

## – TAWU TO APPEAL JUDGEMENT !!! –

### TAWU BELIEVES JUDGE ERRED

After almost 5 years of frustrating wait, Madam Justice Price Findlay delivered her judgement on Friday 24th, January 2014, in an appeal brought by the St. George's University against the Award of the Justice Lyle St. Paul Arbitral Tribunal in the matter of the payment of the **NIGHT DIFFERENTIAL ALLOWANCE (NDA) or SHIFT ALLOWANCE**.



TAWU has held that the NDA which the Union negotiated and which was proposed by the Union was that on the basis of all the evidence presented to the parties - the Labour Commissioner and the Minister of Labour found that TAWU was right; so too had the Judge Lyle St Paul who chaired the Arbitration Tribunal.

Workers would recall that, the **UNIVERSITY AGREED THAT THE TRIBUNAL FINDINGS WOULD BE FINAL AND BINDING BUT WENT AHEAD AND APPEALED.**

The University also imposed a punishment on workers entitled to the NDA when it suspended the payment of the one month's pay in December – this suspension has continued up to this time. Dozens of workers have not been paid the "Christmas Gift/ Bonus" for 5 YEARS!! The University has always made this Christmas Gift payment even though it is not part of the Collective Labour Agreement.

The Judge's primary error is that she pinned her judgement on the fact that it was SGU who wanted to have Maintenance Workers moved to a shift system. In fact, TAWU believes that the Judge's primary error is that she pinned her judgement on the fact that it was SGU who wanted to have Maintenance workers moved to a shift system. The reality is however that, the parties

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agreed to extend the then shift work to include maids, Grounds men and Maintenance. Judge Overlooked Crucial Pieces of Evidence

TAWU believes, Madam Justice Price Findlay overlooked crucial facts presented by its Lawyer and therefore made fatal and erroneous conclusions in her judgement. It is a fact that the NDA was first proposed by TAWU on December 1st, 1999 during negotiations for the 1997 to 2000 Collective Labour Agreement (CLA) but there was no agreement on those proposals of \$4.50 per hour Monday to Friday for the Shift 4:00 PM TO 12 midnight and 12 midnight to 8:00am \$5.50 . On May 21st, 2001, the Union made fresh proposals yet again for an NDA for ALL SHIFT WORKERS. The issue of the NDA for ALL SHIFT WORKERS continued to be negotiated and on February 14th 2002, the parties agreed to the NDA for all shift workers in a meeting before the Labour Commissioner. So this is a brief recount of the issue.

### **JUDGEMENT SETS NEW NEGATIVE PRINCIPLE**

ONE OF THE MORE WORRYING THINGS ABOUT THIS JUDGEMENT FOR ALL TRADE UNIONS IN GRENADA IS THAT IT CAN SET A NEW PRINCIPLE IN INDUSTRIAL RELATIONS. It's the Union's view that employers may very well take the position that the Collective Agreement is not important but what position they may have before an agreement is reached. Employers can then use this to get out of any benefit negotiated by the Union.

### **IT IS VERY IMPORTANT FOR TAWU TO APPEAL THIS JUDGEMENT!!**

#### **SGU BATING WORKERS TO GIVE UP THE STRUGGLE**

By dangling the payment of the Christmas Gift in front workers and promising to pay the Christmas Gift at month's end HR is telling workers to call the Union to remove their names from the Appeal. Workers don't fall for that TRICK!!! FIRSTLY, no worker name is on any action before the Courts. The legal action that SGU brought sets the University as APPELANT and TAWU as the RESPONDENT. The case is AGAINST the Tribunal headed by Justice Lyle St. Paul and it is not a case against TAWU as such.

What TAWU is saying is that the close to FOUR AND A HALF MILLION DOLLARS (\$4 1/2 MILLION) in retroactive NIGHT DIFFERENTIAL is owed to ALL SHIFT WORKERS and that SGU MUST pay the workers that money. TAWU has explained before that the "CHRISTMAS GIFT" is not in the Union Contract and therefore TAWU can't force SGU to pay because NO ONE not even a court of law can force someone to give a gift. There are workers who are owed as much as \$30,000.00 in accumulated NDA and it would indeed be foolish to take six thousand instead. Those workers who don't want their NDA money may wish to write SGU saying just that so that when this case is won on appeal ,they won't have anything to get as they would have taken the Christmas Gift in exchange. But **TAWU CAN'T GET INVOLVED IN THIS** as it's

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a private matter between the GIFT GIVER (SGU) and the GIFT RECEIVER (the individual employee).

**SGU WORKERS THE STRUGGLE CONTINUES. ALREADY LAWYERS ARE BEING CONTACTED AND NOTICE OF APPEAL IS WELL IN ADVANCE. THIS CASE HAS IMPLICATIONS FOR ALL WORKERS IN THE STATE OF GRENADA.**