Annual Report on Performance of the Employment Relations Tribunal 2017/18
Vision

To be the expert tribunal for the settling of industrial disputes.

Mission

To provide an efficient, modern, reliable and rapid means of arbitrating and settling disputes between workers or trade unions of workers and employers or trade unions of employers so that peace, social stability and economic development are maintained in the country.
Supervising Officer’s Statement

The period 2017/2018 has been a fulfilling exercise. 179 cases (Industrial and Employment disputes) have been referred to or lodged before the Tribunal. Despite limited resources in terms of skilled and semi-skilled employees (the department of shorthand writer still being understaffed), we managed a delivery output of 28 Awards together with 9 Orders issued. + 153 cases have been disposed of with 57 pending as at 1st July 2018. Indeed the figures speak for themselves.

I need to reiterate that the good delivery of justice cannot be measured by the number of cases disposed but by ensuring that justice is done. A proper evaluation of the Tribunal’s work cannot be subject only to a judgmental exercise by a calculation of percentage of cases disposed.

Somehow we find our way in promoting industrial relations despite budgetary constraints.

It is disappointing to note that despite representations made to the appropriate authorities, no consideration has been given to the extra work we performed and responsibilities we shoulder in relation to the reduction of workforce cases (Employment Promotion and Protection Division). Be that as it may, the Tribunal is taking up the challenge to promote industrial relations as the number and complexity of cases grow year by year.

Rashid Hossen
President
Employment Relations Tribunal
Roles and Functions of the ERT

List of Services

■ Arbitration of labour disputes and the making of awards.

■ Making of orders in relation to recognition, procedure agreement, check-off agreement, minimum service and any other issues under the Employment Relations Act.

■ Making awards in relation to cases referred to the Employment Promotion and Protection Division.

■ Sitting on appeal in relation to certain decisions of the Commission for Conciliation and Mediation and Registrar of Associations.

Details of Services

■ Acting as arbitrator between parties having to resolve a dispute.

■ Settling labour disputes after hearing parties, more especially employer’s and worker’s representatives, and any other witnesses. Under the Employment Relations Act, a labour dispute

(a) means a dispute between a worker, or a recognised trade union of workers, or a joint negotiating panel, and an employer which relates wholly or mainly to wages, terms and conditions of employment, promotion, allocation of work between workers and groups of workers, reinstatement or suspension of employment of a worker;

(b) does not, notwithstanding any other enactment, include a dispute by a worker made as a result of the exercise by him of an option to be governed by the recommendations made in a report of the Pay Research Bureau or a salary commission, by whatever name called, in relation to remuneration or allowances of any kind;

(c) does not include a dispute that is reported more than 3 years after the act or omission that gave rise to the dispute.
Applications may be made directly to the Tribunal by trade unions under various provisions of the Employment Relations Act in relation to recognition, revocation of recognition, procedure agreement, unfair labour practice during collective bargaining, check-off agreement, time-off facilities and access to workplace and to information, among others.

Awards are delivered after hearing parties in relation to their disputes within 90 days as from the day the cases have been referred to the Tribunal (except for the Employment Promotion and Protection Division where it is 30 days). It is similar to a Court of Law delivering judgment after hearing parties.

Cases where an employer has reduced the number of workers in his employment or closed down his enterprise may be referred to the Employment Promotion and Protection Division of the Tribunal and the Tribunal has the power to order the reinstatement of the former worker where applicable or the payment of severance allowance as provided in the Employment Rights Act.

Gender Statement

The ERT as an institution dealing with employment relations is particularly attentive to ensuring gender equality. The Tribunal ensures that there is proper rotation of training opportunities offered to all members of staff irrespective of gender. No grade at the ERT, including the senior most position is gender-based but instead any position is open to the best available candidate. Even in relation to members appointed to be on panels hearing disputes, there is a very good representativeness of genders. The ERT treats all its stakeholders including lawyers, disputants, representatives of unions and employees with gender equality and sees to it that this approach is taken at all levels of the service offered by the ERT to the public at large.
About our people

Composition of the Employment Relations Tribunal

President

Hon. Rashid HOSSEN

Vice-Presidents

Mr Indiren SIVARAMEN

Mr Shameer JANHANGEER
Members

Representatives of Workers

1. Ms Marie Désirée Lily LACTIVE
2. Mr Francis SUPPARAYEN
3. Mr Raffick HOSSENBACCUS
4. Mr Abdool Kader LOTUN
5. Mr Vijay Kumar MOHIT

Representatives of Employers

1. Mr Abdool Feroze ACHARAUZ
2. Mr Eddy APPASAMY
3. Mrs Jeanique PAUL-GOPAL
4. Mr Rabin GUNGOO
5. Mrs Karen K. VEERAPEN

Independent Members

1. Mr Kevin C. LUKEERAM
2. Mr Arassen KALLEE
3. Mr Parmeshwar BUROSEE
4. Mr Ghianeswar GOKHOOL
5. Mr Yves Christian FANCHETTE
6. Mrs Teenah JUTTON-SEEBURRUN
<table>
<thead>
<tr>
<th>SN</th>
<th>NAME</th>
<th>TITLE</th>
<th>EMAIL</th>
<th>PHONE NO (230)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Hon. HOSSEN Rashid</td>
<td>President</td>
<td><a href="mailto:rhossen@govmu.org">rhossen@govmu.org</a></td>
<td>Thro' CS 211 6368</td>
</tr>
<tr>
<td>2</td>
<td>Mr SIVARAMEN Indiren</td>
<td>Vice-President</td>
<td><a href="mailto:isivaramen@govmu.org">isivaramen@govmu.org</a></td>
<td>Thro' CS 213 2892</td>
</tr>
<tr>
<td>3</td>
<td>Mr JANHANGEER Shameer</td>
<td>Vice-President</td>
<td><a href="mailto:sjanhangeer@govmu.org">sjanhangeer@govmu.org</a></td>
<td>Thro' CS 210 0998</td>
</tr>
<tr>
<td>4</td>
<td>Mrs HORIL Luxmi</td>
<td>Temporary Deputy Registrar</td>
<td><a href="mailto:registrar-ert@govmu.org">registrar-ert@govmu.org</a></td>
<td>212 8286</td>
</tr>
<tr>
<td>5</td>
<td>Mrs BUXOO Faroza</td>
<td>Office Management Executive</td>
<td><a href="mailto:fbuxoo@govmu.org">fbuxoo@govmu.org</a></td>
<td>212 5184</td>
</tr>
<tr>
<td>6</td>
<td>Mrs BHUGOBAUN kowsalleea</td>
<td>Principal Financial Operations Officer</td>
<td><a href="mailto:kbhugobaun@govmu.org">kbhugobaun@govmu.org</a></td>
<td>211 1303</td>
</tr>
<tr>
<td>7</td>
<td>Mr MUNORUTH Karishdeo</td>
<td>Temporary Office Management Assistant</td>
<td><a href="mailto:ert@govmu.org">ert@govmu.org</a></td>
<td>212 4636</td>
</tr>
<tr>
<td>8</td>
<td>Mrs WAN CHUN WAH Chong How Rosemay</td>
<td>Senior Shorthand Writer</td>
<td><a href="mailto:cwan-chun-wah@govmu.org">cwan-chun-wah@govmu.org</a></td>
<td>211 6913</td>
</tr>
<tr>
<td>9</td>
<td>Ms UJOODHA Lakshana</td>
<td>Temporary Shorthand Writer</td>
<td><a href="mailto:ert@govmu.org">ert@govmu.org</a></td>
<td>211 6913</td>
</tr>
<tr>
<td>10</td>
<td>Mrs DOOBUR Vidiawatee</td>
<td>Temporary Shorthand Writer</td>
<td><a href="mailto:ert@govmu.org">ert@govmu.org</a></td>
<td>211 6913</td>
</tr>
<tr>
<td>11</td>
<td>Mrs TOOFANY Bibi Ansoo</td>
<td>Confidential Secretary (Hon. Hossen)</td>
<td><a href="mailto:atoofany@govmu.org">atoofany@govmu.org</a></td>
<td>208 4536</td>
</tr>
<tr>
<td>12</td>
<td>Mrs DOSIEAH Deeneshwaree</td>
<td>Confidential Secretary (Mr Sivaramen)</td>
<td><a href="mailto:ddosieah@govmu.org">ddosieah@govmu.org</a></td>
<td>208 0091</td>
</tr>
<tr>
<td>13</td>
<td>Ms JEETOO Hawan Bee</td>
<td>Confidential Secretary (Mr Janhangeer)</td>
<td><a href="mailto:ert@govmu.org">ert@govmu.org</a></td>
<td>208 0091</td>
</tr>
<tr>
<td>14</td>
<td>Mrs LUCHMUN Dhanwantee</td>
<td>Management Support Officer</td>
<td><a href="mailto:ert@govmu.org">ert@govmu.org</a></td>
<td>212 4636</td>
</tr>
<tr>
<td>15</td>
<td>Mrs LABONNE Mary</td>
<td>Management Support</td>
<td><a href="mailto:ert@govmu.org">ert@govmu.org</a></td>
<td>2124636</td>
</tr>
</tbody>
</table>
Part II: ERT ACHIEVEMENTS AND CHALLENGES

Status on Implementation of Budget Measures

Not applicable.

Major Achievements

For the period 2017/18, 179 cases (industrial & employment disputes) have been referred to or lodged before the Tribunal.

The Tribunal has delivered 28 Awards and 9 Orders and has disposed of a total of 153 cases. The total number of cases pending before the Tribunal as at 1 July 2018 thus stood at 57.

The Tribunal has disposed of 87 cases within statutory time limits. This is
below target in view of the increasing number of disputes referred to or lodged before the Tribunal (179 cases) and the complexity of cases. However, the Tribunal has managed to keep the number of pending cases as at 30 June 2018 to 57 cases.

**Status on Implementation of Key Actions**

<table>
<thead>
<tr>
<th>Key Action</th>
<th>Key Performance Indicator</th>
<th>Target 2017/18</th>
<th>Status of Key Action as at 30 June 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dealing with increasing number of disputes and applications targeting a yearly increase of 5% in the number of cases disposed of within statutory time limit subject to complexity of cases.</td>
<td>Number of cases disposed of within statutory time limit (actual 2016/2017: 99 (exceptional figure)).</td>
<td>97</td>
<td>87 Below target in view of increasing number of disputes and complexity of cases.</td>
</tr>
</tbody>
</table>

**Other Internal Developed KPI's**

Number of cases disposed

The number of cases disposed gives a rough indication of the ability of the ERT to cope with an increasing number of cases referred to or lodged before the Tribunal. Based on the total figure of 153 cases disposed before the Tribunal for the period 2017/18 (a performance which is notable), the Tribunal has set an ambitious target of 160 cases to be disposed of by the ERT for the period 2018/19 (representing slightly less than 5% increase in the number of disposed cases).

As at 01 October 2018 (starting from 1 July 2018), the Tribunal had disposed of 26 cases.
Risk Management, Citizen Oriented Initiatives & Good Governance

The Public Sector Anti-Corruption Framework

Anti-corruption policies and procedures

The Tribunal has seized the opportunities provided by the Public Sector Anti-Corruption Framework (PSACF) to “take up the challenge of building corruption resistance” within the Tribunal and thus “reinforce the objectives set and enhance public trust” in the Tribunal.

The Tribunal has since 2014 developed and implemented an anti-corruption policy for the Tribunal. The policy is available on the website of the Tribunal (https://ert.govmu.org) and has been disseminated to all members of the staff. The Tribunal has in line with its anti-corruption policy set up an anti-corruption committee which is chaired by the President of the Tribunal. The Integrity Officer, Mrs Luxmi Horil, Deputy Registrar of the Tribunal, is a member of the committee and acts as the Secretary of the committee. An officer of the Independent Commission against Corruption (ICAC) is an ex-officio member of the committee to guide the Tribunal in its process to fully implement the PSACF within the Tribunal.

The anti-corruption committee meets regularly and has, amongst others, adopted a gift policy which has been widely disseminated, identified particular risk areas within the Tribunal, organized training with the help of ICAC officers on corruption offences and embarked on a process of corruption risk management.

The Tribunal is committed to implementing the PSACF within the Tribunal and thereby minimizing the risks of corrupt practices within the Tribunal.

Implementation Plan – Director of Audit Comments

Not applicable for relevant period.
Part III – FINANCIAL PERFORMANCE

Financial Highlights

The Budget Estimates of Rs 23,500,000 allocated to the ERT for Year 2017/2018 comprise mostly of remunerations for its staff.

Rs 15,310,000 out of the total budget relates to Compensation of Employees. Rs 8,170,000 was provided under Goods and Services and Rs 20,000 was provided under Grants to meet expenses as Contributions to International Organisations.

Analysis of Major Changes

Expenditure trends are the same for both Financial Years 2016-2017 and 2017-2018

Statement of Expenditure

The table hereafter provides figures as regards to Estimates for Year 2017-2018 and actual expenditure for the years 2016-2017 and 2017-2018

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Compensation of Employees</td>
<td>14,227,000</td>
<td>15,310,000</td>
<td>14,113,020.63</td>
</tr>
<tr>
<td>Goods and Services</td>
<td>7,559,000</td>
<td>8,170,000</td>
<td>7,365,604.23</td>
</tr>
<tr>
<td>Grants</td>
<td>15,000</td>
<td>20,000</td>
<td>10,207.47</td>
</tr>
</tbody>
</table>
PART IV – WAY FORWARD

Trends and Challenges

The Tribunal which consists of a President and two Vice-Presidents who can each sit as the presiding member on a panel is called upon to attend to and hear an increasing number of cases. Besides the staff of the Tribunal, the Tribunal also comprises of other members appointed in line with section 85(2) of the Employment Relations Act. The Tribunal can accommodate more sittings with its two hearing rooms and in line with its Key Performance Indicator, is endeavouring, subject to complexity of cases, to increase the number of cases disposed of within the relevant prescribed time limits. Currently, there are sixteen members appointed (all appointments done) to be on the hearing panels and this enables the Tribunal to schedule hearings even at short delays. Indeed, prior to that, the Tribunal was having difficulties to constitute panels owing to the unavailability of some of the members.

The main difficulty for the Tribunal is to have the relevant members available at short notice to enable the Tribunal to complete a hearing and be better able to comply with the short delays provided by law to determine cases. Very often, convenient dates and times which would suit the Tribunal, the members (usually three excluding the presiding member on a panel) who are not full-time members, counsel for all parties bearing in mind that in some cases there might be more than just two parties before the Tribunal, must be identified before a case can be scheduled for hearing.

The Employment Relations Act, very appropriately, caters for the discretion granted to the Tribunal to extend the period prescribed to determine a case “where the circumstances so require, with the consent of the parties to the dispute”. This provision is a sine qua non and very often assists the Tribunal in helping parties to reach agreements which are in the best interests of both workers and employers. In some cases indeed, insisting for an order or award within the prescribed delay may not be conducive to good employment relations and may instead lead to further disputes between parties.
The Employment Promotion and Protection Division (EPPD) of the Tribunal has been set up following an amendment to the Employment Rights Act in 2013. This amendment unfortunately does not allow the Tribunal to extend the delay to determine a matter referred to the EPPD and this even though all parties may agree on the need for an extension of the delay. The EPPD, moreover, envisages, in our mind, a procedure (litigation) which is different from arbitration which has always been the business of the Tribunal. There was no consultation held with the Tribunal as regards the EPPD which was simply imposed on the Tribunal. Up to now, the EPPD raises quite a few issues which hopefully will be answered by the relevant jurisdiction/s as and when the issues arise. Suffice it to say that the EPPD has further increased the work load of the Tribunal in relation to a law and matters under which the Tribunal had no jurisdiction at all before.

The Tribunal is thus currently exercising a new jurisdiction with exactly the same resources except for a new post of Deputy Registrar which was created by the PRB Report 2016. A Temporary Deputy Registrar has been appointed (the incumbent of the post of Deputy Registrar may thereafter be promoted to the post of Registrar) and vacancies in relation to short hand writers have been filled except that thereafter one new recruit has accepted another offer in another department leaving again one vacancy at the level of short hand writers.

**Strategic Direction**

The Tribunal aims to:

1. foster and promote good employment relations between parties
2. ensure the rights of aggrieved parties are restored in line with employment laws; and
3. dispose of cases with celerity whilst ensuring fairness to all parties.