

PRESS RELEASE BY THE MINISTRY OF HUMAN RESOURCES IN RESPONSE TO A PRESS STATEMENT BY THE NATIONAL UNION OF BANKING EMPLOYEE'S (NUBE) PUBLISHED IN MALAYSIAKINI ON 19 JANUARY 2010 IN RESPECT OF 'MINISTRY ACCUSED OF PROMOTING UNION BUSTING'

The Ministry of Human Resources through the Department of Industrial Relations Malaysia conciliates in trade dispute cases reported to the Ministry. Trade disputes generally encompass matters pertaining to representation for reinstatement in respect of the dismissal of workers, employment terms and conditions, allegations of union busting and others matters with regards to employment. The Department conciliates for settlement of the disputes on a win-win basis. If conciliation fails, the Director General for Industrial Relations is required pursuant to Section 18(5) of the Industrial Relations Acts 1967, to notify the Minister of Human Resources accordingly. The Minister upon receipt of the notification by the Director General would consider the facts and merits of the dispute in arriving at a decision, whether to refer or not to refer the dispute for arbitration by the Industrial Court, as stipulated under Section 26 of the same Act. As such, the contention by NUBE that the Minister must in all circumstances refer trade dispute cases to the Industrial Court is incorrect and not in consonant with the requirements of the law.

In 2009, the Ministry had dealt with 401 cases of trade dispute. Out of the total number of cases handled, 299 cases were settled out of which 192 cases (64%) were resolved through the conciliatory efforts of the Ministry whilst 107 cases (36%) were referred for a decision by the Minister. Out of the total referred, the Minister upon considering the facts and merits of the trade disputes referred 74 cases (25%) for arbitration by the Industrial Court

whilst 33 cases (11%) were not referred to the Industrial Court. With regards to representation for reinstatement in dismissal cases under section 20 of the Industrial Relations Act 1967, a total of 7,483 cases were handled by the Ministry in 2009, out of which only 271 cases were not referred to the Industrial Court.

On NUBE's allegation of *union busting* claimed to have been resorted to by a foreign bank operating in this country by re-designating staff in the clerical positions to that of executive category, the Ministry's findings is that this is an issue involving the promotion of the staffs concerned from a clerical category to those of executive category. The promotion of employees from one category to a higher category is essentially a management's prerogative in line with section 13 of the Industrial Relations Act, 1967. The allegation of *union busting* as claimed in this instance is therefore not correct.

On the allegation in respect of EON Bank and RHB Bank's failure to pay performance bonuses to their employees, the Ministry is of the opinion that the matter is in line with the terms of the collective agreement as agreed to between the said banks vide the Malaysian Commercial Bank Association (MCBA) and NUBE. By virtue of this agreement, two months bonus is payable to employees based on the contractual terms of their collective agreement. Both banks paid their employees in accordance with the provisions of the terms of their collective agreement. On NUBE's contention that their members ought also to be paid performance bonuses in addition to the contractual eligibility, the banks concerned only paid performance bonuses to employees who fell outside the purview of the collective agreement. The payment of performance bonuses to employees who are not covered within the scope of the collective agreement is solely at the discretion

of the bank depending on the performance of the employees, in particular, and the performance of the bank, in general.

As such, the allegations in respect of *union busting* by NUBE as appearing in Malaysiakini dated the 19 January, 2010 is unfounded.

Dato' R.Segarajah
Secretary General,
Ministry of Human Resources.

Dated: 20 January, 2010