

Sri Lanka: The Elusive Rs. 1,700 day rate for tea pickers

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It is now six months since Ranil Wickramasinghe announced at the Kotagala May Day Rally of the Ceylon Workers' Congress that the daily wages of estate workers would be increased to Rs. 1,700 and that they would be paid Rs 80 for every kilogram of green leaf plucked above the norm. The government gazetted the decision as an order from the Commissioner of Labour, the daily wage being made up to Rs. 1,700 by adding a Rs. 350 special allowance not liable to statutory payments of EPF and ETF to the basic wage of Rs 1,350. However, the Regional Plantation Companies (RPCs) obtained an interim injunction against implementing the gazette as they were legally challenging the decision as being unilateral and arbitrary.

The government realizing that the delay meant they would not be able to use it to muster estate votes for Ranil in the forthcoming Presidential Election, withdrew the gazette and made a decision at the Wages Board to increase wages. The wage decided on at the Wages Board was still Rs. 1,700 but the Rs. 350 special allowance added to the basic wage of Rs. 1,350 was now loosely worded as a payment based on a productivity model.

This was further clarified by the Planters' Association as being available to workers as payment of Rs 50 per kilogram of green leaf plucked above the norm, gleefully announcing that this would allow workers to earn well above Rs 350 as there were no limits. However, this was a fraud perpetrated on the workers as the over kilogram rate was an existing benefit available to the tea and rubber workers and could not be considered a wage increase, although the rate had been increased from Rs 40 to Rs 50, nowhere near the Rs 80 per kilogram promised by Ranil.

Wages in the plantations were based on Wages Board decisions until private management took over in 1992. Under private management, they were decided on by a Collective Agreement negotiated between employers and trade unions every two years. Over the years, the 22 RPCs (Regional Plantation Companies) which were managed by different companies, each controlling 10-12 estates, became consolidated with Hayleys controlling a quarter of the estates and Richard Pieris controlling slightly less.

Half the estates are now controlled by two big companies. This monopoly situation has bolstered the ability of management to suppress workers and their rights. The management techniques practised by RPC Managements to increase profitability appear to be focused on undermining workers' rights by converting permanent staff into informal workers offered contract work or independent work through a pernicious outgrower system, paying them poverty level wages and reducing their social protection benefits.

Wage negotiations became protracted with pay rises implemented only after three or four years, worker demands for a pay rise routinely dismissed on the claim that it would bankrupt the industry, often ending in workers having to accept a nominal increase with no arrears being paid when

settlement was reached. Management has meanwhile made a fine art of hiding profits by transferring them to associate companies to justify their claims of running at a loss. But one does not understand and it remains unexplained why companies are taking on more and more estates if in fact they are making a loss. Management is able to offer low wages knowing full well that any strikes by workers living on the kind of subsistence wages paid to estate workers cannot last long and are bound to fail.

Things came to a head in 2021 when the RPCs fought against a budgetary decision based on an election promise by the government to increase wages from Rs 750 to Rs 1,000. This was at a time of high inflation with workers finding it difficult to afford basic food for their families while at the same time rupee earnings of the companies from tea and rubber exports had almost doubled due to the devaluation of the rupee against the dollar. However, management refused to come up with a reasonable offer.

Minister Nimal Siripala de Silva faced with the paltry offers of the RPCs decided to enforce the wage increase through a Wages Board mechanism. The Wages Board decided on a Rs 900 wage plus a Rs 100 allowance in April 2021. The RPCs as usual went to courts and the wage increase was implemented only in October that year. The RPCs also announced that they were no longer bound by Collective Agreements. They reduced the number of days of work offered to workers and arbitrarily increased the norms by around 15-20% penalizing workers by paying a reduced wage, the so-called *ara per* (half name) if the norm was not achieved.

The 2024 decision of the Wages Board is problematic. Unlike Collective Agreements, Wages Boards prescribe a minimum wage that has to be paid to all workers (Section 24 of the Wages Board Act). The fact that a reduced wage cannot be paid has been legally established as long back as 1931 in a case brought by the Attorney-General against the Superintendent of Perth Estate, Kalutara who had paid workers three quarters of the Wages Board determined wage and given them six hours of work (104-NLR-NLR-V-34-The-Attorney-General-v.-Urquhart.pdf).

The productivity-based allowance is an incentive payment which is variable and it is difficult to understand how this could be part of a minimum wage. Furthermore, the productivity-based allowance is available only to tea pluckers and rubber tappers with many workers coming under the same Wages Board like factory workers, weeders, watchers, drivers and personal staff in bungalows unable to claim the allowance.

The only variation permitted by the Act (Section 20.2) is if on an agreement at the Wages Board a formula is accepted to change wages at intervals as was seen in the incorporation of a cost-of-living (C-O-L) allowance in 1984 of four cents on the daily wage per unit increase in the C-O-L index in 1984. The Commissioner of Labour was empowered by the Wages Board to issue an order on the wages to be paid each month based on the C-O-L index of the preceding month.

Since the Wages Board has decided on a minimum wage and this minimum wage is Rs 1,700 per day, it is incumbent on management to pay every worker this wage unless he or she is unwilling to complete a full day's work (eight hours or nine hours if a one-hour lunch break is allowed) provided such work has been offered to the worker by Management (Section 24). Non-payment of the Wages Board prescribed minimum wage to workers in that particular trade is an illegal act.

The attempt to dupe the workers by Ranil's campaign has backfired on the RPCs. It is clear that all workers should be paid Rs 1,700 per day as the Wages Board decision stands and it is the duty of the Commissioner-General of Labour to enforce this decision.

Furthermore, it may be necessary for the Commissioner-General to revisit many of the techniques,

used by the RPCs since 2021 to pay less than the Wages Board determined daily wage. They may have been permissible under the Collective Agreements but are not under the Wages Board Act. Management has and is even now resorting to several illegal acts which go against Wages Board decisions. Many estates are still paying the old rate of Rs 900 or Rs 1000 per day for workers who have not been registered and therefore not on the check-roll and this is clearly illegal.

So is the practice of reducing wages including the payment of 'half name' due to non-achievement of norms as any reduction of wages determined by the Wages Board is clearly illegal unless Management can prove that a full day's work was offered and the worker was unwilling to work. Perhaps, there is even a case for workers to take legal steps to recover the amounts deducted by estate management in paying the 'half name'.

It was the greed of the Management Companies for more and more profits that forced the Minister to take plantation wages out of the Collective Agreement scheme into Wages Boards. Their participation in a fraudulent scheme to cheat plantation workers into thinking that that their daily wage rate is to be increased to Rs. 1,700 as part of Ranil's election strategy is thankfully going to end up ensuring that all workers in the tea and rubber trade are paid the Rs. 1,700 daily wage proposed by Ranil, bringing it almost in line with the Indian Rupees 482 (1 Ind. Rupee = 3.55 SL Rupee) daily wage of tea workers in Kerala, India.

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