

The Labour Court
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CD/22/39

c-166048-21

RECOMMENDATION NO. LCR22579

INDUSTRIAL RELATIONS ACTS 1946 TO 2015
SECTION 26(1), INDUSTRIAL RELATIONS ACT, 1990

PARTIES :

DUBLIN AIRPORT AUTHORITY

- AND -

960 MIXED GRADE WORKERS
(REPRESENTED BY IRISH CONGRESS OF TRADE UNIONS)

DIVISION :

Chairman : Ms O'Donnell
Employer Member : Mr O'Brien
Worker Member : Ms Tanham

SUBJECT:

1. Claim for Increments and Pay Progression.

BACKGROUND:

2. This dispute could not be resolved at local level and was the subject of a Conciliation Conference under the auspices of the Workplace Relations Commission. As agreement was not reached, the dispute was referred to the Labour Court on 18 February 2022 in accordance with Section 26(1) of the Industrial Relations Act, 1990. A Labour Court hearing took place on 11th April 2022.

UNION'S ARGUMENTS:

1. The Union claims that the company was unjustified in withholding the payment of increments and pay progression payments in 2020 and that the Employer has a contractual obligation to make the payments.
2. The Unions claim that they have entered into collective agreements that have resulted in significant savings for the company and the company has been in receipt of financial assistance from the government.
3. The Unions further claim that with the ending of most public health restrictions associated with the pandemic, passenger numbers have improved significantly and are projected by the company to continue to grow.

COMPANY'S ARGUMENTS:

1. The company contends that the decision to freeze the application of increments and pay progression for 2020 was reasonable and proportionate in all the circumstances facing the D.A.A..
2. The company claims that there is no entitlement to an annual pay increase for employees whose pay is determined by the pay mechanism. Given the impact of the pandemic on business and trading performance for 2020, the company was not in a position to pay the increments or pay mechanism.
3. The company also claims that there have been no savings to date from the voluntary severance programme and it was still loss making.

RECOMMENDATION :

Recommendation

The dispute between the parties arises from a decision by Management to pause the payment of increments that fell due in April 2020 and pay progression payment that fell due in 2021. Payments were implemented the following year April 2021 and January 2022. Management submitted that it was necessary to do this to address financial implications arising from the Covid-19 pandemic. A total of 1,026 collectively bargained for workers were affected by this decision. The Unions submitted that the Employer had unilaterally imposed this pause.

Union position

It is acknowledged that the situation facing the DAA in 2020 was unprecedented but the problems were not unique to that company nor were they caused by the workers. The DAA received extensive financial support from the Government and benefitted from the Temporary Wage Subsidy schemes and the Employment wage Subsidy Scheme.

The Workers covered by this dispute either receive incremental credit or pay progression depending on when they commenced employment. Both pay models are contained in the relevant contracts and arose from collective agreements. There is nothing in either the contract or the collective agreement that allows the Employer to impose a pay pause as happened on this occasion.

The Unions have entered into collective agreements that have resulted in very significant savings for the Employer. The DAA are currently engaging in two major projects along with implementing bonus payments to its staff. In the circumstances there is no reason why this cohort of staff should not have the missed payments re-stored.

Employer's position

The Employer submitted that there are 1802 workers whose pay is normally determined by increments and pay progression. Of the 1026 who are still progressing through either their relevant incremental pay scale or pay band, 151 employees are paid increments and 875 are done through pay progression. The Employer submits that the decision to pause the payments which were restarted twelve months later was not taken lightly. It was a very difficult time for the Employer and there was a lot of uncertainty. At the time the Employer had little or no money coming in and they were looking at measures to cut costs. They initially left all employees on 100% hours and pay but after a short period staff were moved to 80% with the exception of a small number of key workers.

As part of the cost containment measures no pay related increases were applied to any worker. The Employer engaged consistently with the Unions throughout the pandemic and all affected workers were written to and advised of the decision and the rationale for same. At the request of the Unions the Employer had given a commitment at the commencement of the pandemic that there would be no compulsory redundancies or permanent changes to core terms and conditions of employment. This limited the option available to the Employer in terms of achieving cost containment.

Discussion

It was accepted in the course of the hearing, that this cohort of workers, unlike their colleagues who were on the maximum point of their scale/pay band had been hit on the double as they were also impacted by the general pay pause.

It was not disputed by either party, that there is a collective bargaining structure in place for this category of Workers and that the structure requires that both parties engage to resolve any issues that arise. The Employer in this case sought to engage after they unilaterally imposed a change to the existing arrangements for the payment of increments and pay progression. Where there are agreed collective bargaining structures in place the Court cannot condone the failure by one of the parties to utilise those procedures to bring about change even if it is a temporary change.

The role of the Court in industrial relations dispute of this nature is to investigate the dispute and if it believes that it can be of assistance in the resolution of the dispute to make a recommendation to that effect. The Court having heard the parties and considered the exceptional circumstances that prevailed at that time, recommends that on acceptance of this recommendation by the parties the outstanding increment /pay progression be paid with effect from the date of this recommendation, and that each Worker be paid a lumpsum equal

to six months payment of the increment/ pay progression in full and final settlement of this dispute.

The Court so recommends.

Signed on behalf of the Labour Court

Louise O'Donnell

Deputy Chairman

SL

27 April 2022

NOTE

Enquiries concerning this Recommendation should be in writing and addressed to Sinead O'Connor, Court Secretary.