PERMANENT ARBITRATION TRIBUNAL

AWARD

R.N. 515

H. Balgobin - President
M. Serret - Member
H. Seebaluck - Member

Parties

A. Ayrga
and
Tea Board

Terms of Reference

"Whether, in view of his 24 years' service to the Tea Board, the nature and type of work he has been performing over that length of time and is actually performing and his qualifications, Mr. Anooj Ayrga should have been given acting ship as General Manager of the Tea Board with effect from 9 September 1995, date at which the General Manager went on pre-retirement leave, or otherwise."

1. The dispute was referred to the Tribunal by the Minister in Charge of Industrial Relations under the provisions of section 82 (l)(f) of the Industrial Relations Act, 1973.

The applicant claims that he has held office over the past 24 years at the Tea board as follows:

06/09/71 to 30/06/73 Compiler
01/07/73 to 25/11/76 Senior Statistical Assistant
26/11/76 to 22/05/85 Statistical & marketing Officer
23/05/85 to date Secretary

01/03/83 to 31/07/84 Secretary
Study Group on Tea Industry

Aug/Sep 83 Coordinator, UNCTAD Meeting of Tea Exporting Countries
Marl Apr. 84    Coordinator, FAD
National Demonstration Centre on Agricultural Statistics

May/Jun 87     Ag. General Manager
Jan/Feb 89     Ag. General Manager
Jun/July 90    Officer-in-Charge

In addition to the normal duties of the post held, been responsible for

1. Green Leaf Quality Control from 1971 to 1976;
2. Implementation of the Green Leaf Price Determination System from 1971 to 1976;

He presently services the Board as Secretary and is also responsible for

1. Licensing of Tea Plantations and Tea factories;
2. Registration of Metayers, Tea Shippers, Tea Blenders and Green Leaf Contracts;
3. Issue of Export and Import Permits;

The officer who has been appointed to be the acting General Manager of the Tea Board joined the Tea Board in August 1988 after having serviced in the Ministry of Agriculture and natural Resources as Technical officer from November 1976 to July 1987 and as Senior Technical officer from July 1987 to August 1988. He was appointed Projects Coordinator on 1 July 1993 and had acted as General manager in Jan./Feb 1994. His main responsibilities had been:

1. Working on Surface Moisture deduction;
2. Carrying out experiments on Mechanical Pruning and mechanical Plucking;
3. Tea Research at Wooton Experimental station between April 1992 until the station was handed over to DARE (Directorate of Agricultural Research and Extension) in early 1994;
4. Project Implementation leader of a team responsible for replacing tea with sugarcane.

Mr. A. Ayrga's qualifications compared against those of the Project Coordinator are as follows:

Mr. A. Ayrga        Mr. A. Seepergauth
1. S C 6 credits        SC 8 credits
2. H S C 3 subjects at Principal level at one sitting   H S C 2 subjects at Principal Level at one sitting completing the third subject at GCE "A" level
3. Certificate in Statistics
4. B A (Hons) Administration     B Sc (Hons.) Agriculture
5. Certificate in legal Studies
7. Module E of ACCA

The responsibilities handed over the General manager before proceeding on pre-retirement leave were exhaustively listed on 31 August 1995 as follows:

1. Assets (Tea Board)
2. Assets (ex TDA)
3. Other matters
   (a) Tea Property Licences
   (b) Marketing of Green leaf
   (c) Determination of Green leaf Prices
   (d) Life Insurance cum Pension
   (e) Balance Sheet and Accounts year ended 30/06/95.

According to the General Manager of the Tea Board went on pre-retirement leave on the 9th September 1995. The Board at its meeting of 27 July 1995 decided that the project Coordinator would act as General Manager. The Ministry approved the Board's decision.

2. The Board chose the Project Coordinator for the following reasons:
   (a) He has the required qualifications (BSc Honours Agriculture) and relevant experience at least 10 years experience in the tea industry) as stipulated in the scheme of service for the post of General manager of Tea board. His experience, given at Annex B, shows that the experience, given at Annex B, shows that the Project Coordinator possesses better qualifications and experience required for that post
   (b) As per PRB report 1993, the post of Project Coordinator is the seniormost on the establishment of the Tea Board coming immediately next to the General manager and before the Secretary.
   (c) he has replaced the General Manager in January/February 1993 and acted as General Manager in January/February 1994.
   (d) The present orientation of the tea sector strengthens the need for a General Manager with a high technical competence as the Tea Board is mainly responsible for the on going diversification programme which is explained in Annex E. The public tea sector which occupies about 73% of the total area under tea and produces 67% of the total tea production is being diversified towards more remunerative agricultural activities. The Tea Board is responsible for this agricultural diversification. The Project Coordinator as project implementation leader leads the agricultural diversification programme. His involvement in this programme is given at Annex E.
3. The post of Secretary as per its scheme of service is more of a secretarial nature and it does not fulfill the requirements as General manager of Tea Board. On the other hand, the scheme of service of the Project Coordinator is more in line and suitable for that purpose.

4. The Secretary of the Board who claims the acting ship for the post of General Manager has in the past replaced the General manager as Officer-in-Charge and not as acting General manager as he was considered by the Board as not holding the required qualifications to act as General manager and the Ministry approved his appointment as Officer-in-charge.

The respondent further states that seniority is not a determining factor for the post of General Manager.

The Tribunal finds that primarily it is a matter for Management and in any case finds on the basis of the facts before it that there is no cause for intervention.

The Tribunal awards accordingly.

(H. Balgobin)  
President

(M. Serret)  
Member

(H. Seebaluck)  
Member

27th February, 1998