

**ASSOCIATED AIR-PAK INDUSTRIAL SDN. BHD., IPOH v. CHIN YOON
LOY
LABOUR DEPARTMENT, IPOH
CHAIRMAN: TAN KIM SIONG
[CASE NO. 4/4-304/90 (30 OCTOBER 1990)]
14 DECEMBER 1991, 5 MARCH 1992 & 9 SEPTEMBER 1994**

[Consent Award].

AWARD NO. 444 OF 1994 [11 OCTOBER 1994]

CONSENT AWARD

The parties to the dispute are Associated Air-Pak Industrial Sdn. Bhd. ("the Company") and Chin Yoon Loy ("the Claimant").

The dispute is over the dismissal of the Claimant who was, at the material time a director as well as a manager of the Company, with a basic salary, various allowances and benefits.

By a letter dated 30 September 1989 the Claimant's services as manager were terminated with immediate effect.

The Claimant contends the said termination is unfair and unwarranted and is in fact a wrongful dismissal, without just cause or excuse.

The Claimant prays for an order that he be reinstated without loss of any benefits monetary or otherwise including arrears of wages from the date of dismissal to the date of realisation of this order.

This is an old case. The record shows the case had been set down for hearing on numerous occasions but had to be postponed for one reason or another. The Company had applied to amend its statement in reply twice. It then challenged the status of the Claimant as a workman. When the ruling did not go its way it went to the higher Court to seek relief.

Finally the case came up for hearing on 12 September 1994. Half-way through the evidence of the Company's first witness the parties requested for a short adjournment to negotiate for a settlement. It took the parties quite some time to ultimately settle it on the following terms:

Terms of Settlement

By Consent and Without Admission of Liability the Company agrees to pay the Claimant and the Claimant has agreed to accept the sum of Ringgit Two Hundred Thousand Only (RM200,000.00) as compensation and in full and final settlement of the Claimant's claim herein arising out of his termination of employment which said sum shall be deposited with the Claimant's solicitors, Messrs Jerald Gomez and Associates within two (2) weeks from the date of this award hereof, on the Claimant's solicitors undertaking not to release the said sum of RM200,000.00 or any part thereof to the Claimant until the relevant clearance letter from the Jabatan Hasil Dalam Negeri is obtained.

And in Consideration of the Above Payment, it is Further Agreed that the Claimant offers Kaksa Sdn. Bhd. and/or its nominees an option to purchase the Claimant's 227,487 shares in Associated Air-Pak Industries Sdn. Bhd. together with a further block 105,121 shares (hereinafter referred to as the said 332,608 shares) and which said option shall be effective and valid for three (3) calender months from the date of this Award hereof, and upon Kaksa Sdn. Bhd. or its nominees exercising the said option by payment of twenty percent (20%) of the purchase price, the completion period for the purchase of the said 332,608 shares shall be two (2) calender months from the date thereof.

And it is Further Agreed that the said 332,608 shares as aforementioned under the said option shall be purchased at fair market value as determined by Messrs Arthur Andersen and Co. who will be instructed by the solicitors for the Company to carry out the share valuation and that the costs of and incidental thereto shall be borne by the Company.

Dated this 14 September 1994.

Terms and Conditions of Consent Award confirmed by

(sgd)

..... S. Nantha Balan and Steven Thiru Counsel for the Company

Solicitors: Messrs Shook Lin and Bok

(sgd)

..... Jerald Allen Gomez Counsel for the Claimant Solicitors: Messrs

Jerald Gomez and Associates