NATIONAL UNION OF NEWSPAPER WORKERS *a*

v.

KETUA PENGARAH KESATUAN SEKERJA

FEDERAL COURT, KUALA LUMPUR *b*
CHONG SIEW FAI CJ (SABAH & SARAWAK)
MOHAMED DZAIDDIN FCJ
ABDUL MALEK AHMAD FCJ
[CIVIL APPEAL NOS: 01-8-98(W) & 02-18-98(W)]
30 JUNE 2000 *c*

LABOUR LAW: *Trade Unions - Representation - Recognition and scope of representation of a trade union - National Union of Newspaper Workers - Whether could represent workmen not engaged in publishing industry - Trade Unions Act 1959, ss. 4A, 15(2), 26(1A) - Industrial Relations Act 1967, s. 9(4B)(b)* *d*

LABOUR LAW: *Trade Unions - Director General of Trade Unions - Jurisdiction - Whether competent to invoke s. 26(1A) of the Trade Unions Act 1959 and decide on a union's eligibility to represent employees - Trade Unions Act 1959, ss. 4A, 15(2), 26(1A) - Industrial Relations Act 1967, ss. 9(4B)(b)* *e*

The National Union of Newspaper Workers ('NUPW') is representing workers in the newspaper publishing industry, and by virtue of that came to represent the employees of two companies ('FPSB and STPD'). In 1989 FPSB and STPD severed their business activities from the newspaper publishing industry. FPSB and STPD then wrote to the Director General of Trade Unions ('DGTU') asking for a ruling as to whether NUPW could still represent their employees. The DGTU, being satisfied that FPSB and STPD were not involved in the newspaper publishing industry, invoked s. 26(1A) of the Trade Unions Act 1959 ('TUA') and ruled that NUPW could no longer represent the employees of the two companies. *f* *g*

NUPW applied for *certiorari* to *inter alia* quash the decision of the DGTU. The application was allowed by the High Court on the grounds that the DGTU had no jurisdiction to make the decision in question, that the query by FPSB and STPD ought to have been made under s. 9(4B)(b) of the Industrial Relations Act 1967 ('IRA'), and that the DGTU, in any case, ought to have exercised his powers under s. 15(2) of the TUA. FPSB and STPD appealed, whereupon the Court of Appeal, allowing the appeal, ruled that: (i) there was nothing in the TUA that prevented anyone from *h* *i*

seeking a ruling from the DGTU and similarly there was no provision that disallowed the DGTU from entertaining such query; (ii) section 9 of the IRA – and the sub-sections thereof – could not apply to instant appeals as they relate to situations where recognition is being sought which does not cover the situation before the court as recognition had already been accorded to the Union; (iii) section 15(2)(b) of the TUA dealt with the circumstances when the DGTU could cancel or withdraw the registration of a trade union and was to that end irrelevant. These apart the court also opined that the power of the DGTU when faced with the query from FPSB and STPD could only stem from s. 4A of the TUA. Dissatisfied with the decision the NUPW appealed.

Held:

Per Abdul Malek Ahmad FCJ

[1] The learned trial judge was in error when he agreed with the appellant that s. 9(4B)(b) of the IRA and s. 15(2)(b) of the TUA should have been resorted to instead of s. 26(1A) of the TUA. This court had no quarrel with the findings of the Court of Appeal on this point, and likewise, there was no reason to disagree with their reasoning thereof.

[2] In the circumstances, s. 26(1A) of the TUA could be applied by the DGTU to render the entire membership of the union in the respondent companies not eligible and the union incompetent to represent the entire membership. The section could also be invoked and applied to *de facto* derecognise a union and disunionise members in respect of the establishment, trade, occupation or industry concerned.

[Appeals dismissed.]

*[**Bahasa Malaysia** Translation Of Headnotes]*

Kesatuan Kebangsaan Pekerja-Pekerja Suratkhabar ('NUPW') di sini mewakili pekerja-pekerja dalam industri penerbitan suratkhabar, dan berikutan itu mewakili pekerja-pekerja di dua buah syarikat ('FPSB dan STPD'). Pada tahun 1989 FPSB dan STPD memutuskan semua aktivitinya yang berkaitan dengan perniagaan penerbitan suratkhabar. FPSB dan STPD kemudian menulis kepada Pengarah Kesatuan Sekerja ('DGTU') meminta keputusan DGTU sama ada NUPW masih boleh mewakili pekerja-pekerja mereka. DGTU, yang berpuashati bahawa FPSB dan STPD sudah tidak terlibat dengan industri penerbitan suratkhabar, menggunapakai s. 26(1A) Akta Kesatuan Sekerja 1959 ('TUA') dan memutuskan bahawa NUPW tidak lagi boleh mewakili pekerja-pekerja di kedua-dua syarikat berkenaan.

NUPW memohon perintah *certiorari* antara lain untuk mengenepikan keputusan DGTU. Permohonan tersebut dibenarkan oleh Mahkamah Tinggi atas alasan, bahawa DGTU tidak mempunyai bidangkuasa untuk membuat keputusan yang dibuatnya itu, bahawa pertanyaan oleh FPSB dan STPD seharusnya dibuat di bawah s. 9(4B)(b) Akta Perhubungan Perusahaan 1967 ('IRA'), dan bahawa DGTU, walauapapun, sepatutnya melaksanakan kuasanya di bawah s. 15(2) TUA. FPSB dan STPD merayu, dan Mahkamah Rayuan, dalam membenarkan rayuan, memutuskan bahawa: (i) tiada apa-apa dalam TUA yang melarang sesiapa pun dari memohon suatu keputusan dari DGTU dan begitu juga tidak terdapat peruntukan yang melarang DGTU dari melayani pertanyaan sedemikian; (ii) seksyen 9 IRA – dan seksyen-seksyen kecil di bawahnya – tidak terpakai kepada rayuan semasa kerana peruntukan-peruntukan tersebut berkait dengan situasi di mana pengiktirafan dipohon sedangkan situasi di sini tidak begitu kerana Kesatuan sudahpun mendapat pengiktirafan; (iii) seksyen 15(2)(b) TUA cuma menyentuh halkeadaan di mana DGTU boleh membatalkan atau menarik balik pendaftaran sesuatu kesatuan sekerja dan setakat itu seksyen tersebut tidak relevan. Selain itu, mahkamah juga memutuskan bahawa kuasa DGTU apabila berdepan dengan pertanyaan dari FPSB dan STPD adalah bersumberkan s. 4A TUA. NUPW berasa tidak puas hati lalu merayu.

Diputuskan:

Oleh Abdul Malek Ahmad HMP

[1] Hakim bicara yang bijaksana khilaf bilamana beliau bersetuju dengan perayu bahawa s. 9(4B)(b) IRA dan s. 15(2) TUA sepatutnya dipakai dan bukannya s. 26(1A) TUA. Mahkamah ini tiada perselisihan dengan dapatan Mahkamah Rayuan atas hal ini, dan begitu juga, tidak terdapat apa jua sebab bagi mahkamah ini untuk tidak bersetuju dengan alasan-alasan yang diberikan oleh mahkamah tersebut bagi dapatannya itu.

[2] Oleh yang demikian, s. 26(1A) TUA boleh digunapakai oleh DGTU bagi membatalkan keseluruhan keahlian kesatuan sekerja di syarikat-syarikat responden serta mengisytiharkan kesatuan sekerja tersebut sebagai tidak kompeten untuk mewakili keseluruhan ahli-ahlinya. Seksyen ini juga secara *de facto* boleh digunapakai bagi menarik balik pengiktirafan terhadap kesatuan sekerja atau *"disunionise"* ahli-ahli dari *'establishment'*, perniagaan, perusahaan, atau industri yang berkenaan.

[Rayuan-rayuan ditolak.]

Case(s) referred to:

Electrical Industry Workers Union v. Registrar of Trade Unions & Anor [1976] 1 MLJ 177 ***(refd)***

R Rama Chandran v. The Industrial Court of Malaysia & Anor [1997] 1 AMR 433 ***(refd)***

Syarikat Kenderaan Melayu Kelantan Bhd v. Transport Workers Union [1995] 2 CLJ 748 ***(refd)***

Legislation referred to:

Industrial Relations Act 1967, s. 9(4B)(b)
Trade Unions Act 1959, ss. 4A, 15(2)(b), 26(1A)
Trade Unions Ordinance 1959, s. 26(1A)

Civil Appeal No: 01-8-98(W)
For the appellant - Ramdas Tikamdas; M/s Siva, Ram & Assoc
For the respondents - Mahamad Naser Disa SFC (Ishak Bakri with him)

Civil Appeal No: 02-18-98(W)
For the appellant - Ramdas Tikamdas; M/s Siva, Ram & Assoc
For the respondents - Ramadass Arumugam (Jothiletchimy Maniam with him); M/s Ramadass & Assoc

[Appeal from Court of Appeal, Kuala Lumpur; Civil Appeal Nos: W-91-141-95 & W-02-655-95]

Reported by WA Shariff

JUDGMENT

Abdul Malek Ahmad FCJ:

The National Union of Newspaper Workers (hereinafter "the NUPW"), who is the appellant before us, had applied for *certiorari* against the Director General of Trade Unions (hereinafter "the DGTU"), who is the respondent in MPRS No. 01-8-98(W) (hereinafter "the first appeal") and against Federal Publications Sdn Bhd (hereinafter "FPSB") and the STP Distributors (M) Sdn Bhd (hereinafter "STPD") who are the first and second respondents in MPRS No. 02-18-98(W) (hereinafter "the second appeal") to quash the decision of the DGTU on 25 February 1992.

The facts of the matter before the High Court were as follows. NUPW was a trade union which was initialy recognised by FPSB and STPD as a trade union which represented their employees.

By similar letters dated 26 December 1990, FPSB and STPD had raised, to the DGTU, the fact that as their business activities had no longer any connection with the newspaper publishing industry, the eligibility of the NUPW to represent their employees was then the subject of dispute. Accordingly, they had asked the DGTU for a ruling on the matter.

It is relevant to reproduce the relevant portions of the contents of the letter from FPSB to the DTGU at this juncture:

> Dear Sir
>
> **RE: Rule 3 of the Constitution of the National Union of Newspaper Workers**
>
> The National Union of Newspaper Workers had been representing our employees since 1971 by virtue of our Company being a wholly owned subsidiary of Times Publishing Ltd which until recently had links with the newspaper publishing industry.
>
> Recent corporate events have brought about a change in the position of our Company which may affect the standing of the National Union of Newspaper Workers to represent our employees. The purpose of this letter is to seek your ruling on the issue.
>
> ...
>
> By reason of the matters set out above, we would be grateful if you could investigate into and make a ruling on whether or not the National Union of Newspaper Workers may continue to represent the employees of Federal Publications Sdn. Bhd.

On 12 November 1991, the DGTU carried out investigations and discovered that FPSB was involved with the publication of local text books whereas STPD was in the distribution and marketing of books, magazines and encyclopaedias with no involvement at all in the newspaper publishing industry.

Consequently, on 15 November 1991, the DGTU had invited the Secretary General of the NUPW to come to his office to discuss the matter which the latter did on 27 November 1991. The NUPW gave their views by letter to the DGTU on 11 December 1991 insisting that they still had a right to represent the employees of FPSB and STPD.

By letter dated 25 February 1992, the DGTU decided that the employees of FPSB and STPD cannot be accepted as, or continue to be, members of the NUPW considering the fact that they were no longer categorised as employees of the newspaper publishing and subsidiary industries as provided in r. 3.1 of the NUPW's rules and constitution.

Thus the application for *certiorari*. The said r. 3.1 states:

> RULE 3. MEMBERSHIP
>
> 1. Membership of the Union shall be open to all employees in the newspaper publishing and subsidiary industries excluding those who are employed in the managerial, executive capacity, confidential capacity and security capacity

a who are above the age of sixteen and whose place of work is in Peninsular Malaysia provided that no person for whom education is provided under the Education Act shall join or be a member of the Union, unless he is:

(a) *bone fide* employed as a workman as defined in the Trade Unions Ordinance, 1959, and

b

(b) over the age of eighteen years.

One of the issues raised at first instance was the competency of the DGTU to entertain and consequently to decide on NUPW's eligibility to represent the employees of FPSB and STPD in accordance with s. 26(1A) of the c Trade Unions Act 1959 (hereinafter "the TUA"). It was the submission of learned counsel for the NUPW that the procedure adopted by FPSB and STPD in sending the letter dated 26 December 1990 to the DGTU was irregular and did not confer the DGTU with any jurisdiction to make the ruling which is now disputed.

d It is pertinent to reproduce s. 26(1A) of the TUA at this point:

26(1A) No person shall join, or be a member of, or be accepted or retained as a member by, any trade union if he is not employed or engaged in any establishment, trade, occupation or industry in respect of which the trade union is registered.

e

Learned counsel for the NUPW's submission in the High Court, which was touched on in the Court of Appeal's judgments, was that any query should have been made under s. 9(4B)(b) of the Industrial Relations Act 1967 (hereinafter "the IRA") or the DGTU should have exercised his powers f under s. 15(2)(b) of the TUA.

For ease of reference, it is also relevant to restate the provisions of both s. 9(4B)(b) of the IRA and s. 15(2)(b) of the TUA to appreciate the effect of this submission:

g 9(4B) For the purpose of carrying out his functions under subsection (4A) the Director General:

(a) xxx; and

(b) may refer to the Director General of Trade Unions for his decision any h question on the competence of the trade union of workmen concerned to represent any workmen or class of workmen in respect of whom recognition is sought to be accorded, and the performance of duties and functions by the Director General of Trade Unions under this paragraph shall be deemed to be a performance of his duties and functions under the written law relating to the registration of trade i unions.

15(2) Where two or more registered trade unions exist in a particular trade, occupation, industry or place of employment, as the case may be, the Director General may, if he is satisfied that it is in the interest of the workmen in that trade, occupation, industry or place of employment so to do:

(a) xxx; or

(b) issue an order requiring the trade union or trade unions other than the trade union which has the largest number of workmen in the said trade, occupation, industry or place of employment as its members to remove from the membership register those members as are employed in that trade, occupation, industry or place of employment and thereafter the trade union or trade unions so ordered shall not enrol as members workmen in that trade, occupation, industry or place of employment, except with the permission in writing of the Director General; an order under this paragraph shall have full force and effect notwithstanding any provision of the rules of the trade union concerned.

The learned High Court judge agreed with that submission and had granted the order in terms with costs. Hence the appeal to the Court of Appeal. The Court of Appeal, in two separate written judgments, allowed the appeal which have resulted in the appeals before us.

The judgment of Siti Norma Yaakob, JCA clearly summarises the "recent corporate events" mentioned in the two letters dated 26 December 1990 as follows:

Both the 2nd and 3rd appellants, were at one time wholly owned subsidiaries of Times Publishing Ltd., a newspaper publishing company incorporated in Singapore on 7th March 1968, as a private limited Company. Since its inception in 1957, the 2nd appellant has been engaged in the publication of local books and general interest books whilst the 3rd appellant has, since its inception in 1978, been involved in the direct selling of encyclopedia and language tapes and the retailing of local books and the distribution of imported books and magazines.

Both the 2nd and 3rd appellants were never in anyway engaged or involved in the operation of the newspaper publishing industry. However in view of the fact that they were historically wholly owned by Times Publishing Ltd, who held a 20% shareholding in New Straits Times (Malaysia) Sdn. Bhd. which publish and print newspapers, they were joined as partners to the collective agreements concluded between Times Publishing Ltd. and the Union which by virtue of Rule 3 of its Constitution represented workers in the newspaper publishing and subsidiary companies.

In April 1984, Times Publishing Ltd. relinquished its 20% shareholding in New Straits Times (Malaysia) Sdn. Bhd. and in November the same year merged with two other companies, The Straits Times Press (1975) Ltd. and Singapore

> News and Publications Ltd. to form Singapore Press Holdings Ltd. Times Publishing Ltd. became the holding company for all non-newspaper operations of the Singapore Press Holding Group. This included the 2nd and 3rd appellants. Subsequently in November 1988, Times Publishing Ltd. was demerged from the Group and became an independent listed company in March 1989, thereby severing any link it had with the 2nd and 3rd appellants.
>
> It was following the severance of their business activities from the newspaper publishing industry that both the 2nd and 3rd appellants wrote the letters referred to earlier seeking a ruling from the 1st appellant as to whether the Union could continue to represent their employees in view of Rule 3.1 of the Union's Rules and Constitution prohibiting employees engaged in the non-newspaper publishing and subsidiary industries from being members of the Union.

The Court of Appeal was of the view that by the letters from FPSB and STPD to the DGTU, it was just to get the proper official interpretation of r. 3.1 of the NUPW's rules and constitution since they were faced with the nagging doubt as to whether the NUPW could continue to represent their employees as their link to their holding company had been severed.

They consequently found that there was nothing in the TUA that prevented any one from seeking a ruling from the DGTU and similarly, there was no provision that disallowed the DGTU from entertaining such a query.

The Court of Appeal also held that the learned High Court judge was in error when he agreed with the submissions of learned counsel for the appellant that s. 9(4B)(b) of the IRA and s. 15(2)(b) of the TUA should have been resorted to instead of using s. 26(1A) of the TUA.

On this point, the relevant passages in the Court of Appeal judgment written by Siti Norma Yaakob, JCA state:

> For this the learned Judge held that the 1st appellant should have followed the procedure laid by section 9 of the Industrial Relations Act, 1967. Section 9 forms part of Part III of the 1967 Act which is headed "RECOGNITION AND SCOPE OF REPRESENTATION OF TRADE UNIONS."
>
> Section 9 in particular refers to "Claim for recognition" and from a perusal of its many sub-sections, it is clear that what that section seeks to do is to set out the procedure by which a trade union can successfully initiate the process of seeking recognition to represent the workers of a potential employer. That can be done in writing in the prescribed form under sub-section (2). In so doing the employer may question the eligibility of his employees to be represented as employees in the managerial, executive, confidential and security capacities are expressly disqualified under sub-section (1). Any dispute as to their eligibility to be members may under sub-section (1A) be

> referred by a trade union or workmen or by the employer or by a trade union of employers to the Director General who under sub-section (4A) may resolve the matter by exercising his powers under sub-section (4B) or if the matter cannot be resolved shall under sub-section (4C) notify the Minister, who in the exercise of his powers under sub-section (5) shall give his decision which under sub-section (6) shall be final and shall not be questioned in any court of law.
>
> Clearly all the sub-sections that I have referred to so far cannot be applicable to the instant appeals as they relate to situations where recognition is being sought which does not cover the situation before us as recognition has already been accorded to the Union. ...
>
> Finally I come to section 15(2)(b) of the Act which the learned trial Judge found should have been invoked by the 1st appellant. Section 15 deals with the circumstances when the 1st appellant can cancel or withdraw the registration of a trade union. Sub-section (2) is concerned with the existence of two or more trade unions in a particular trade, occupation, industry or place of employment and paragraph (b) of that sub-section empowers the 1st appellant to deal with the matter. Clearly sub-section (2)(b) reflects the purpose and objective of trade unions in that only one trade union registered for a particular trade, industry, occupation and establishment can represent employees engaged in similar interests. Such is the case at hand and to that end section 15(2)(b) has no relevancy.

In particular, s. 9(4B)(b) of the IRA only applies where recognition is sought to be accorded to the trade union which is not the case here. In actual fact, the Court of Appeal found that the power of the DGTU when faced with the query from FPSB and STPD must come from s. 4A of the TUA which reads:

> 4A. In addition to the powers, duties and functions conferred on the Director General by this Act and any regulations, the Director General shall have and may exercise all such powers, discharge all such duties and perform all such functions as may be necessary for the purposes of giving effort to and carrying out the provisions of this Act.

We have no quarrel with the findings of the Court of Appeal and find no reason to disagree with their reasoning.

When leave to appeal was granted by this court on 23 November 1998, the two questions posed were:

(a) whether section 26(1A) of the TUA can be applied by the DGTU to render the entire membership of the union in the respondent companies not eligible and the union incompetent to represent the entire membership? and

(b) whether section 26(1A) of the TUA can be invoked and applied to *de facto* derecognise a union and disunionise members when it is admitted that nothing has changed in respect of the establishment, trade, occupation or industry concerned?

In *Rama Chandran, R v. The Industrial Court of Malaysia & Anor* [1997] 1 AMR 433, this court held that decisions which are susceptible to judicial review can be impugned on the basis of illegality, irrationality, procedural impropriety and proportionality. Therefore, there is a legal basis to review the award of the Industrial Court for substance as well as for process. Appellate jurisdiction is concerned with legality. The intensity of the court's review of administrative action may vary according to the nature of the case, for example, cases involving human rights and liberty will involve a more rigorous examination of the exercise of power.

At pp. 463, 464 and 465 of that judgment, they said:

In *Dunlop Estate Bhd v. All Malayan Estates Staff Union* [1980] 1 MLJ 243 at p. 246, Mohd. Azmi, J (as he then was) held:

> In my view, having regard to the principles enunciated in the cases cited, the Industrial Relations Act, being a social legislation enacted with the prime object of attaining social justice and industrial peace, demands practical and realistic interpretation whenever necessary, for the purpose of maintaining good relationship and fair dealings between employers and workers and their trade union, and the settlement of any differences or disputes arising from their relationship.

In *Nathan v. Barnet London Borough Council* [1978] 1 WLR 220 at 228, in *(sic)* a case involving an industrial relations matter of unfair dismissal, Lord Denning held:

> Faced with glaring injustice, the judges are, it is said, impotent, incapable and sterile. Not so with us in this court. The literal method is now completely out of date. It has been replaced by the approach which Lord Diplock described as the "purposive approach." ... In all cases now in the interpretation of statutes we adopt such a construction as will "promote the general legislative purpose" underlying the provision. It is no longer necessary for the judges to wring their hands and say: "There is nothing we can do about it." Whenever the strict interpretation of a statute gives rise to an absurd and unjust situation the judges can and should use their good sense to remedy it – by reading words in, if necessary – so as to do what Parliament would have done, had they had the situation in mind. ...

> It is clear that the High Courts and the Federal Court have adopted a liberal and progressive approach in *certiorari* proceedings, and I find that where the particular facts of the case warrant it the High Court should endeavour to remedy an injustice when it is brought to its notice rather than deny relief to an aggrieved party on purely technical and narrow grounds. The High Court should mould the relief in accordance with the demands of justice.

The Court of Appeal in *Syarikat Kenderaan Melayu Kelantan Bhd v. Transport Workers Union* [1995] 2 CLJ 748 said that it is neither feasible nor desirable to attempt an exhaustive definition of what amounts to an error of law for the categories of such an error are not closed. But it may be safely said that an error of law would be disclosed if the decision maker asks himself the wrong question or takes into account irrelevant considerations or omits to take into account relevant considerations, what may be conveniently termed an *Anisminic* error, or if he miscontrues the terms of any relevant statute, or misapplies or misstates a principle of the general law.

Learned counsel for the respondent argued that the DGTU has the power to make a decision under s. 4A of the TUA, which was added to the TUA together with s. 26(1A) *vide* Act A483, which decision was correct in this case as there is no comma appearing after the word "newspaper" in r. 3.1 of the rules and constitution of the NUPW meaning that the members of the NUPW must be employees of the newspaper publishing and subsidiary industries, of which FPSB and STPD are no longer active in. He also submitted that the DGTU was not influenced by the fact of any corporate manoeuvre or the change in the shareholding of the relevant companies. Further, he stressed that the members affected are at liberty to choose to join some other union relevant to their employment.

In the unreported case of the *The Electrical Industry Workers Union v. The Honourable Minister of Labour and Manpower & The Registrar of Trade Unions* (Kuala Lumpur High Court Originating Motion No. All of 1981), the Director-General requested the Registrar of Trade Unions to make a decision on the competency of the union to represent the employees of the company. Hashim Yeop Sani, J (as he then was) was of the view that the registrar has power under s. 26(1A) of the Trade Unions Ordinance 1959, the forerunner to the TUA, to determine the question of membership of a union. In another part of the judgment, the learned judge commented that the whole function of *certiorari* is aimed at the examination of the record and that, in a *certiorari* proceeding, the court is acting as a supervisory court and not as an appellate court. It became quite plain to

the court in that case that the union was attempting to question the merits of the decision. The learned judge accordingly held that it is clear that the legislature has entrusted on the registrar and the Minister a discretion to decide on the membership and representation by the union and the courts should not usurp this function and embark on a rehearing of the matter.

In *Electrical Industry Workers Union v. Registrar of Trade Unions & Anor* [1976] 1 MLJ 177, the Federal Court held that whether a person in a related or similar industry becomes a member of a particular union is squarely a matter for the decision of the Registrar of Trade Unions. If a particular union can say that it is for that union to decide whether those in another industry might be absorbed as members of the union, a dangerous situation would develop whereby each and every union in the country would do the same and this could produce disastrous results for the country.

We would answer both questions in the positive, dismiss both appeals with costs and order that the relevant deposits are to go to the respondents to the account of their taxed costs.