

INDUSTRIAL COURT OF MALAYSIA

CASE NO. 4/1-479/08

BETWEEN

**NATIONAL UNION OF BANK EMPLOYEES,
PENINSULAR MALAYSIA**

AND

MALAYAN COMMERCIAL BANKS' ASSOCIATION

AWARD NO : 1349 OF 2008

Before : **PUAN AMELIA TEE HONG GEOK BT. ABDULLAH**
– **CHAIRMAN** (Sitting Alone)

Venue : Industrial Court Kuala Lumpur.

Date of Complaint: 30.5.2008

Dates of Mention: 9.7.2008, 30.7.2008.

Representation : Messrs Kalai & Partners for Mohammad Fauzi b. Shamsuddin (“the Complainant”).

Mr. A. Ramadass from Messrs Ramadass & Associates, counsel representing the Malayan Commercial Banks' Association (“the Respondent”).

COMPLAINT :

ENCIK MUHAMMAD FAUZI B. SHAMSUDDIN (“the Complainant”) has lodged a complaint under section 56(1) of the Industrial Relations Act, 1967 that Article 7 of Collective Agreement Cognizance No. 73/2001 does not apply to him and that the Respondent be directed to cease applying the same to him.

AWARD

1. **ENCIK MUHAMMAD FAUZI BIN SHAMSUDDIN** (“the Complainant”) has lodged a complaint under section 56(1) of the Industrial Relations Act, 1967.

2. The Court notes that Form S as filed does not appear in order. Whilst citing the parties as **MALAYAN COMMERCIAL BANKS’ ASSOCIATION** and the **NATIONAL UNION OF BANKS’ EMPLOYEES, PENINSULAR MALAYSIA**, the complaint also refers to Muhammad Fauzi bin Shamsuddin as the Complainant. The Court is thus unclear as to who is the complainant in this case.

3. The case was called for mention on 9.7.2008 in the presence of Mr. S. Rutheran who was mentioning the case on behalf of Mr. D. Kalaimany of Messrs Kalai & Partners. Form B filed by Muhammad Fauzi b. Shamsuddin reveals that he had authorized Messrs Kalai & Partners to represent him in these proceedings before the Court. Mr. A. Ramadass from Messrs Ramadass & Associates appeared for Malayan Commercial Banks’ Association, the Respondent. He told the Court that the Respondent should not be party to this case.

4. The Court had informed the parties as to the irregularities in Form S and directed Mr. Rutheran to convey the Court's direction to Mr. Kalai to sort out the matter.
5. The case came up for re-mention on 30.7.2008 in the presence of Mr. A. Ramadass for the Respondent. Neither Muhammad Fauzi b. Shamsuddin nor his counsel were present in Court. Mr. S. Rutheran who was present but who had no instructions to mention the case on behalf of Mr. Kalai informed the Court that he had conveyed to the Court's directions to Mr. Kalai to rectify Form S and to be present in Court on the next mention date, both orally as well as in writing. He tendered to Court a copy of his letter to Messrs Kalai & Partners to that effect.
6. In light of the absence of both the Complainant and his counsel and further in light the fact that there is a good possibility that there has been an error in the filing of Form S, the Court hereby orders that the complaint be struck off.

HANDED DOWN AND DATED THIS 31ST DAY OF JULY 2008

**(AMELIA TEE HONG GEOK)
CHAIRMAN
INDUSTRIAL COURT.**