PERMANENT ARBITRATION TRIBUNAL

VARIATION OF AWARD

R.N. 557

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

Parties

Union of Employees of C.E.B.
and
C.E.B

The Applicant Union has applied for a variation of the Award delivered by the Tribunal on the 30th December, 1996, as follows:

1. That the 'Recommended wages' of the classification Table of Posts and Salary Structure be adjusted by a 10% increase.
2. That para 'Backdating' be amended to read as follows:

For period 1.7.90 to 31.12.94 a lump sum equivalent to twice the monthly salary of December 1994 shall be paid.

The Tribunal has considered the evidence adduced as well as the submissions of Counsel.

10% increase

This claim according to the Union is based on the following facts:

1) The salary structure proposed in the MSD report is based on the salary structure obtainable at The Mauritius Telecoms (Goburdun Report) and the Central Water Authority (PRB).
2) At the time the report was published the Award of the CSA T for the Civil Service, the Award of the PAT for the Central Water Authority and the Balgobin Award for the Mauritius Telecoms were not yet published and these Awards were not yet implemented at the time the Agreement between the UECEB/CEBWU Common Front and the CEB was finalised.
3) The CEBSA Award published in 1996 covers the CSA T Award.

On above facts the UECEB has submitted a claim for a revision of the UECEB/CEBWU Award by a 10% increase.

The stand of the Boards that the claim be considered by the Salary Commission is resisted on the following grounds.
1. The 10% increase is.

2. It will take more or less than 1 year for the Salaries Commission to be set up; for the S.C. to carry out its study for a review of the CEB structure; for negotiations to be held and finalisation on the recommendations and for eventual implementation of the agreement on the new salary structure.

3. Conflict will arise when the new salary structure will be worked out because of the existing situation i.e. the Staff grades having already benefited from the effects of the CSA T Award i.e. this benefits may become or will be seen to become entrenched.

(2) The introduction of a new Salary Structure proposed by CEBWU

After having given consideration to the following the UECEB has not opted for an application for a variation of the Award in terms of a new salary structure (to take into consideration the 21% increase awarded in the CEBSA Award).

1. There is presently 2 salary structures at the CEB. The manual grades are paid as per the MSD report and the non-manual grades are paid on basis of pre MSD structure plus a 21% increase.

2. In the CEBSA Award the Tribunal has decided not to substitute itself for a salaries Commissioner. Meaning that it has decided NOT to carry out the functions of a Salary Commissioner.

3. The Tribunal has concluded that the quantum of increase in the MSD Report in relations to the Applicants (The CEBSA) is sufficient in relativity to comparable posts in the Public Service, Para Statal and other related sectors.

4. It has however not drawn any relativity with the manual grades employed by the CEB.

5. The Tribunal has awarded that a Salary Committee/Commission be set up to review the whole situation. The CEB has agreed to set up a Salary Commission as per the Tribunal Award and the Salaries Commission will cover the categories represented by the UECEB and the CEBWU.

6. The Tribunal in the CEBSA case has opted for interim measures. Inter Alia:

   (1) The existing categorisations prior to MSD in the CEBSA case has been maintained.
   (2) A 21% increase of present gross basic salary has been awarded.
   (3) The 10 Rs Million compensation in lieu of Arrears covering period 1.7.90 - 31.12.94.

The facts are as follows:

1. Rs 10 million have been offered by the Board to the UECEB/CEBWU Common Front to compensate arrears not paid for period 1.7.90-31.12.94 in relation the Salary Agreement implemented with effect from the 1st January 1995.

2. The same amount was offered to the CEBSA for the same reason.

3. The Tribunal in the CEBSA Award has retained both the element of compensation and the period which it covers.

4. The tribunal has however awarded 2 months' salary instead of Rs 10 million.

5. The difference represents Rs2,614,590.

Taking into consideration that the CEB has proposed the Rs 10 million so that "all employees merged together would have drawn more or less the same amount of lump sum per head", it is most reasonable for the Union to request that the 2 months compensation be extended to the manual grades.
The Union claims the financial situation of the CEB has certainly been considered by the Tribunal in the CEBSA case before granting the 2 months' salary compensation.

The reintroduction of the daily replacement and acting ship allowance-CEBWU

The agreement reached by the UECEB/CEBWU common front and the Board on that issue is that "parties agree on the principle of eliminating daily, acting and responsibility allowance subject to further discussion on certain modalities".

The passage credit to be increased from 5% to 6%

The employer has confirmed that the Board has already approved request of the UECEB to the effect that the passage credit be increased to 6%.

It appears that the CEBWU has not submitted that claim directly to the CEB or been kept informed about the CEB decision.

Normally this item should have been withdrawn.

Counsel for the respondent has submitted as follows:

The UECEB's application rests on two points:

(a) Payment of compensation equivalent to two months' pay in respect of period 1990 to 31\textsuperscript{st} December 1994 instead of Rs 10 m as already paid.
(b) Payment of a 10% increase across the Board.

The CEB's stand is summarised as follows:

1. Request of a payment of 2 months' salary as lump sum instead of Rs 10 m.
   (UECEB & CEB WU)

   The Rs 10m already paid to the manual grades and the pensioners forms part of a package. An equal amount was originally proposed through the Tribunal to the Staff Grades, the object being to afford every employee a proportion of the lump sum in relation to the salary drawn by him. The CEB Staff Association rejected the Board's offer and the Tribunal advocated a lump sum equivalent to two months salary for the staff grades as part of package. The Board implemented the Award in its entirety.

2. The request of 10% increase in the Wage Structure.

   The Union claims that The MSD Consultants has referred to the salary structures prevailing at the CW A and MT when preparing their Report and that the increase granted in these two sectors should now be extended to its members.

   The Board's stand is that any new element cropping after July 1996 should be discussed in the context of a new salary structure.

   The Salary Structure is conventionally effective for a period of 3 years and continues to be so by tacit agreement until a new structure is agreed and implemented. In the case under review, the Wage Structure is deemed to be effective until 30th June 1996 and any new wage structure is only effective as from 1st July 1996. The CSA T Award having been released after this date, they take the view that this element should be justifiably raised in the 19961999 New Salary Structure and Other Conditions of Service.
3. The re-introduction of the daily replacement and acting ship allowance (CEBWU)

The Board shall proposed new modalities relating to this issue to the Union.

4. Passage Credit to be increased from 5% to 6% (CEBWU)

The Board has already given its approval to this request.

**Dispute 1**

The Tribunal accepts that the CEBSA award published in 1996 includes the CSA T award referred to above.

The Tribunal therefore finds that it is logical and obvious that the original award be varied. The recommended wages of the classification Table of Posts and Salary Structure should be adjusted by a 10% increase.

The Tribunal awards accordingly.

**Dispute 2**

The Tribunal in the CEBSA awards decided to grant 2 months' salary instead of the proposed Rs 10 m.

The Tribunal finds therefore that it is logical and obvious that the original award be varied by awarding instead for period 1.7.90 to 31.12.94 a lump sum equivalent to twice the monthly salary of December 1994.

The Tribunal awards accordingly.

(H. Balgobin)
President

(M. Serret)
Member

(H. Seebaluck)
Member

20th July, 1998