the presence of:-

Y. K. Y Fee Sian & Anor Co-Respondent

Hearing before Mr Justice V. J. P Glover

Mr. G. Duval, Q. C., instructed by Mr Attorney P. Balmano, appears for the applicants.

Mr. D. Ramsewak, acting assistant Parliamentary Counsel, appear for the respondent.

30 Mr. G. Duval states that there was a dispute between the parties and with a view to reconcile the parties, an agreement was reached in virtue of which an arbitrator, assisted by two assessors were appointed. The Arbitration Committee has now submitted its findings and its recommendations. Neither the validity of that agreement nor the validity of the enquiry conducted by the Arbitration Committee nor its report is issue in this matter.

But what is now in issue is whether, once the Arbitration Committee's Report has been published, the Minister of Telecommunications can purport to act under Section 9 of the Ports Act, 1975 and prevents the respondent from implementing the award of the Arbitration Committee? Similarly can the minister in virtue of Sect. 9 of the same Ordinance interfere before this Court to request the Hon. Judge not to render the award executory. According to Mr. Duval there is a difference between rendering the award executory and actually paying over the sum to the different workers. Mr. Duval thus submits that the objection of the Minister at this stage is totally misconceived and the Minister cannot purport to act in virtue of Section 9 of the Ports Act. Once the law has started to operate, the Minister cannot at any time exercise any right to prevent it from following its course. What the Minister could have done was to tell the respondent not to get into any agreement with the applicants because of budgetary implications. Though the parties are agreed that the Minister was and is not a party to the agreement, yet the Minister actually concurred in the setting up of the Arbitration Committee.

Mr. Duval further submits that once an agreement for arbitration has been reached, the finding thereof is binding upon the parties. In fact the law does not provide that the concurrence of the Minister is a prerequisite before the respondent could go before the Arbitration Committee. Nor is there anything in the Law which can prevent the Judge from rendering the award executory.

As regards the budgetary implications for implementing the award, Mr. G. Duval submits that the respondent has never pleaded that the award cannot be implemented because no funds are available. The Minister is simply unsatisfied with the report and that is why he objects to the implementation of the Report.

Mr. Duval quotes: *Gillette & Mongelard v. Vele Mauritius Report 1910*, page 1

At this stage Mr Ramsewak agrees to the statement made by Mr G. Duval to the effect that the Minister objected to the implementation of the Report only after the award was made.

Mr. Ramsewak submits as follows:

1. Inasmuch as the parties agreed to be bound by the award, it could be argued that they cannot certainly say that they are not bound.
2. But they cannot implement the award in the face of the direction of the Prime Minister.
3. The questions which arises are consequently the following:-
  - a) Is the direction of the Prime Minister binding on the Authority, or can the Authority ignore it?
  - b) Is the direction given by the Prime Minister one which can be given by him under the relevant enactment?

No 12  
Proceeding in Chambers  
20th March 1981

c) Is the Prime Minister estopped from giving such direction in view of his involvement in reconciling the parties and having their dispute referred to arbitration? In other words, can the Prime Minister be said to have agreed to forego the exercise of his powers under the Ports Act?

d) In view of the powers given to the Prime Minister by the Act, could it not be said that Legislature has by necessary implications amended the code of Civil Procedure, so that no exequatur may issue in a case like the present one?

4. Mr. Ramsewak further submits that:-

10 a) The Prime Minister was only concerned with reconciling the disputing parties when he convened them to his office.

b) His involvement was not such as to estop him from prohibiting the implementation of the award.

c) To infer that he had tacitly agreed to forego the exercise of his discretion would be unreasonable and mean that he had agreed to be bound by any award whatsoever.

d) It may be said that a person vested with discretionary powers cannot agree to forego the exercise of the discretion beforehand as the Prime Minister is alleged to have done.

20 e) The direction issued by the Prime Minister is not unreasonable as he was entitled to say that the implementation of the award was not in the public interest for it ignored the avowed policy of the government to align salaries etc in the parastatal bodies on those of the public service.

Chambers, this 20th day of March, 1981.

Recorded by me,  
(s) M. U. Auckloo  
Secretary

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No 13  
**JUDGE'S ORDER**  
20th March, 1981

No. 13  
Judge's Order  
20th March, 1981

30 Mr. G. Duval, Q.C. appears instructed by Mr. Attorney P. Balmano for the applicants.

Mr. D. Ramsewak, Acting Assistant Parliamentary Counsel, appears for the respondent.

Upon hearing the parties, I take time to consider.

Chambers, this 20th day of March, 1981.

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(s) V. J. P. Glover  
Puisne Judge

No 14  
**JUDGE'S ORDER**  
 22nd April 1981  
 (Omitted)

No. 14  
 Judge's Order  
 22nd April 1981

No 15  
**JUDGE'S ORDER**  
 25th May, 1981  
 (Omitted)

No 15  
 Judge's Order  
 25th May. 1981

**10**                      No. 16  
**AFFIDAVIT OF: P. PONAMBALLUM AND C. MOUTOU**  
 6th May 1981

No. 16  
 Affidavit of P. Ponamballum  
 and C. Moutou  
 6th May 1981

I, Premananda Ponamballum, a skipper residing at Market Road, St. Pierre, make my solemn affirmation as a Hindu.

And I, Clement Moutou, a Lightkeeper and Signaller of the Mauritius Marine Authority residing at 15, Gustave Colin Street, Beau Bassin, Make Oath;

And we both say as follows:-

1. We are two of the applicants in this matter and we are authorised to respectively swear and affirm this affidavit on behalf of the other applicants also.
- 20 2. This matter is connected with another application made by another trade union of employees of the respondent, the Mauritius Marine Authority Employees Union, together with other persons, for the same relief, namely, making executory the award of an Arbitration Committee.
3. On the 20th March, 1981, this application was heard on its merits by His Lordship Mr. Justice V. J. P. Glover, sitting at Chambers and after argument by both sides, His Lordship reserved judgment.
4. On the 7th April, 1981, an Act, the Code of Civil Procedure (Amendment) Act 1981 (hereinafter referred to as "The Act") was enacted by the Legislative Assembly; it received the Assent of the Governor General on the 8th April, 1981 and was published and came into force on the same day.
- 30 5. Following the coming of the force of the Act, on the 9th April, 1981, the Attorney General (acting as Ministere Public) has lodged an "opposition" in the Registry of the Supreme Court against our said application, purportedly under article 1026-9 of the Code of Civil Procedure as enacted by the Act and section 3 of the Act.
6. We are advised and we verily believe that the Act is contrary to section 8 of the Constitution in that-

No. 16  
Affidavit of P. Ponamballum  
and C. Moutou  
6th May 1981

a) the agreement ("convention d'arbitrage") having intervened between the respondent and the applicant trade unions (representing ourselves and other employees of the respondent) constituted a binding contract, and all the parties to the award are bound by the award and its effects under articles 1134 and 1135 of the Civil Code;

b) by the effect of the award, we are entitled: (i) Premananda Ponamballum the first deponent, with effect from 1.1.80, to a monthly salary of Rs. 4,675.- and on the 9th April, 1981, to arrears of salary totalling Rs. 18,277.50; and (ii) I, Clement Moutou the second deponent with effect from 1.1.80 to a monthly salary of  
10 Rs. 2,070.- and as at 9th April, 1981 to arrears of salary totalling Rs. 7,086.35;

c) our property rights under the award were "liquidated" and had fully matured and the application to His Lordship the Judge at Chambers was not for a declaration of the existence of those rights but only for an order for the execution of the award and the enforcement of those rights against the respondent;

d) the new article 1026-9 of the Code of Civil Procedure, as enacted by the Act, and section 3 of the Act accordingly deprive us of our property rights and constitutes a requisition, or taking possession of our property, without any compensation as required by section 8 of the Constitution;

e) The Act makes no provision for (i) access to the Supreme Court or (ii) for  
20 the prompt payment of adequate compensation, as required by section 8(1) of the Constitution.

7. We are also informed and we verily believe that, at the time of the enactment of the Act, there was no other award which had been the subject of an application to His Lordship the Judge at Chambers and that section 3 of the Act was aimed solely at the award which is the subject matter of this application.

8. We accordingly maintain that the object, and the effect, of section 3 of the Act-

a) was solely to interfere with the judicial powers of His Lordship the Judge at Chambers, on the application then pending before him;

b) is to arbitrarily single out the application, and to deprive us of our property  
30 rights arising out of the award without compensation;

c) is to give to the Attorney-General power, contrary to the Constitution, to interfere in a judicial process without laying down the criteria and the rules by which he is to be guided.

9. We are also advised and we verily believe that the "opposition" lodged by the Attorney - General, as Ministere Public, in this matter is null and void in that-

a) it is made under article 1026-9 of the Code of Civil Procedure and section 3 of the Act which are contrary to the Constitution;

b) the award in the present case does not affect public interest;

c) the denunciation of a solemn agreement arrived at in the presence of the Prime Minister and Minister responsible for Ports, and with his concurrence, cannot be said to be in the public interest as it brings into contempt the word of the Prime Minister and is likely to have dire consequences on other discussions with the Prime Minister, on negotiations with him and agreements reached with him;

d) such a power of a judicial nature must be exercised judicially after consideration of all the implications of the decision, whilst in the present case it is clear that the Attorney-General was not exercising his own judgment but was only implementing a decision reached prior to the enactment of the Act;

e) the "opposition" in this case constitutes and unwarranted interference in a judicial process.

10. We accordingly pray that the "opposition" of the Attorney-General be set aside, with costs against the Ministere Public.

Respectively solemnly affirmed by )  
the first deponent, and sworn by ) (s) P. Ponamballum  
the second deponent at Chambers, ) (s) C. Moutou  
Supreme Court, this 6th day of May 1981)

Before me,  
(s) A. Stephen  
Chief Registrar  
Supreme Court

16  
Affidavit of P. Ponamballum  
and C. Moutou  
6th May 1981

\_\_\_\_\_  
No 17  
**JUDGE'S ORDER**  
7th May 1981  
(Omitted)

No 17  
Judge's Order  
7th May, 1981

\_\_\_\_\_  
No 18  
**JUDGE'S ORDER**  
13th May, 1981  
(Omitted)

No. 18  
Judge's Order  
13th May 1981

\_\_\_\_\_  
No 19  
**MEMORANDUM DRAWN UP BY A. G. MASTER AND REGISTRAR**  
12th December, 1980  
(Omitted)

No 19  
Memorandum drawn up by  
A. G. Master and Registrar  
12th Dec. 1980

\_\_\_\_\_  
No 20  
**LETTER FROM M. LEFEBVRE**  
2nd August, 1980  
(Omitted)

No 20  
Letter from Lefebvre  
2nd Aug. 1980

No 21  
Affidavit of  
Fee Sion Young  
12th Dec. 1980

No 21  
**AFFIDAVIT OF: FEE SION YOUNG**  
12th December, 1980  
(Omitted)

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No. 22  
Documents

No 22  
**DOCUMENTS**  
(Omitted)

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No. 23  
Affidavit of  
P.M. Moorogan  
23rd Otc. 1981

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No 23  
**AFFIDAVIT OF: P. M. MOOROOGAN**  
23rd October, 1981

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I, Payeneesamy Moorghen Moorogan, Temporary Director General of the Mauritius Marine Authority, make my solemn affirmation as a Hindu and say as follows -

1. I am authorised by the Mauritius Marine Authority, hereafter called the Authority, to solemnly affirm this affidavit.
2. On the 4th of February 1981 I solemnly affirmed an affidavit in which I said at paragraph 7 that "the question of aligning the wages and salaries in the parastatal bodies on those of the public service was in fact raised before the Arbitrator though he overruled it."
- 20 3. On the instructions of the Minister responsible for ports, I made representations to the Arbitrator that the wages and salaries in the parastatal bodies should be aligned on those obtainable in the public sector according to the avowed policy of the Government as to do otherwise would have serious repercussions in the public and the private sectors.
4. The Arbitrator overruled the representations so made by me on the ground that the Ports Act 1975 enabled the Authority to conduct its business according to commercial principles.
- 30 5. The Arbitrator has in 8(ii) of his award accepted the fact that "peu après la prise de fonction de la Mauritius Marine Authority en juillet, 1976, les directives ont, en effet, été donnés pour que les salaires et conditions de service soient les mêmes à la Mauritius Marine Authority que ceux en usage dans son Administration."



6. In fact the Authority had received such directions from its parent Ministry, the Ministry of Communications, on the 6th July, 1976.

Solemnly affirmed by the abovenamed )  
deponent at Chambers, Supreme Court, ) (s) P. M. Moorogan Before me,  
House, this 23rd day of October, 1981 ) (s) A. Stephen  
Chief Registrar  
Supreme Court

No. 23  
Affidavit of  
P.M. Moorogan  
23rd Oct. 1981

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No. 24  
**JUDGMENT**  
21st December, 1981  
(Omitted)

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No 24  
Judgment  
21st Dec. 1981

No 25  
**SECURITY TO PROSECUTE APPEAL**  
27th January, 1982

Security in the sum of Rs. 10,000/- for the due prosecution of the appeal has been furnished by Applicants on 27th January, 1982.

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No. 25  
Security to  
Prosecute Appeal  
27th Jan. 1982

## **Certificate of the Master and Registrar**

I hereby certify that the foregoing is a true and correct copy of all proceedings, judgment, decrees and orders had and made, of all documents received or given in the above matter (except documents stated as omitted in the hereto annexed index.)

Given under my hand and the seal of the Supreme Court of the Island of Mauritius this        day of May 1982.

(sd) J. Forget  
Master and Registrar