PERMANENT ARBITRATION TRIBUNAL

AWARDS

Harris Balgobin - President
Max Serret - Member
Hans Seeballuck - Member

RN 584
The Union of Artisans of the Sugar Industry (UASI)
And
The Mauritius Sugar Producers' Association (MSPA)

RN 585
The Sugar Industry Labourers' Union (SILU)
And
The Mauritius Sugar Producers' Association (MSPA)

RN 586
The Mauritius Sugar Producers' Associations (MSPA)
And
(i) The Artisans & General Workers' Union (AGWU)
(ii) The Organisation of Artisans Unity (OAU)
(iii) The Union of Artisans of the Sugar Industry (UASI)

RN 587
The Mauritius Sugar Producers' Association (MSPA)
And
(i) Plantation Workers' Union (PWU)
(ii) Sugar Industry Labourers Union (SILU)

RN 588
Plantation Workers' Union
And
Mauritius Sugar Producers' Association

RN 589
(1) Artisans & General Workers' Union
(2) Organisation of Artisans Unity
And
The Mauritius Sugar Producers' Association
The following disputes were referred by the Minister in Charge of Industrial Relations to the Tribunal for settlement under the provisions of Section 82(1)(f) of the Industrial Relations Act. 1973.

The Tribunal has delivered two Part Awards relating to salary and to the forty-hour week during the crop season. Vide Annexure I and Annexure II.

The Tribunal has already dealt with the economic aspects of the disputes and does not propose to come back on these issues.

Suffice it to say that we have obviously considered all additional submissions but maintain our initial views.

For the avoidance of doubt, the Tribunal must again state that the delivery of part awards does not mean that the disputes were not examined together and in a global manner.

The Tribunal carefully considered all the issues in a global exercise and part awards were delivered for practical reasons.

We shall now deal with all the other disputes before us in the order we think best.

Terms of Reference

The points in dispute are:

1. Whether for payment of the *Prime de présence annuelle*, the conditions should be as follows:

   "*Pour les besoins de la qualification à cette prime, les absences acceptées seront les suivantes: congés publics, congés annuels, congés spéciaux, congés de maternité (ou congés résultant d’un miscarriage), congé outre-mer, jours d’absence dus à un cyclone (avertissement 3 et 4), congé préretraite, absence autorisée pour cause de formation ou activité syndicale et congés autorisés ou certifiés par un médecin en cas d’accident de travail"?"
cyclone (avertissement 3 et 4), congé préretraite, absence autorisée pour cause de formation ou activité syndicale, congés autorisés ou certifiés par un médecin en cas d'accident de travail; congés de maladie jusqu'à deux jours notifiés par l'employé et congés de maladie de plus de deux jours certifiés par un médecin”?

3. Whether the 40 hour week should be extended to the crop season on a 5 days' basis or otherwise?

4. Whether the salaries should be increased by 30% or otherwise?
(The UASI is specifically claiming that an across the board increase of 20% be granted with effect from 1 January 1998 and that 2 increments of 5% each be granted with effect from 1 January 1999 and 1 January 2000).

5. Whether the *prime de présence annuelle* should be reviewed from

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6. Whether the *prime d'assiduité et d'ancienneté* should be reviewed from

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7. Whether workers who cannot travel overseas should be granted 3 weeks’ leave with pay during the intercrop season once every 10 years together with the possibility of accumulating and splitting?

8. Whether applications of overseas leave during crop season should be allowed?

9. Whether overseas leave not taken should be refunded cash at time of retirement or after death of worker?

10. Whether leave for miscarriage should be increased to 3 weeks with pay, or otherwise?

11. Whether the 2 days' paternal leave and the 2 days' optional leave for the month of January, as proposed by MSPA, should be increased to 6 days and 3 days respectively, or otherwise?

12. Whether, for the determination of remuneration, the basic wages should be calculated on basis of 22 days?

13. Whether a housing loan scheme should be set up by the MSPA to meet two fundamental claims of the Union:
   - That land be provided to the workers; and
   - That a housing loan scheme be set up?

14. Whether the employer should provide the following:
   (i) Appropriate transport facilities to workers who fall sick or are injured.
   (ii) Transport facilities to workers living in the vicinity of factory to attend duty and transport facilities for site to site travelling.
   (iii) Transport facilities be extended to all children of employees attending school, otherwise than those who are provided with such facilities, be refunded their return bus fares.
   (iv) Transport facilities to workers receiving treatment at the factory "hospitals", at private clinics or government hospitals following injury sustained at work. Otherwise that they be paid their full wages and refunded their full travelling expenses.
   (v) Proper passenger means of transport to workers attending work.
   (vi) Employment of a Bus Attendant in cases where children are transported in any type of bus or van exceeding 10 seats?

15. Whether a daily replacement allowance of Rs15 should be paid to a worker whenever he is called upon to act in a higher post?

16. Whether a daily allowance of Rs25 should be paid to a worker when he is called upon to perform additional duties?

17. Whether the Death Grant should be increased to Rs 3500?
18. Whether the workers should be covered by a 24 hour insurance?

19. Whether a medical scheme should be introduced for surgical operations and other medical treatment provided in private clinics?

20. Whether the following measures should be taken:
   (i) Apprentices to be appointed in their relevant trades after completion of their apprenticeship.
   (ii) Setting down of a proper establishment in each class and grades of employees.
   (iii) Appointment of workers on a monthly basis after having completed 12 months’ continuous employment with the same employer?

21. Whether the workers should be paid an allowance representing 15% of their salaries for night work?

22. Whether the following allowances should be reviewed:
   (i) Washing of vehicle: Rs50 per vehicle
   (ii) Operating a radio telephone: 15% of basic pay?

23. Whether the meal allowance should be increased to Rs50?

24. Whether spectacle frames should be provided free of charge?

25. Whether all the allowances provided in the Remuneration Order concerning additional duties should be increased by not less than 60%?

26. Whether artisans should be allowed to retire at the age of 55 or otherwise?

27. Whether overtime rates should be paid as follows:
   For first 3 hours: 1.5 rate
   For additional 2 hours: 2.0 rate
   Over 5 hours: 3.0 rate?

RN585

The Sugar Industry Labourers' Union (SIIU)
And
The Mauritious Sugar Producers' Association (MSPA)

The points in dispute are:

(1) Whether for payment of Prime de présence annuelle, the conditions should be as follows:

"Pour les besoins de la qualification à cette prime, les absences acceptées seront les
(2) Whether for payment of the Prime d’assiduité et d’ancienneté the conditions should be as follows:

"Pour les besoins de la qualification à cette prime, les absences acceptées seront les suivantes: congés publics, congés annuels, congés spéciaux, congés de maternité (ou congés résultant d’un miscarriage), congé outre-mer, jours d’absence dus à un cyclone (avertissement 3 et 4), congé préretraite, absence autorisée pour cause de formation ou activité syndicale et congés autorisés ou certifiés par un médecin en cas d’accident de travail”?

(3) Whether the 40 hour week should be extended to the crop season on a 5 days' basis or otherwise?

(4) Whether the salaries should be increased by 30% or otherwise?

(The SILU is specifically claiming that an across the board increase of 20% be granted with effect from 1 January 1998 and that 2 increments of 5% each be granted with effect from 1 January 1999 and 1 January 2000).

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14. Whether the employer should provide the following:

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   (iii) Transport facilities be extended to all children of employees attending school, otherwise that those who are not provided with such facilities, be refunded their return bus fares.
(iv) Transport facilities to workers receiving treatment at the factory "hospitals", at private clinics or government hospitals following injury sustained at work. Otherwise that they be paid their full wages and refunded their full travelling expenses.

(v) Proper passenger means of transport to workers attending work.

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16. Whether a daily allowance of Rs25 should be paid to a worker when he is called upon to perform additional duties?

17. Whether the Death Grant should be increased to Rs3500?

18. Whether the workers should be covered by a 24 hours insurance?

19. Whether a medical scheme should be introduced for surgical operations and other medical treatment provided in private clinics?

20. Whether female workers should be allowed to retire at the age of 50 and male workers at the age of 55?

21. Whether female workers over 50 should not be asked to spread scum, manure, sand and fertilizer and plant canes?

22. Whether the practice of exceeding 4 lines in relation to windrowing of cut canes should be discontinued?

23. Whether female workers in their fifth month of pregnancy should not be required to do any work other than light field work?

24. Whether regarding task work:

   (i) A productivity bonus/piece rate scheme should be introduced for the other types of field works executed during crop or intercrop seasons in addition to the existing scheme for cane cutting.

   (ii) Incentives introduced should be paid on the principle of: "over agreed taskworks completed"

   (iii) Incentives introduced should be accessible and not adversely affected by lack of proper work organisation or granted alternatively with non-productivity related works within the same period of pay.

   (iv) A joint consultative mechanism on "Estate Basis" should be set up for its fixing and monitoring?

25. Whether a compensation of Rs5 per ton of cane should be made when straws are not removed before cutting?
26. Whether workers having to walk more than 15 gaulettes in the performance of their duties should draw an allowance of Rs5 per additional gaulette or part thereof?

27. Whether the other prescribed allowances should be increased by not less than 60%.

28. Whether the disturbance allowance as per Remuneration Order should be extended in cases where a worker is asked to work on another estate while crop season has not yet been terminated on his employer’s lands.

29. Whether uniforms and protective equipment should be reviewed as follows:
   (i) Uniforms - 3 units to be issued yearly.
   (ii) Raincoat - option for workers for 2 pieces raincoats.
   (iii) Hats - 1 hat to be issued yearly.
   (iv) Gloves - Employees to be provided gloves on "renewed when damaged" basis.
   (v) Boots - 2 pairs yearly.

30. Whether workers should be provided with spectacles and frames?

31. Whether the term male and female workers should be abolished and labourers paid in accordance to the type of work they perform?

RN 586

The Mauritius Sugar Producers’ Associations (MSPA)
And
(i) The Artisans & General Workers’ Union (AGWU)
(ii) The Organisation of Artisans Unity (OAU)
(iii) The Union of Artisans of the Sugar Industry (UASI)

RN 587

The Mauritius Sugar Producers’ Association (MSPA)
And
(i) Plantation Workers’ Union (PWU)
(ii) Sugar Industry Labourers Union (SILU)

The points in dispute are:

1. Whether, in the context of a package deal, which contains, among other things, better terms and conditions of employment in return for an essential gain in productivity and a necessary control of the cost of production, as proposed by the MSPA in its latest counter-proposal dated 19 June 1998, certain provisions of the Remuneration Order can be amended or not, especially in the light of Section 85(4) of the Industrial Relations Act?

2(a) If in the affirmative, whether the counter-proposal made by the MSPA on 19 June 1998, should be adopted, or otherwise?

(b) If, in the negative, what other measures to increase productivity and to control the cost of
production should be introduced in the MSPA's counter-proposal so as to justify any improvement in the terms and conditions of employment of the workers?

RN 588

Plantation Workers’ Union
And
Mauritius Sugar Producers' Association

The points in dispute are:

(1) Whether Agricultural Workers of the Sugar Industry should with effect from 1998 be paid 30% increase in their monthly salary as per Protocole D’Accord of 1994 signed between the Unions and Mauritius Sugar Producers’ Association, or otherwise?

(2) (a) Whether all sick leave and injury leave should be reckoned as working day for the purpose of computing attendance bonus, or otherwise?

(b) Whether sick leave not taken should be refunded at the end of the year, or otherwise?

(3) Whether Annual Leave should be granted from 4 days to 8 (eight) in the month of January so as to facilitate Agricultural Workers to admit their children to Primary or Secondary Schools, for Sankranti Festival and aftermath of Cavadee Festival and should it be optional, or otherwise?

(4) Whether raincoats should be provided in two pieces, i.e overcoat and trousers and should it be optional, or otherwise?

(5) Whether four pairs of gloves should be provided to Agricultural Workers every month or two pairs of good quality, that is, of heavy duty, or otherwise?

(6) Whether the minimum wage should be a guarantee for the purpose of computing productivity bonus, or otherwise?

(7) Whether female workers of 50 years and above should not be compelled to spread scums and plant sugar canes, or otherwise?

(8) Whether in view to amending GN 214 of 1983 as subsequently amended by GN 79 of 1987, Second Schedule Para 5.1(b) so that the rate be read:

"Carrying canes" over a distance not exceeding 15 gaulettes and stacking at not more than 3 gaulettes from the point of loading and the rate should be rupees fifty (Rs 50) per ton, or otherwise?

(9) Whether if a worker dies in the course of Pre-retirement leave, his or her heirs should be paid a Retirement Benefit instead of a Death Gratuity as per GN 214 as subsequently amended, or otherwise?

(10) Whether spectacles should be provided by Employers to workers if recommended by Medical Practitioners, or otherwise?

(11) (a) Whether male worker should be given the possibility to retire at the age of 55 instead of 58, or otherwise?
(b) Whether female workers should be given the possibility to retire at the age of 50 years instead of 55 years, or otherwise?

(c) Whether task set to female workers after reaching the age of 50 years should be reduced by one fifth (1/5), or otherwise?

(12) Whether working hours of Watchman should be based on 8 (Eight) hours instead of 12 hours, or otherwise?

(13) Whether task work should be based on five hours instead of six hours, or otherwise?

(14) Whether task work should be clearly defined and a consultative mechanism between Unions and Employers put in place to that effect so as to monitor task set to avoid industrial problems, or otherwise?

(15) Whether pick axe provided by Employers should be of Make Elwell, or otherwise?

(16) Whether in cutting and loading or cutting only a worker’s task set on Saturday should be reduced by one sixth (1/6) to qualify for that day, or otherwise?

(17) Whether overseas leave should be taken throughout the year and not only during intercrop, or otherwise?

(18) Whether a 15% allowance should be paid to female workers if asked to do buttage, or otherwise?

(19) Whether cutting canes should not exceed four lines for windrowing the cut canes on one line for mechanical loading and should not be either on Five or Six Lines as it is very tiresome, harder and affect productivity, or otherwise?

(20) Whether the rates of only cutting canes should be increased and that the weight of tonnage of canes be brought down for a worker to qualify for that day during harvest compared to that of cutting and loading performed for qualifying before the introduction of mechanical loading, or otherwise?

(21) Whether 2 pairs of boots should be provided every two years and should it be of good quality and should be of brand Dunlop or Avon, or otherwise?

(22) Whether one pair of additional uniform should be provided to agricultural workers every year as the two pairs of uniform actually issued to them do not last one year, or otherwise?

(23) Whether workers affected in cutting and loading of canes during crop season if they have to travel more than one mile within the same estate should be paid "a distance allowance of Rupees Ten" for every additional mile or part thereof apart from the travelling allowance paid as per GN 124 of 1983 Second Schedule, paragraph 13 or otherwise?

(24) Whether Agricultural Workers affected in cutting canes should be paid an allowance of Rs5.00 per ton while moving straws, or otherwise?

(25) Whether a Paternity Leave of six days paid leave should be granted to male agricultural worker on the occasion of his wife delivering a child, or otherwise?
(26) Whether hats should be provided to workers to protect them against sun and rain, or otherwise?

(27) Whether workers affected during crop and intercrop season in cutting canes for planting should be paid productivity bonus, or otherwise?

(28) Whether workers affected during mini crop performing the same operation as in crop season should be paid productivity bonus, or otherwise?

(29) Whether female workers should be paid the same wages as male workers, or otherwise?

(30) Whether a 40-hour week based on five days should be applied during crop season, or otherwise?

(31) Whether accrued bank sick leave which are not taken by workers should be refunded to them at the time of retirement, or otherwise?

(32) Whether all workers should be paid productivity bonus during harvest season, or otherwise?

(33) Whether return bus fare should be refunded to workers' children, attending University of Mauritius, IVTB Courses or technical schools offering courses approved by IVTB or schools approved by Ministry of Education and Human Resources Development if he or she is not in employment, or otherwise?

(34) Whether an additional Pension Scheme should be set up for agricultural workers of the Sugar Industry as the small pension they draw do not meet their needs, or otherwise?

(35) Whether relativity of salaries should be given due consideration, or otherwise?

(36) Whether training facilities should be extended to all level to agricultural workers to meet the challenges facing them with the introduction of heavy mechanization in field operation, or otherwise?

(37) Whether an annual leave of three weeks should be granted to agricultural workers of the Sugar Industry, or otherwise?

RN 589

(1) Artisans & General Workers' Union

(2) Organisation of Artisans Unity

And

The Mauritius Sugar Producers' Association

The points in dispute are:

(1) Whether the MSPA should pay a wage increase of 30% and a salary realignment as per annexure I, or otherwise?
(2) Whether the MSPA should pay an additional of 10 increments representing 3.3% yearly, or otherwise?

(3) Whether the MSPA should correct the existing anomalies in salary created by the "Protocole d'Accord" of 1994 for the non agricultural workers and refund the percentage which arised thereby, or otherwise (some categories of workers received 13.29% and 14.03% instead of 18.06%. Those concerned are in the group 1(A) to 6(F) and 14(N) and 15(O). Other workers between group 7(G) and 11 (K) have had a decrease in different percentage concerning relativity)?

(4) Whether the MSPA should introduce the forty-hour week during crop season, that is, Mondays to Fridays, or otherwise?

(5) Whether the MSPA should consider henceforth both injury and sick leave be reckoned for qualification to the two "Prime de Présence" and "Prime d'assiduité", or otherwise?

(6) Whether the MSPA should increase the meal allowance from fifteen rupees (Rs15) to fifty rupees (Rs50), or otherwise?

(7) Whether the MSPA should pay a night allowance of 25% of his basic salary to every worker who is required to work on a night shift, or otherwise?

(8) Whether the MSPA should pay on a pro-rata basis an end of year bonus to every worker performing less than 62% of the number of working days, or otherwise. (This concerns those retiring on medical ground or at the age of 60 and seasonal workers as well)?

(9) Whether the MSPA should pay in cash to every worker in lieu for all banked leaves accumulated on retirement, dismissed from his job or to his family after death, or otherwise?

(10) Whether the MSPA should grant a six (6) weeks overseas leave every (5) five years instead of 10 years, or otherwise?

(11) Whether the MSPA should grant to every monthly worker six (6) days leave on full pay following the birth of his child, or otherwise?

(12) Whether the MSPA should grant to every worker an insurance scheme based on a 24 hours a day in case of accident, medical and surgical expenses, or otherwise?

(13) Whether the MSPA should pay for the optical expenses as may be recommended by an ophthamologist including lenses and frames, or otherwise?

(14) Whether the MSPA should pay the salary applicable to every worker replacing another worker of a higher grade as from the very first day of replacement, or otherwise?

(15) Whether the MSPA should pay every crane and derrick driver as driver superior grade, or otherwise?

(16) Whether the MSPA should pay every automobile electrician the same salary scale as motor mechanic (superior grade), or otherwise?

(17) Whether the MSPA should appoint in their substantive post after a maximum period of five years apprenticeship, or otherwise?
(18) Whether the MSPA should promote in their respective grade every worker who has completed a maximum of 5 years service in their respective grade automatically in the next higher grade with salaries at the next incremental point plus two increment on the new salary scale, or otherwise?

(19) Whether the MSPA should pay to every worker employed on a tractor, truck and loader ripper (Atlas) a monthly allowance of:

(i) Rs150 where the vehicle has not less than 61 hp but not more than 104 hp
(ii) Rs200 where the vehicle has not less than 105 hp and not more than 154 hp
(iii) Rs300 where the vehicle has more than 154 hp, or otherwise?

(20) Whether the MSPA should pay a monthly allowance of Rs250 to every driver employed on a lorry transporting sugar, a self loader, a winch or any tractor transporting cane, or otherwise?

(21) Whether the MSPA should pay to every driver who is required to wash and clean a vehicle, other than the one he usually drives, an allowance of Rs50 per vehicle every time he washes and cleans it, or otherwise?

(22) Whether the MSPA should pay to every telephone operator, who operates a radio telephone, an allowance of 15% of his basic wages instead of 10%, or otherwise?

(23) Whether the MSPA should pay a monthly extra allowance of Rs200 instead of Rs50 to every driver reckoning less than 10 years continuous service with the same employer, or otherwise?

(24) Whether the MSPA should pay to every driver, employed on a lorry transporting more than 20 tons of sugar to the Bulk Sugar Terminal, an additional allowance of Rs250 instead of Rs75, or otherwise?

(25) (a) Whether the MSPA should pay to every "surveillant" working under derricks the same salary as overseer grade I, or otherwise?

(b) Whether the MSPA should pay to every worker who is employed to operate an air compressor the same salary as of a driver grade II, or otherwise?

(26) (a) Whether the MSPA should grant to every worker annual leave entitlement in the month of January?

(b) Whether the MSPA should allow every worker, who has not taken his local leave during the calendar year to take the remaining local leave in the following year, or otherwise?

(27) Whether the MSPA should pay a maternity allowance of Rs1500 instead of Rs300 to the wife of every worker who is pregnant and is not being attended by the estate midwife, or otherwise?

(28) Whether the MSPA should refund the full return bus fare to children of workers who are attending university, IVTB courses and other educational institutions up to the completion of studies, or otherwise?

(29) Whether the MSPA should pay to the worker expenses incurred for complete medical check-up by medical specialist every year and whenever a worker complains about his
health condition, or otherwise (Those mainly concerned are store attendants, painters, electricians, laboratory attendants and every worker handling chemicals like herbicides, pesticides, insecticides etc.)?

(30) Whether paragraph 5(4) of the Second Schedule to the Sugar Industry (Non-Agricultural Workers) Remuneration Order Regulations 1985 should be deleted and replaced by a provision stating that non-agricultural workers should not be required to perform field work?

(31) Whether the MSPA should classify every watchman, gardener and hospital servant working in the factory vicinity as non-agricultural workers, or otherwise?

(32) Whether the MSPA should classify every driver working on a loader (Atlas) as driver superior grade, or otherwise?

(33) Whether the MSPA should not ask riggers grade 2 to be responsible for supervising and organising the work of his gang?

RN585

The Sugar Industry Labourers' Union (SIU)

And

The Mauritius Sugar Producers' Association (MSPA)

Items 1 & 2, 5 and 6

(1) Whether for payment of "Prime de présence annuelle", the conditions should be as follows:

"Pour les besoins de la qualification à cette prime, les absences acceptées seront les suivantes: congés publics, congés annuels, congés spéciaux, congés de maternité (ou congés résultant d'un miscarriage), congé outre-mer, jours d'absence dus à un cyclone (avertissement 3 et 4), congé préretraite, absence autorisée pour cause de formation ou activité syndicale et congés autorisés ou certifiés par un médecin en cas d'accident de travail"?

(2) Whether for payment of the "Prime d'assiduité et d'ancienneté" the conditions should be as follows:

"Pour les besoins de la qualification à cette prime, les absences acceptées seront les suivantes: congés publics, congés annuels, congés spéciaux, congés de maternité (ou congés résultant d'un miscarriage), congé outre-mer, jours d'absence dus à un cyclone (avertissement 3 et 4), congé préretraite, absence autorisée pour cause de formation ou activité syndicale, congés autorisés ou certifiés par un médecin en cas d'accident de travail; congés de maladie jusqu'à deux jours notifiés par l'employé et congés de maladie de plus de deux jours certifiés par un médecin"?

(5) Whether the "prime de presence annuelle" should be reviewed from:

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or otherwise?

6. Whether the *prime d’assiduité et d'ancienneté* should be reviewed from

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*Prime de Présence Annuelle*

8 All Injury leaves shall be acceptable provided they are certified in minor cases by an estate nurse or an estate doctor, and in cases of a more serious nature, by a Government Medical Officer (G.M.O).

9 The *"Prime de Présence"* is reviewed as proposed by the Union and the Tribunal awards accordingly.

*"Prime d’Assiduité et d’ancienneté"*

10 All Injury leaves provided they are certified in minor cases by an estate doctor or estate nurse, and in cases of a more serious nature, by a Government Medical Officer (G.M.O). All sick leaves of more than two days provided they are certified by the estate doctor or G.M.O.

11 The *"prime d’assiduité et d’ancienneté"* is reviewed as proposed by the Union and the
Tribunal awards accordingly.

Item 7

"Whether workers who cannot travel overseas should be granted 3 weeks' leave with pay during the intercrop season once every 10 years together with the possibility of accumulating and splitting?"

12 The Tribunal finds that it is not appropriate to allow this claim in the present financial context and in the transformation period in which the Industry finds itself.

Item 8

"Whether applications of overseas leave during crop season should be allowed?"

13 The Tribunal finds that it is not appropriate to allow this claim in the present financial context and in the transformation period in which the Industry finds itself.

Item 9

"Whether overseas leave not taken should be refunded cash at time of retirement or after death of worker?"

14 The Tribunal finds this claim fair and reasonable and awards accordingly.

Item 10

"Whether leave for miscarriage should be increased to 3 weeks with pay, or otherwise?"

15 We find this claim fair and reasonable and award accordingly.

Item 11

"Whether the 2 days' paternal leave and the 2 days' optional leave for month of January, as proposed by MSPA should be increased to 6 days and 3 days respectively, or otherwise?"

16 Paternal Leave is now a world-wide accepted privilege.

17 We find that Paternal leave should be increased to 3 days and optional leave to 3 days and award accordingly.

Item 12

"Whether for the determination of Remuneration Order the basic wages should be calculated on basis of 22 days?"

18 The Tribunal finds that it is not appropriate to allow this claim in the present financial context and in the transformation period in which the Industry finds itself.

Item 13

“Whether a housing loan scheme should be set up by the MSPA to meet two
fundamental claims of the Union:

That land be provided to the workers; and

That a housing loan scheme be set up?"

The settlement of the problem of housing facilities to the workers of the Sugar Industry has reached a stage requiring a global assessment and a global policy. We refer this dispute to Mauritius Sugar Authority for urgent examination in the context of the phasing out of "Camps Sucriers".

Item 14

"Whether the employer should provide the following:

(i) Appropriate transport facilities to workers who fall sick or are injured.

(ii) Transport facilities to workers living in the vicinity of factory to attend duty and transport facilities for site to site travelling.

(iii) Transport facilities be extended to all children of employees attending school, otherwise that those who are not provided with such facilities be refunded their return bus fares.

(iv) Transport facilities to workers receiving treatment at the factory "hospitals", at private clinics or government hospitals following injury sustained at work. Otherwise that they be paid their full wages and refunded their full travelling expenses.

(v) Proper passenger means of transport to workers attending work.

(vi) Employment of a Bus Attendant in cases where children are transported in any type of bus or van exceeding 10 seats?"

All these claims are directly connected with the welfare of these workers.

We consider these claims fair and reasonable and award accordingly.

Item 15

"Whether a daily replacement allowance of Rs15 should be paid to a worker whenever he is called upon to act in a higher post?"

This seems quite logical to us.

We consider this claim fair and reasonable and award accordingly.

Item 16

"Whether a daily allowance of Rs25 should be paid to a worker when he is called upon to perform additional duties?"

The Tribunal finds that it is not appropriate to allow this claim in the present financial context and in the transformation period in which the Industry finds itself.
Item 17

"Whether the Death Grant should be increased to Rs3500?"

25 The sum claimed is in present terms appropriate.

26 We find this claim fair and reasonable and award accordingly.

Item 18

"Whether the workers should be covered by a 24 hours insurance?"

27 It is argued that most employees insure their workers and that the cost of extending the Insurance to a 24 hour insurance would be marginal. This claim is not allowed and the Tribunal awards accordingly. It may be allowed when better times arrive.

Item 19

"Whether a medical scheme should be introduced for surgical operations and other medical treatment provided in private clinics?"

28 We recommend that there should be an indepth study of the implications of this claim and award accordingly.

Item 20

"Whether female workers should be allowed to retire at the age of 50 and male workers at the age of 55?"

29 The item has been settled under the Sugar Efficiency Act of 2001.

Item 21

"Whether female workers over 50 should not be asked to spread scum, manure, sand and fertilizer and plant canes?"

30 The age factor makes this claim appropriate.

31 We consider that this claim is fair and reasonable and award accordingly.

Item 22

"Whether the practice of exceeding 4 lines in relation to windowing of cut canes should be discontinued?"

32 The Tribunal finds that it is not appropriate to allow this claim in the present financial context and in the transformation period in which the Industry finds itself.

Item 23

"Whether female workers in their fifth month of pregnancy should not be required to do any work other than light field work?"
The Medical reasons for allowing this claim are obvious.

We consider this claim to be fair and reasonable and award accordingly.

Item 24

"Whether regarding task work:

(i) A productivity bonus/piece rate scheme should be introduced for the other types of field works executed during crop or intercrop seasons in addition to the existing scheme for cane cutting.

(ii) Incentives introduced should be paid on the principle of: "over agreed task works completed"

(iii) Incentives introduced should be accessible and not adversely affected by lack of proper work organisation or granted alternatively with non-productivity related works within the same period of pay.

(iv) A joint consultative mechanism on "Estate Basis" should be set up for its fixing and monitoring?"

The Tribunal finds that it is not appropriate to allow this claim in the present financial context and in the transformation period in which the Industry finds itself.

Item 25

"Whether a compensation of Rs5 per ton of cane should be made when straws are not removed before cutting?"

The Tribunal finds that it is not appropriate to allow this claim in the present financial context and in the transformation period in which the Industry finds itself.

Item 26

"Whether workers having to walk more than 15 gaulettes in the performance of their duties should draw an allowance of Rs5 per additional gaulette or part thereof?"

The Tribunal finds that it is not appropriate to allow this claim in the present financial context and in the transformation period in which the Industry finds itself.

Item 27

"Whether the other prescribed allowances should be increased by not less than 60%?"

The Tribunal finds that it is not appropriate to allow this claim in the present financial context and in the transformation period in which the Industry finds itself.

Item 28

"Whether the disturbance allowance as per Remuneration Order should be extended in cases where a worker is asked to work on another estate while crop season has not yet been terminated on his employer's lands?"
The Tribunal finds that it is not appropriate to allow this claim in the present financial context and in the transformation period in which the Industry finds itself.

Item 29

"Whether uniforms and protective equipment should be reviewed as follows:

(i) Uniforms - 3 units to be issued yearly.
(ii) Raincoat - option for workers for 2 pieces raincoats.
(iii) Hats - 1 hat to be issued yearly.
(iv) gloves - Employees to be provided gloves on "renewed when damaged" basis.
(v) Boots - 2 pairs yearly."

We consider that these claims to be fair and reasonable and award accordingly.

Item 30

"Whether workers should be provided with spectacles and frames?"

We consider this demand fair and reasonable if medically certified and award accordingly.

Item 31

"Whether the term male and female workers should be abolished and labourers paid in accordance to the type of work they perform?"

It must be now common ground that sex discrimination is not permissible.

The situation is however more complex.

After anxious consideration, the Tribunal awards that a Committee be set up for the study of a job evaluation scheme.

The Committee should examine the need to provide for equal contractual terms and conditions for men and women in the same employment in three situations:

- When employed on Like Work (work of the same or broadly similar nature).
- When employed on work rated as equivalent.
- Where a woman is employed in terms of demands made on her effort, skill and decision of equal value to that of a men in the same employment.
- The eventual abolition of the distinction between male and female workers.

The Union of Artisans of the Sugar Industry (UASI)
And
1. Whether for payment of the *Prime de présence annuelle,* the conditions should be as follows:

"Pour les besoins de la qualification à cette prime, les absences acceptées seront les suivantes: congés publics, congés annuels, congés spéciaux, congés de maternité (ou congés résultant d’un miscarriage), congé outre-mer, jours d’absence dus à un cyclone (avertissement 3 et 4), congé préretraite, absence autorisée pour cause de formation ou activité syndicale et congés autorisés ou certifiés par un médecin en cas d’accident de travail ?"

2. Whether for payment of the *Prime d’assiduité et d’ancienneté* the conditions should be as follows:

"Pour les besoins de la qualification à cette prime, les absences acceptées seront les suivantes: congés publics, congés annuels, congés spéciaux, congés de maternité (ou congés résultant d’un miscarriage), congé outre-mer, jours d’absence dus à un cyclone (avertissement 3 et 4), congé préretraite, absence autorisée pour cause de formation ou activité syndicale et congés autorisés ou certifiés par un médecin en cas d’accident de travail; congés de maladie jusqu’à deux jours notifiés par l’employé et congés de maladie de plus de deux jours certifiés par un médecin ?"

3. Whether the 40 hour week should be extended to the crop season on a 5 days' basis or otherwise?

4. Whether the salaries should be increased by 30% or otherwise?

(The UASI is specifically claiming that an across the board increase of 20% be granted with effect from 1 January 1998 and that 2 increments of 5% each be granted with effect from 1 January 1999 and 1 January 2000).

5. Whether the *Prime de présence annuelle* should be reviewed from

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"Prime de Présence Annuelle"

46 All Injury leaves shall be acceptable provided they are certified in minor cases by an estate nurse or an estate doctor and, in cases of more serious nature, by a Government Medical Officer (G.M.O).

47 The "Prime de Présence" is reviewed as proposed by the Union and the Tribunal awards accordingly.

"Prime d’Assiduité et d’ancienneté"

48 All Injury leaves shall be acceptable provided they are certified in minor cases by an estate doctor or estate nurse and in cases of a more serious nature by a Government Medical Officer (G.M.O). All sick leaves of more than two days provided they are certified by the estate doctor or G.M.O.

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Item 7

Whether workers who cannot travel overseas should be granted 3 weeks' leave with pay during the intercrop season once every 10 years together with the possibility of accumulating and splitting?

50 The Tribunal finds that it is not appropriate to allow this claim in the present financial context and in the transformation period in which the Industry finds itself.

Item 8
Whether applications of overseas leave during crop season should be allowed?

The Tribunal finds that it is not appropriate to allow this claim in the present financial context and in the transformation period in which the Industry finds itself.

Item 9

Whether overseas leave not taken should be refunded cash at time of retirement or after death of worker?

The Tribunal finds this claim fair and reasonable and awards accordingly.

Item 10

Whether leave for miscarriage should be increased to 3 weeks with pay, or otherwise?

This claim is fair even for the laymen that we are.

We find this claim fair and reasonable and award accordingly.

Item 11

Whether the 2 days paternal leave and the 2 days’ optional leave for the month of January, as proposed by MSPA, should be increased to 6 days and 3 days respectively, or otherwise?

Paternal leave is now a world-wide practice.

We find that Paternal leave should be increased to 3 days and optional leave to 3 days and award accordingly.

Item 12

Whether for the determination of Remuneration the basic wages should be calculated on basis of 22 days?

The Tribunal finds that it is not appropriate to allow this claim in the present financial context and in the transformation period in which the Industry finds itself.

Item 13

Whether a housing loan scheme should be set up by the MSPA to meet two fundamental claims of the Union:

That land be provided to the workers; and
That a housing loan scheme be set up?

The problem of housing facilities to the workers of the Sugar Industry has reached a stage requiring a global assessment and a global policy. We refer this dispute to Mauritius Sugar Authority for urgent examination in the context of the phasing out of “Camps Sucriers”.

Item 14

Whether the employer should provide the following:
(i) Appropriate transport facilities to workers who fall sick or are injured.

(ii) Transport facilities to workers living in the vicinity of factory to attend duty and transport facilities for site to site travelling.

(iii) Transport facilities be extended to all children of employees attending school, otherwise that those who are provided with such facilities be refunded their return bus fares.

(iv) Transport facilities to workers receiving treatment at the factory "hospitals", at private clinics or government hospitals following injury sustained at work. Otherwise that they be paid their full wages and refunded their full travelling expenses.

(v) Proper passenger means of transport to workers attending work.

(vi) Employment of a Bus Attendant in cases where children are transported in any type of bus or van exceeding 10 seats?

These claims are closely connected with the welfare of the workers.

The Tribunal finds this claim fair and reasonable and awards accordingly.

Item 15

Whether a daily replacement allowance of Rs15 should be paid to a worker whenever he is called upon to act in a higher post?

The Tribunal finds this claim fair and reasonable and awards accordingly.

Item 16

Whether a daily allowance of Rs 25 should be paid to a worker when he is called upon to perform additional duties.

The Tribunal finds that it is not appropriate to allow this claim in the present financial context and in the transformation period in which the Industry finds itself.

Item 17

Whether the Death Grant should be increased to Rs3500?

The Tribunal finds this claim fair and reasonable and awards accordingly.

Item 18

Whether the workers should be covered by a 24 Hour Insurance?

The Tribunal finds that it is not appropriate to allow this claim in the present financial context and in the transformation period in which the Industry finds itself.

Item 19
Whether a medical scheme should be introduced for surgical operations and other medical treatment provided in private clinics?

We recommend that there should be an indepth study in the implication of this claim and award accordingly.

Item 20

Whether the following measures should be taken:

(i) Apprentices to be appointed in their relevant trades after completion of their apprenticeship.

(ii) Setting down of a proper establishment in each class and grades of employees.

(iii) Appointment of workers on a monthly basis after having completed 12 months' continuous employment with the same employer?

The Tribunal awards in favour of (i) and (ii) and recommends claim (iii).

Item 21

Whether the workers should be paid an allowance representing 15% of their salaries for night work?

The Tribunal finds that it is not appropriate to allow this claim in the present financial context and in the transformation period in which the Industry finds itself. This claim may be considered when better times arrive.

Item 22

Whether the following allowances should be reviewed:

(i) Washing of vehicle: Rs 50 per vehicle

(ii) Operating a radio telephone: 15% of basic pay?

The Tribunal awards in relation to (i) Rs15 per vehicle and no award as to (ii).

Item 23

Whether the meal allowance should be increased to Rs50?

The present cost of living pleads for this claim.

The Tribunal finds this claim in the present day context reasonable and awards accordingly.

Item 24

Whether spectacle frames should be provided free of charge?

The Tribunal finds that, if medically certified, this claim is fair and awards accordingly.
Item 25

Whether all the allowances provided in the Remuneration Order concerning additional duties should be increased by not less than 60%?

71 The Tribunal finds that it is not appropriate to allow this claim in the present financial context and in the transformation period in which the Industry finds itself.

Item 26

Whether artisans should be allowed to retire at the age of 55 or otherwise?

72 This dispute has been settled.

Item 27

Whether overtime rates should be paid as follows:

- For first 3 hours: 1.5 rate
- For additional 2 hours: 2.0 rate
- Over 5 hours: 3.0 rate?

73 The Tribunal finds that it is not appropriate to allow this claim in the present financial context and in the transformation period in which the Industry finds itself.

RN586

The Mauritius Sugar Producers' Associations (MSPA)  
And  
(i) The Artisans & General Workers' Union (AGWU)  
(ii) The Organisation of Artisans Unity (OAU)  
(iii) The Union of Artisans of the Sugar Industry (UASI)

RN 587

The Mauritius Sugar Producers' Association (MSPA)  
And  
(i) Plantation Workers' Union (PWU)  
(ii) Sugar Industry Labourers Union (SILU)

Terms of Reference

1. Whether, in the context of a package deal, which contains, among other things, better terms and conditions of employment in return for an essential gain in productivity and a necessary control of the cost of production, as proposed by the MSPA in its latest
counter-proposal dated 19 June 1998, certain provisions of the Remuneration Order can be amended or not, especially in the light of Section 85(4) of the Industrial Relations Act?

2.(a) If in the affirmative, whether the counter-proposal made by the MSPA on 19 June 1998, should be adopted, or otherwise?

(b) If in the negative, what other measures to increase productivity and to control the cost of production should be introduced in the MSPA’s counter-proposal so as to justify any improvement in the terms and conditions of employment of the workers?

The counter proposal which is made without prejudice contains the following:-

74 If the Trade-Union agree to the following:

(a) **Normal Working Day**

   It is proposed that the definition of a normal working day, referring to task work, be modified as follows:

   (1) During the intercrop season where a worker (other than a watchman) is employed on task work, he shall be deemed to have performed a normal day’s work, if:

   (a) excluding any time allowed for a meal break he remains diligently at work for 6\(\frac{3}{4}\) hours on every day other than a Saturday or a public holiday; or

   (b) he completes the task allotted to him.

   (2) During the crop season where a worker (other than a watchman) is employed on task work, he shall be deemed to have performed a normal day’s work, if:

   (a) excluding any time allowed for a meal break, he remains diligently at work for:

   - 5 hours on a Saturday, or
   - 6\(\frac{3}{4}\) hours on every day which is not a public holiday; or

   (b) he completes the task allotted to him.

75 **Payment of Wages**

That wages be paid once a month and through a bank

76 **Duration of Agreement**

That the duration of the new agreement be valid until December 2001

Then, the MSPA would be agreeable to grant the following:

77 (1) **Wage Increase**

Introduce a 7.5% wage increase, based on the present wages, as follows:

<table>
<thead>
<tr>
<th>Date</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1/1/1998</td>
<td>4%</td>
</tr>
<tr>
<td>1/1/1999</td>
<td>1.5%</td>
</tr>
<tr>
<td>1/1/2000</td>
<td>1%</td>
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</tbody>
</table>
Injury and Sick Leaves

Amend the qualification criteria for the "Prime d'Assiduité et d' Ancienneté" and the "Prime de Présence Annuelle" so that, in respect of Injury and Sick Leaves, it now reads as follows:

"Prime d'Assiduité et d' Ancienneté"

Injury Leave: All Injury Leaves provided that:

(a) the injured worker is examined by the estate doctor or nurse and such injury is duly certified by them.
(b) The injured worker fully complied with the health and Safety procedures of the sugar estate and was wearing all the protective equipment given to him by the estate.

Sick Leave: All Sick Leaves of 3 day's duration or more provided that they are duly certified by the estate doctor or by a GMO and that the medical certificate is submitted so as to reach the employer on the third day of absence at latest.

"Prime de Présence Annuelle"

Injury Leave: All injury leaves provided that:

(a) the injured worker is examined by the estate doctor or nurse and such injury is duly certified by either of them.
(b) The injured worker fully complied with the Health and Safety procedures of the sugar estate and was wearing the protective equipment given to him by the estate.

Such new provisions regarding both injury leaves and sick leaves will automatically lapse at the end of this agreement (i.e 31/12/2001) unless there is an express agreement for their renewal between both parties. In case of an absence of a new agreement, the criteria agreed upon in the Protocole d’Accord 1994 will be automatically implemented as the 1/1/2002.

(1) Annual Leave

It is proposed that, over and above the four days of paid leave fixed by the employer in January as provided for in the 1994 “Protocole d’Accord”, workers will be allowed to take two other paid leaves in the month of January each year.

(2) Maternity Allowance

It is proposed that this allowance be increased from Rs300 to Rs1,500.

(3) Optional Retirement

Reduce the age for Optional retirement for men to 55 years during the period of the agreement.

(4) Raincoat

Issue of a 2-piece raincoat (or 1 piece at the option of the worker) every two years.
Submission of MSPA

82 The MSPA’s requests, with regard to agricultural workers, concern hours of work and mode of payment of wages and for Non-Agricultural workers, job descriptions, calculation of overtime and tea-break.

83 The MSPA has proposed a number of concessions to both parties with regard mainly to a wages increase and a review of the qualitative criteria for the "Prime de Présence Annuelle" and the "Prime d’Assiduité et d’ancienneté".

84 The cases regarding Agricultural and Non-Agricultural workers have been dealt with separately.

Hours of work

85 Regarding work accomplished on a task basis, the MSPA’s request is to increase the number of working hours from 6 to 6 3/4 per day from Monday to Friday.

86 MSPA avers that during the intercrop, 90% of agricultural workers are assigned to task work which is deemed to be performed in 30 hours per week (i.e. Monday to Friday - 6 hours per day).

87 During the crop, around 40% of agricultural workers are engaged in case cutting activities and are remunerated on a piece-rate basis. The remaining 60% still perform task work, as in the intercrop, on a 35-hour week basis, i.e. 6 hours from Monday to Friday and 5 hours on Saturday.

88 MSPA claims that task work is given to the vast majority of agricultural workers (90%) and its volume varies according to the state of the fields which is influenced by many factors such as climate, variety of cane, topography, current cultural practice.

89 After an assessment of these factors, a task for each field is proposed by management and negotiated, if need be, with the overseer and the workers.

90 Only for a few jobs is the level of the tasks predetermined and not subject to any change.

91 It is averred that such task work is normally completed well within 6 hours of work from Monday to Friday and within 5 hours on Saturdays.

92 The NRB has stated, in its proposed recommendations dated 10 January 1995, that according to inquiries conducted by it, task workers generally work no more than 5 1/2 during week days and 4 1/2 hours on Saturdays, that is, an effective total of 32 hours per working week during crop season.

93 The NRB states, on 7 April 1995, that the evidence, gleaned during the site visits carried out by their officers, indicated that agricultural workers were still able to complete, within 6 hours of work, the increased tasks, following the transfer of the Saturday-task on the remaining five days of the week, i.e. a task corresponding to 7 hours of work.

94 MSPA states that its proposal should be viewed in the context of an ever-increasing mechanisation of field operations whereby the physical workload of agricultural workers is being gradually alleviated over the years.

95 It is claimed that machine in the fields is helping the worker to be more efficient.
Improvements in derocking and field layout render the field maintenance tasks easier.

The MSPA's proposal takes the view that more work can be accomplished owing to the better conditions of works.

It is stated that the task work, which in Mauritius is linked to the 6 hour-day, compares very unfavourably with the widely adopted practice of a minimum of eight hours per day.

**Mode of Payment of Wages**

MSPA proposes that wages be paid once a month and through a bank.

MSPA states that the provisions of the Remuneration order define the mode of payment of wages (Regulation 10) which should be done in 2 instalments each month on specified days.

The Labour Act, for its part, at Sec 10 provides that payment of remuneration must be made in legal tender or by cheque, but only with the worker's consent. The labour Act, at Sec 8.1., also provides that "subject to any express provision in the agreement, every agreement shall be presumed to be one under which remuneration is to be paid at monthly intervals."

MSPA states that its proposal should be seen as adapting our mode of payment of wages to the modern practice, to new facilities and to increasing hasards and there has been substantial development recently in the banking sector and workers generally are more and more prone to hold a personal banking account.

The usual practice is to operate a domestic budget on a monthly basis, as a number of claims and accounts are settled monthly, and over the past 5 years, the number of personal accounts at commercial banks has increased substantially.

MSPA claims that such a system would provide more security to the payment of wages process and shield workers from any accidental loss or criminal events or malpractice.

During the crop season, a cane cutter, on average, can draw around Rs7,000 per month which is paid to him cash at his site of work.

Payment of the end of year bonus may consist of a total of Rs30,000 to Rs40,000 per worker.

It is stated that this involves the handling of significant sums of cash, with inherent safety risk.

**Duration of Agreement**

In view of its concessions, the MSPA has proposed a 4 -year agreement.

Non-Agricultural Workers

Job Description

The amendments to the job descriptions proposed by the MSPA fall in three broad categories:

The amendments according to MSPA are to promote multi-skilling and polyvalence and to adjust to new techniques.
It is claimed that they would bring about a higher degree of flexibility in the organisation of work.

Multi-skilling and polyvalence should also be beneficial to employees in the sense that (a) their job would be enriched and less specialised (b) they would have additional skills to adjust to new techniques, and (c) they would be better prepared to face coming changes in the work organisation in the light of modernisation, automation and centralization.

Amendments with regard to health and safety

A new provision concerning the implementation of safety measures has also been proposed in the job description of every cost.

This new clause, which is contained in the Occupational Safety, Health and Welfare Act 1988, is meant to better inform and protect workers against industrial injury.

Amendments with regards to responsibilities of Chief Tradesmen.

The last amendment suggested concerns the job description of all Chief Tradesmen and includes the following items (i) preparation of estimates for materials, labour and time required for work allocated to them or their subordinates; (ii) training of their subordinates; (iii) knowledge of first-aid and attendance to a worker in cases of accident or emergency.

It is claimed that Chief Tradesmen have a wide knowledge of their jobs and of their fellow workers and they are leaders and responsible persons on the site of work.

The proposed amendments in the job description are already implemented to a large extent in the sugar industry and in other sectors and constitute responsibilities entrusted to employees of that level.

These new items are meant to reinforce the authority and leadership of Chief Tradesmen; they would also constitute a recognition of their skills and knowledge.

The MSPA claims that its proposal with regard to job description:
(a) is minor in nature and can, in no way, be compared or assimilated to a reclassification exercise;
(b) would not imply more work or longer hours of work as a result of additional responsibilities or job combination;
(c) would merely imply a review and adjustment to certain posts which would not justify a specific increase in wages;
(d) has in certain instances, been borrowed from job descriptions contained in other more recent Remuneration Orders providing lesser remuneration for the same posts; and
(e) would in no way, entail any reduction of the work force or any redundancy plan.

Calculation of Overtime Payment.

MSPA states that the present formula for calculating overtime payment, as provided for at Sec 16(1) and (2) of the Labour Act, is based on a daily computation of hours of work i.e any work done in excess of a normal day’s work.
121 This formula does not take into account the presence or absence of an employee on a longer period of time.

122 Hence, a worker to whom a given volume of work has been given for a week, may absent himself on 2 or 3 days and perform the corresponding amount of work as overtime work, specially on Sundays, where the rate is much higher.

123 It is claimed that there has been an abuse of this system of computation of overtime.

124 The MSPA hence proposed first to calculate and pay overtime on a weekly basis, i.e. when the worker would have already performed 40 hours during the intercrop season and 45 hours during the crop season, except for Sundays and Public Holidays, where the present conditions would be maintained.

125 Only absences due to sickness, industrial injury and lack of authorisation would not qualify for attaining the minimum of 40 to 45 hours after which the extra rate of remuneration would apply.

126 All the other leaves would, hence, be accepted as qualified leaves.

127 The MSPA also proposed that the rate of payment of overtime be increased after a certain number of hours of overtime performed weekly.

128 Hence, workers performing more than a certain number of hours of overtime per week during week days would benefit from a higher rate of payment of overtime.

129 During the intercrop season, a higher rate (x2) than at present (x 1.5) would apply between the 16th and the 26th hour of overtime performed during a week.

130 It is stated that during the crop, workers involved in shift work and performing the usual 27 hours overtime per week (i.e to complete a shift of 12 hours per day) would not be affected except in cases of absences which are not qualified.

131 Considering that the rate of unauthorised absenteeism, of sick and injury leave among shift workers during the crop is very low, only a marginal number of workers would be adversely affected.

132 During the intercrop season, all workers performing up to 15 hours overtime per week (i.e 3 hours per day) would again only be affected in case of absences which are not qualified. However, workers performing more than 15 hours overtime per week, which is a common feature during the last weeks or even months of the intercrop, would benefit from a higher rate of overtime rate i.e x 2 instead of x 1.5 as from the 16th hour of overtime and rate x 3 instead of x 2 as from the 26th hour of overtime.

133 This proposal, it is stated already, applies in other sectors, is meant to reduce absenteeism and overtime payments to workers absenting themselves from work and to better remunerate these workers performing a significant amount of overtime work. Thus, although it is a concession requested by the MSPA, it also contains the possibility for regular workers to increase their overtime payments.

Tea Breaks

134 MSPA states that the Sugar Industry (Non Agricultural Workers) Remuneration Order (Regulation 2) expressly provides that the hours of work (i.e 8 hours on weekdays and 5 hours on Saturday during the crop season) exclude any time for a meal break.
No specific provision is made for time for tea breaks.

The Labour Act provides at Sec 15.1 that hours of work are exclusive of time allowed for meals and tea. Sec 17(1) (b) of the same Act gives clear indication of the duration of breaks.

In many sugar factories, it has been gradually accepted that time for tea breaks would be included in the hours of work; hence the 8 hours of work comprise the tea breaks.

The decision of management was taken at a time when the circumstances in which the factories operate were drastically different.

It is claimed that there were less investments in the factories and the level of employment was high.

Wages were relatively low at the time and there was no threat of liberalisation, of reduced prices and of competition with other efficient producers.

MSPA states that we are now in a completely different economic era, in view of the imperative need to increase productivity. The MSPA considers that, as it is indeed provided by the Labour Act, the tea breaks should be excluded from the hours of work. This is why the MSPA made this proposal.

Such a change would increase the hours of work in sugar factories and garages and the productivity of workers and would be in line with the relevant legal provision.

In view of its concessions, the MSPA has proposed a 4-year agreement.

The MSPA's proposed concessions have already been dealt with elsewhere.

Concessions applicable to both Agricultural and Non-Agricultural Workers.

(a) Increase in Wages

(b) Prime de Présence Annuelle

(c) Prime d'Assiduité et d'Ancienneté

We have already dealt with this issue.

(d) Injury Leaves

We have already dealt with this issue.

(e) Sick Leaves

We have already dealt with this issue

There are other concessions proposed:

Other Concessions applicable only to Agricultural Workers

In its proposal, with regard to agricultural workers, the MSPA also envisaged the following concessions:

i) the possibility of taking 2 days of local leave in January from the existing annual local
leave entitlement.

ii) An increase of the maternity allowance from Rs300 to Rs1500 per maternity,

iii) Optional retirement at 55 for men during the period of the agreement, and

iv) The issue of a 2-piece raincoat (or 1 piece at the worker’s option) every two years.

Other Concessions applicable only to Non-Agricultural Workers

Similarly, the MSPA also envisaged, in its proposal, other concessions specific to non-agricultural workers, as detailed below:

i) the possibility of taking 2 days of local leave in January from the existing annual local leave entitlement,

ii) a 15% increase in the following allowances provided in the Remuneration Order

Second Schedule:

- Ss.3(4) Driver of a heavy crawler tractor(a) from Rs60 to Rs69, (b) from Rs80 to Rs92 and (c) from Rs105 to Rs121.

- Ss.3(5) Driver of a lorry transporting sugar, a self loader or a winch from Rs60 to Rs69.

- Ss 3(6) Driver washing and cleaning a car from Rs5 per car to Rs5.75.

- Ss. 3(8) Driver of motor cars with less than 10 years continuous service: from Rs50 to Rs57.50.

- Ss 3(10) Tyre repairer: from Rs75 to Rs86.25.

- S.s 3(12) Driver of a lorry transporting more than 25 tons of sugar: from Rs75 to Rs86.25.

iii) The payment of the acting allowance as from the first day of replacement, and

iv) the issue of an additional pair of shoes or boots to every worker every two years.

The Unions claim that during negotiations on the Protocole d’Accord in 1994, the MSPA asked the Unions for certain modifications of the Remuneration Orders prescribed conditions of employment.

These were accepted without the least intention that the workers concerned would draw less than what was prescribed.

It was jointly agreed to refer these modifications to the NRB for 'ratification'.

Certain modifications made by the Unions have been interpreted as concessions and contested by the workers of the Sugar Industry and when the NRB was invited to include them in its recommendations in 1996, the Unions resisted such change and the NRB itself stated that “it has jurisdiction to reexamine the terms of the Protocole d’Accord” and that it had “Jurisdiction to entertain new demands and its jurisdiction cannot be subjected to any restriction”.
153 The 1996 NRB recommendations have up to now been prescribed by the Minister of Labour, resulting in current contradictions between the "Protocole d'Accord" of 1994 and the relevant Remuneration orders which are presently in force.

154 The Unions claim that the MSPA has this time insisted that substantial concessions be made in relation to the existing Remuneration orders.

155 The MSPA objected that its proposals be referred to the NRB.

156 The Unions rejected all proposals made by the MSPA in that context and insisted that amendments to the Remuneration Orders should be addressed to the Minister of Labour and eventually to the NRB.

157 The Unions claim that instead the MSPA has asked the PAT to award on the issue as to whether in the context of Section 85(4) of the IRA, the Tribunal can amend the provisions of the Remuneration order.

And in the affirmative

Whether

158 Regarding the Remuneration Order for Non-Agricultural Workers:

1. Job definitions contained in Regulation 2 should be replaced by the job descriptions proposed by the MSPA;

2. New provisions should be included therein providing for 2 tea breaks of 15 minutes each. (The present conditions in the Sugar Industry provide for the inclusion of the tea breaks in the effective hours of work); and

3. Section 3 (Second Schedule) should be amended to provide that overtime be paid on a weekly basis instead of a daily basis.

159 Regarding the Remuneration Order for Agricultural Workers:

1. Section 2 of the Second Schedule should be amended to increase the maximum hours for task work by 45 minutes daily during inter crop season; and

2. Section 10 of the Second Schedule should be amended to impose payment of salaries through banks.

160 And, in the negative, the MSPA has asked the Tribunal to award on "means to increase productivity" to counter balance any salary increase the Tribunal may award in the context of RN 584 and RN585.

161 The Unions state that the first issue is whether the Tribunal may amend a Remuneration Order so as to make less favourable to the workers, as is being sought in this case.

162 It is claimed that disputes related to prescribed minimum statutory conditions of service in any particular industry (disputes of right) and disputes arising out of collective bargaining (disputes of interest) have up to now been and should continue to be dealt with separately.

163 Existing procedural agreement between the MSPA and the Unions provides for such a
It is averred that in effect the MSPA is wrongly requesting that disputes of right be considered as being disputes of interest and be resolved through compulsory arbitration.

It is stated that it is significant that right from the start the Unions have refused to negotiate with the MSPA for reductions of what is prescribed in the Remuneration Orders.

The SILU and UASI contend that it would be illegal for a union to agree to conditions which are less favourable than the prescribed minimum. Vide-Section 97(2) and (3) of the Industrial Relation Act (IRA)

The dispute of the MSPA is misconceived and should be rejected.

The Unions have on the merits, submitted that:

The application of MSPA is untenable, it is detrimental to the interests of the workers of the Sugar Industry and would be detrimental to good industrial relations within the industry- vide Section 47 (b) of the IRA;

The very concept of bargaining improvement in salaries against diminution of prescribed conditions of employment would create an evil precedent for the future which would be most prejudicial to employees in other sectors;

Any decision in favour of the MSPA will jeopardise the "raison d'être" of the NRB and the powers of the Minister under section 96 of the IRA and will go against International Labour Office (ILO) Conventions relating to the establishment of minimum wage-fixing machineries.

The Unions aver that it must be decided whether an award of the Tribunal can on any particular condition of employment and for any objective reason (financial or technical) be less favourable than the prescribed minimum.

Whether the Tribunal can, at the request of an employer, for any subjective reason and interest, award any increase in salaries against diminution of RO prescribed benefits as per dispute declared by the MSPA in return for an essential gain in productivity or a necessary control over the costs of production?

The unions submit that:

The proper construction to be placed on section 85(4) of the Act is that the Tribunal may award conditions of service which are more favourable than the prescribed minimum guaranteed by the law; and

It is clear from a true construction of the IRA (and it is again forcefully submitted) and it is the policy of statute that the Tribunal should not be concerned with legal disputes as opposed to disputes of interest.

The application of MSPA that the Tribunal should award "Productivity Schemes" without the formulation of such Schemes by any of the parties concerned would go against the spirit of arbitration as it has been construed up to now.

The first issue is whether the Tribunal is empowered to amend a Remuneration Order and if so, to what extent.
Sect.85(4) of the Industrial Relations Act 1973 provides as follows:

"(4) An award shall not contain any provision which is inconsistent with the provision of any law, other than a Remuneration Order, relating to the terms or conditions of, or affecting, employment and any award containing any such inconsistent provision shall, to the extent of the inconsistency, be void."

It is clear that -

- The Tribunal cannot amend any law.
- The Tribunal may, by its award indirectly, amend a Remuneration Order.

The Tribunal is of the opinion that it possible for an award to provide for less favourable conditions that obtained in a Remuneration Order but only strictly in the most exceptional circumstances. Such as when an Industry is on the verge of immediate and total collapse.

It may in normal circumstances exceptionally give less favourable conditions on minor issues.

Working Hours

The proposals would entail fundamental changes by arbitration. Further, this issue cannot and should not be entertained until the issue of the 40-hour week with its connected implications is settled.

The parties should enter into immediate and serious discussions.

The Tribunal awards accordingly.

Payment of Wages

The payment of wages only a month and through a Bank shall be optional with effect from the 2004 crop season. The Tribunal awards accordingly.

Duration of Agreement

There is at present no agreement. So, the question of the length of its duration does not arise but the parties should further negotiate with each other on all the points raised by MSPA.

Other issues such as wage increases, injury and sick leaves have been dealt with earlier.

The Tribunal awards accordingly.

Job description

These amendments are meant according to MSPA to promote multi-skilling and polyvalence and to adjust for new techniques.

The Tribunal finds that they are basically fair and rational.

However they should not be imposed on the workers.

We are of the opinion that a committee should be set up for case by case examination.

Overtime payment
The formula is based on S 16(1) and (2) of the Labour Act.

The Industrial Relations Act makes it abundantly clear that the Tribunal can amend Remuneration orders but shall steer clear from any law.

We are however prepared and feel competent to invite the appropriate authority to look freshly into this matter.

**Tea Breaks**

It is proposed that tea-breaks be excluded from the hours of work.

The tradition of allowing tea-breaks to be included in the hours of work is based on the simple fact of the overpowering conditions under which the workers operate.

The Tribunal declines to intervene and awards accordingly.

**RN 588**

Plantation Workers’ Union
And
Mauritius Sugar Producers’ Association

Item 2

(a) Whether all sick leave and injury leave should be reckoned as working day for the purpose of computing attendance bonus, or otherwise?

The Tribunal finds as follows:

Injury leaves must be certified by an estate doctor or estate nurse in minor cases and, in more serious cases, by a G.M.O.

Sick leaves of more than 2 days must be certified by estate doctor or a G.M.O.

(b) Whether sick leave not taken should be refunded at the end of the year, or otherwise?

Item (b) is not allowed. The Tribunal awards accordingly.

Item 3

Whether Annual Leave should be granted from 4 days to 8 (eight) in the month of January so as to facilitate Agricultural Workers to admit their children to Primary or Secondary Schools, for Sankranti Festival and aftermath of Cavadee Festival and should it be optional, or otherwise?

The Tribunal finds that it is not appropriate to allow this claim in the present financial context and in the transformation period in which the Industry finds itself.

These claims may be re-examined when better times arrive.
Item 4

Whether raincoats should be provided in two pieces, i.e., overcoat and trousers and should it be optional, or otherwise?

203 Raincoats shall be provided in two pieces. The Tribunal awards accordingly.

Item 5

Whether four pairs of gloves should be provided to Agricultural Workers every month or two pairs of good quality that is of heavy duty, or otherwise?

204 This claim is fair and reasonable and the Tribunal awards accordingly.

Item 6

Whether the minimum wage should be a guarantee for the purpose of computing productivity bonus, or otherwise?

205 The Tribunal finds that it is not appropriate to allow this claim in the present financial context and in the transformation period in which the Industry finds itself.

Item 7

Whether female workers of 50 years and above should not be compelled to spread scums and plant sugar canes, or otherwise.

206 The age factor makes this claim more than reasonable.

207 The Tribunal finds this claim fair and reasonable and awards accordingly.

Item 8

Whether in view to amending GN 214 of 1983 as subsequently amended by GN 79 of 1987, Second Schedule Para 5.1(b) so as the rate be read:

"Carrying canes" over a distance not exceeding 15 gaulettes and stacking at not more than 3 gaulettes from the point of loading and the rate should be rupees fifty (Rs 50) per ton, or otherwise?

208 The Tribunal finds that it is not appropriate to allow this claim in the present financial context and in the transformation period in which the Industry finds itself.

Item 9

Whether if a worker dies in the course of Pre-retirement leave his or her heirs should be paid a Retirement Benefit instead of a Death Gratuity as per GN 214 as subsequently amended, or otherwise?

209 We find this item fair and reasonable and award accordingly.

Item 10

Whether spectacles should be provided by Employers to workers if recommended by
Medical Practitioners, or otherwise?

210 We find this claim fair and reasonable and award accordingly.

Item 11

(a) Whether male worker should be given the possibility to retire at the age of 55 instead of 58, or otherwise?

(b) Whether female workers should be given the possibility to retire at the age of 50 years instead of 55 years, or otherwise?

(c) Whether task set to female workers after reaching the age of 50 years should be reduced by one fifth (1/5), or otherwise?

Issues (a) and (b) settled.

211 We find claim (c) reasonable and award accordingly.

Item 12

Whether working hours of Watchman should be based on 8 (Eight) hours instead of 12 hours, or otherwise?

212 The Tribunal finds that it is not appropriate to allow this claim in the present financial context and in the transformation period in which the Industry finds itself.

Item 13

Whether task work should be based on five hours instead of six hours, or otherwise?

213 The Tribunal finds that it is not appropriate to allow this claim in the present financial context and in the transformation period in which the Industry finds itself.

Item 14

Whether task work should be clearly defined and a consultative mechanism between Unions and Employers put in place to that effect so as to monitor task set to avoid industrial problems, or otherwise?

214 The answer is a definite yes and the Tribunal awards accordingly.

Item 15

Whether pick axe provided by Employers should be of Make Elwell, or otherwise?

215 This demand assumes our knowledge of the Make Elwell. We have none. This claim is not allowed and the Tribunal awards that pick-axes of good quality should be provided.

Item 16

Whether in cutting and loading or cutting only a worker’s task set on Saturday should be reduced by one sixth (1/6) to qualify for that day, or otherwise?
The Tribunal finds that it is not appropriate to allow this claim in the present financial context and in the transformation period in which the Industry finds itself.

Item 17

Whether overseas leave should be taken throughout the year and not only during intercrop, or otherwise?

The Tribunal finds that it is not appropriate to allow this claim in the present financial context and in the transformation period in which the Industry finds itself.

Item 18

Whether a 15% allowance should be paid to female workers if asked to do buttage, or otherwise?

We find this claim fair and reasonable and award accordingly.

Item 19

Whether cutting canes should not exceed four lines for windrowing the cut canes on one line for mechanical loading and should not be either on Five or Six Lines as it is very tiresome, harder and affect productivity, or otherwise?

The Tribunal finds that it is not appropriate to allow this claim in the present financial context and in the transformation period in which the Industry finds itself.

Item 20

Whether the rates of only cutting canes should be increased and that the weight of tonnage of canes be brought down for a worker to qualify for that day during harvest compared to that of cutting and loading performed for qualifying before the introduction of mechanical loading, or otherwise?

The Tribunal finds that it is not appropriate to allow this claim in the present financial context and in the transformation period in which the Industry finds itself.

Item 21

Whether 2 pairs of boots should be provided every two years and should it be of good quality and should be of brand Dunlop or Avon, or otherwise?

We have no know knowledge of Dunlop or Avon. The rest of the claim is reasonable and we award accordingly.

Item 22

Whether one pair of additional uniform should be provided to agricultural workers every year as the two pairs of uniform actually issued to them do not last one year, or otherwise?

We find this request fair and reasonable and award accordingly.

Item 23
Whether workers affected in cutting and loading of canes during crop season if they have to travel more than one mile within the same estate should be paid "a distance allowance of Rupees Ten" for every additional mile or part thereof apart from the travelling allowance paid as per GN 124 of 1983 Second Schedule, paragraph 13 or otherwise?

223 The Tribunal finds that it is not appropriate to allow this claim in the present financial context and in the transformation period in which the Industry finds itself.

Item 24

Whether Agricultural Workers affected in cutting canes should be paid an allowance of Rs 5.00 per ton while moving straws, or otherwise?

224 The Tribunal finds that this claim is reasonable and awards accordingly.

Item 25

Whether a Paternity Leave of six days paid leave should be granted to male agricultural worker on the occasion of his wife delivering a child, or otherwise?

225 Paternal leave is now a worldwide practice.

226 The number of paternal leave shall be 3 days. The Tribunal awards accordingly.

Item 26

Whether hats should be provided to workers to protect them against sun and rain, or otherwise?

227 Some say that Mauritius has no climate. Only weather!

228 This claim is fair and reasonable and the Tribunal awards accordingly.

Item 27

Whether workers affected during crop and intercrop season in cutting canes for planting should be paid productivity bonus, or otherwise?

229 The Tribunal this claim fair and reasonable and awards accordingly.

Item 28

Whether workers affected during mini crop performing the same operation as in crop season should be paid productivity bonus, or otherwise?

230 There is logic in this demand.

231 This claim is fair and reasonable and the Tribunal awards accordingly.

Item 29

Whether female workers should be paid the same wages as male workers, or
otherwise?

232 It must now be common ground that sex discrimination is not permissible. The situation is however more complex.

233 After anxious consideration, the Tribunal awards that a committee be set up for the study of Job Evaluation Schemes.

234 The Committee should examine the need to provide for equal contractual terms and conditions for men and women in the same employment in three situations:-

- When employed on Like Work (work of the same or broadly similar nature).
- When employed on work rated as equivalent.
- Where a woman is employed in terms of demands made on her (effort, skill and decision) of equal value to that of a men in the same employment.
- The eventual abolition of the distinction between male and female workers.

Item 30

Whether a 40-hour week based on five days should be applied during crop season, or otherwise?

235 A Part Award on the 40-hour week has already been delivered.

Item 31

Whether accrued bank sick leave which are not taken by workers should be refunded to them at the time of retirement, or otherwise?

236 The Tribunal finds that it is not appropriate to allow this claim in the present financial context and in the transformation period in which the Industry finds itself.

Item 32

Whether all workers should be paid productivity bonus during harvest season, or otherwise?

237 The Tribunal finds that it is not appropriate to allow this claim in the present financial context and in the transformation period in which the Industry finds itself.

Item 33

Whether return bus fare should be refunded to workers’ children, attending University of Mauritius, IVTB Courses or technical schools offering courses approved by IVTB or schools approved by Ministry of Education and Human Resources Development if he or she is not in employment, or otherwise?

238 Any step rewards promoting education if reasonable should be allowed.

239 This claim is fair and reasonable and the Tribunal awards accordingly.
Item 34

Whether an additional Pension Scheme should be set up for agricultural workers of the Sugar Industry as the small pension they draw do not meet their needs, or otherwise?

240 We recommend further discussions on this issue and award accordingly.

Item 35

Whether relativity of salaries should be given due consideration, or otherwise?

241 The answer is an obvious yes and we award accordingly.

Item 36

Whether training facilities should be extended to all level to agricultural workers to meet the challenges facing them with the introduction of heavy mechanisation in field operation, or otherwise?

242 This is a future oriented demand.

243 The Tribunal finds this claim reasonable and awards accordingly.

Item 37

Whether an annual leave of three weeks should be granted to agricultural workers of the Sugar Industry, or otherwise?

244 The Tribunal finds that it is not appropriate to allow this claim in the present financial context and in the transformation period in which the Industry finds itself.

RN 589

(1) Artisans & General Workers' Union

(2) Organisation of Artisans Unity

And

The Mauritius Sugar Producers' Association

Item 2

Whether the MSPA should pay an additional of 10 increments representing 3.3% yearly, or otherwise?

245 The Tribunal has already awarded a substantial wage increase and cannot presently grant this claim. The Tribunal awards accordingly. This issue of salary scales may be examined when better times arrive.

Item 3

Whether the MSPA should correct the existing anomalies in salary created by the
"Protocole d’Accord" of 1994 for the non agricultural workers and refund the percentage which arised thereby, or otherwise (some categories of workers received 13.29% and 14.03% instead of 18.06%. Those concerned are in the group 1(A) to 6(F) and 14(N) and 15(O). Other workers between group 7(G) and 11(K) have had a decrease in different percentage concerning relativity)?

246 This claim needs further discussions between the parties. The Tribunal, at this stage, declines to intervene and awards accordingly.

Item 4

Whether the MSPA should introduce the forty-hour week during crop season that is Mondays to Fridays, or otherwise?

247 The Tribunal has already delivered its award.

Item 5

Whether the MSPA should consider henceforth both injury and sick leave be reckoned for qualification to the two "Prime de Présence" and "Prime d’assiduité", or otherwise?

248 All injury leaves shall be acceptable provided they are certified in minor cases by an estate nurse or an estate doctor or by a Government Medical Officer (G.M.O) in more serious cases.

249 All sick leaves of more than 2 days provided they are certified by the estate doctor or a G.M.O

250 The Tribunal awards accordingly.

Item 6

Whether the MSPA should increase the meal allowance from fifteen rupees (Rs15) to fifty rupees (Rs50), or otherwise?

251 The present cost of living pleads for this demand.

252 We find this request reasonable and award accordingly.

Item 7

Whether the MSPA should pay a night allowance of 25% of his basic salary to every worker who is required to work on a night shift, or otherwise?

253 The Tribunal finds that it is not appropriate to allow this claim in the present financial context and in the transformation period in which the Industry finds itself. This claim may be examined when better times arrive.

Item 8

Whether the MSPA should pay on a pro-rata basis an end of year bonus to every worker performing less than 62% of the number of working days, or otherwise. (This concerns those retiring on medical ground or at the age of 60 and seasonal workers as well)?

254 The Tribunal finds that it is not appropriate to allow this claim in the present financial context
and in the transformation period in which the Industry finds itself.

Item 9

Whether the MSPA should pay in cash to every worker in lieu for all banked leaves accumulated on retirement, dismissed from his job or to his family after death, or otherwise?

255 The Tribunal finds that it is not appropriate to allow this claim in the present financial context and in the transformation period in which the Industry finds itself.

Item 10

Whether the MSPA should grant a six (6) weeks overseas leave every (5) five years instead of 10 years, or otherwise?

256 The Tribunal finds that it is not appropriate to allow this claim in the present financial context and in the transformation period in which the Industry finds itself.

Item 11

Whether the MSPA should grant to every monthly worker six (6) days leave on full pay following the birth of his child, or otherwise?

257 Paternal leave is now a worldwide practice.

258 The Tribunal finds that a paternal leave of three days is reasonable and awards accordingly.

Item 12

Whether the MSPA should grant to every worker an insurance scheme based on a 24 hours a day in case of accident, medical and surgical expenses, or otherwise?

259 The Tribunal finds that it is not appropriate to allow this claim in the present financial context and in the transformation period in which the Industry finds itself.

Item 13

Whether the MSPA should pay for the optical expenses as may be recommended by an ophthalmologist including lenses and frames, or otherwise?

260 The Tribunal finds this claim, if medically certified, fair and reasonable and awards accordingly.

Item 14

Whether the MSPA should pay the salary applicable to every worker replacing another worker of a higher grade as from the very first day of replacement, or otherwise?

261 The Tribunal finds this claim justified and award accordingly.

Item 15

Whether the MSPA should pay every crane and derrick driver as driver superior grade,
or otherwise?

262 The Tribunal awards that this issue be referred to the Committee set up under RN586/587.

Item 16.

Whether the MSPA should pay every automobile electrician the same salary scale as motor mechanic (superior grade), or otherwise?

263 The Tribunal awards that the issue be referred to the committee set up under RN 586/587.

Item 17

Whether the MSPA should appoint in their substantive post after a maximum period of five years apprenticeship, or otherwise?

264 Five years is a long time learning.

265 We find the claim fair and reasonable and award accordingly.

Item 18

Whether the MSPA should promote in their respective grade every worker who has completed a maximum of 5 years service in their respective grade automatically in the next higher grade with salaries at the next incremental point plus two increment on the new salary scale, or otherwise?

266 This question of automatic promotion is a sensitive issue. The Tribunal only recommends the above claim.

Item 19

Whether the MSPA should pay to every worker employed on a tractor, truck and loader ripper (Atlas) a monthly allowance of:

(i) Rs150 where the vehicle has not less than 61 hp but not more than 104 hp
(ii) Rs200 where the vehicle has not less than 105 hp and not more than 154 hp
(iii) Rs300 where the vehicle has more than 154 hp, or otherwise?

267 The Tribunal does not find this claim presently justified and awards accordingly.

Item 20

Whether the MSPA should pay a monthly allowance of Rs250 to every driver employed on a lorry transporting sugar, a self loader, a winch or any tractor transporting cane, or otherwise?

268 We do not allow this claim and award accordingly.

Item 21

Whether the MSPA should pay to every driver who is required to wash and clean a
vehicle, other than the one he usually drives, an allowance of Rs50 per vehicle every
time he washes and cleans it, or otherwise?

269 We find the sum of Rs15 adequate and award accordingly.

Item 22

Whether the MSPA should pay to every telephone operator, who operates a radio
telephone, an allowance of 15% of his basic wages instead of 10%, or otherwise?

270 We do not find this claim justified and award accordingly.

Item 23

Whether the MSPA should pay a monthly extra allowance of Rs200 instead of Rs50 to
every driver reckoning less than 10 years continuous service with the same employer,
or otherwise?

271 We do not find this claim justified and award accordingly.

Item 24

Whether the MSPA should pay to every driver, employed on a lorry transporting more
than 20 tons of sugar to the Bulk Sugar Terminal, an additional allowance of Rs250
instead of Rs75, or otherwise?

272 We find an allowance of Rs100 reasonable and awards accordingly.

Item 25

(a) Whether the MSPA should pay to every surveillant working under derricks the same
salary as overseer grade I, or otherwise?

(b) Whether the MSPA should pay to every worker who is employed to operate an air
compressor the same salary as of a driver grade II, or otherwise?

273 We refer these issues to the Committee set up under RN 586/587 and award accordingly.

Item 26

(a) Whether the MSPA should grant to every worker annual leave entitlement in the
month of January?

(b) Whether the MSPA should allow every worker, who has not taken his local leave
during the calendar year to take the remaining local leave in the following year, or
otherwise?

274 We do not find this claim justified and award accordingly.

Item 27

Whether the MSPA should pay a maternity allowance of Rs1500 instead of Rs300 to the
wife of every worker who is pregnant and is not being attended by the estate midwife,
or otherwise?
275 We find an allowance of Rs1000 reasonable and award accordingly.

Item 28

Whether the MSPA should refund the full return bus fare to children of workers who are attending university, IVTB courses and other educational institutions up to the completion of studies, or otherwise?

276 Any step to promote education, if reasonable, is acceptable.

277 We find the claims justified and award accordingly.

Item 29

Whether the MSPA should pay to the worker expenses incurred for complete medical check-up by medical specialist every year and whenever a worker complains about his health condition, or otherwise (Those mainly concerned are store attendants, painters, electricians, laboratory attendants and every worker handling chemicals like herbicides, pesticides, insecticides etc.)?

278 This issue should be referred to a committee for detailed examination. The Tribunal awards accordingly.

Item 30

Whether paragraph 5(4) of the Second Schedule to the Sugar Industry (Non-Agricultural Workers) Remuneration Order Regulations 1985 should be deleted and replaced by a provision stating that non-agricultural workers should not be required to perform field work?

279 We refer this issue to the committee set up under RN 586/587.

Item 31

Whether the MSPA should classify every watchman, gardener and hospital servant working in the factory vicinity as non-agricultural workers, or otherwise;

280 We do not find this claim justified and award accordingly.

Item 32

Whether the MSPA should classify every driver working on a loader (Atlas) as driver superior grade, or otherwise?

281 We do not find this claim justified and award accordingly.

Item 33

Whether the MSPA should not ask riggers grade 2 to be responsible for supervising and organising the work of his gang?

282 We do not find this claim justified and award accordingly.
The Sugar Industry Labourers Union
And
The Mauritius Sugar Producers Association

The following dispute was reported to the Minister but rejected by it. The appeal against the rejection was allowed and the dispute was subsequently referred to the Tribunal.

The Union has averred the following:-

Regulation 2 of the Remuneration order to the Agricultural Workers defines an "Overseer" as "a worker who is responsible for supervising the work of not more than 24 workers".

This definition limits the duties of Overseers to the recording of attendance of and the supervision of work performed by not more than 24 Agricultural workers and opens an avenue of promotion for Agricultural workers on the ration of 1 Overseer to 24 Agricultural workers. E.g. if an employer employs some 504 workers, he must employ at least 21 Overseers and the overseers would, in turn, be promoted from the ranks of the Agricultural Workers.

The agreement signed between the MSPA and Sugar Industry Overseers Association (SIOA) has increased the number of workers from 24 to 30. The consequential effect of the said agreement is that it will reduce the appointment of overseers to 17.

In addition to the arguments put forward in cases RN586 and 587; we contend that any reduction in the prescribed minimum, as laid down in the Remuneration Orders, will adversely affect the interests of the workers, as demonstrated in the unions' case.

There are presently 18,982 Agricultural workers for 1102 Overseers. In case the MSPA - SIOA agreement is enforced the number of Overseers would be drastically reduced to about 632. This would result in a loss of about 159 posts of Overseers. The medium term cost benefit for the MSPA exceeds by far the short term effect of the 12% increase of salary granted to the 1102 Overseers.

Hence the stand of SILU and MSPA cannot, by collective agreement with a third party, unilaterally vary the statutory composition of a gang of workers to the detriment of the Agricultural Workers and the request of SILU that the Tribunal should award the MSPA and SIOA were wrong to have tampered with the statutory composition of a gang to the prejudice of the Agricultural Workers.

The Tribunal finds that it would not be in order for it to interfere in the signature of an agreement entered freely between two parties.

However, the Tribunal has a duty to warn all those concerned that the existence of such an agreement might become the subject of a separate but connected industrial disputes.

The Tribunal awards accordingly.

The Tribunal finds with dismay the unnecessary tug of war situation that seems to prevail in the Industry and the consequent disappearance of the indispensable give and take mentality.

In this situation, productivity becomes a bible for some and a dirty word for others.

This is intensely worrying.
We have tried, in this difficult situation, to make as much balanced judgements as possible.

Some will be delighted sometimes, others disappointed othertimes.

Such unfortunately are the ways of life.

(H. Balgobin)
President

M. Serret

H. Seeballuck

16th May 2003