CIVIL SERVICE ARBITRATION TRIBUNAL
AWARD

A. INTRODUCTION

A. 1 In the matter of The Social Security Staff Association, a branch of the Government Servants' Association, on behalf of the Social Security Staff and the Government of Mauritius.

The Tribunal, composed of:

L. J. J. Vallet - - President
Dr. C. Yip Tong Assessor
Mr. R. Dookhony Assessor

proceeded to enquire into the following industrial dispute referred to it by the Prime Minister on the 4th July, 1979, in accordance with the provisions of section 82 (1) (f) of the Industrial Relations Act. 1973, as per annex.

A.2 The parties were represented by P. Ramkissoon, Esq., President of the Social Security Branch of the Government Servants' Association, assisted by Sir Gaetan Duval, Q.C., instructed by Mr. Attorney Balmano and by S. Rajahbailee, Esq., Administrative Officer, Prime Minister's Office, assisted by Mr. D. Ramsewak on behalf of the Government of Mauritius.

B. CONSIDERATIONS

In relation to this case the Tribunal was informed that three sets of disputes between different parties would be referred to the Tribunal by means of one letter of reference.

The three sets of disputes were eventually after a certain time separated by the parties who agreed on three different courses for each set.

B.3 The sets between the Official Side and the Federation of Civil Service Unions and the Government Servants' Association were by agreement to be investigated into by two Committees set up by the parties under the aegis of the Tribunal and the present matter was left to be dealt with by the Tribunal.

B.4 At the start the Official Side did not appear to be aware of what the issues were and had to wait for the terms of reference proposed by the Staff Side before filing their own.

B.5 The case for the Staff Side is to the effect that because of the implementation of the National Pensions Scheme officers of the Social Security staff have had to assume additional responsibilities necessitating a revision of salaries upwards.

B.6 The terms of reference of the Official Side appears to be the omnibus one i.e. whether having regard to all circumstances the Tribunal should make any revision or correction in the salaries of Civil Servants.

B.7 Eventually both sides could produce their Statements of Case and oral evidence was adduced by the Staff Side.
In the course of the proceedings and at the close of the case for the Staff Side, the Official Side stated that they proposed to call evidence and produce some documents in rebuttal of the claims, by the Staff Side, that Social Security Staff in general had now to shoulder additional responsibilities.

Before this could be done, the Tribunal had to consider several points of law raised by way of a formal motion by the Official Side in relation not only to this case but to a number of other case before the Tribunal.

The Tribunal in due course disposed of all the legal problems involved and the matter could again be called.

Counsel for both sides then appeared before the Tribunal and stated that they had no further evidence or argument to offer.

The case for the Staff Side is at first sight based on the fact that the coming into force of the provisions of the National Pensions Act has caused officers of the Ministry of Social Security to assume additional responsibilities which were not theirs previously, and that as a result their salaries should be revised.

On the other hand, the Official Side's stand is that the coming into force of the provisions of the Act has merely caused an increase in importance of the Department concerned which necessitated the creation of additional posts. The Department having grown in importance and numbers, the case or the Head of Department, who was to have overall responsibility over a much bigger staff, had to be considered, and his salary was increased. The importance of the Department necessitated the creation of a post of Deputy 'Controller, and this new post was created. Another post of Assistant Controller was also created for the better division of the duties to be performed by the other members of the staff.

The Department was thus split into two clear-cut divisions, namely, "Social Aid" and "National Pensions", so that no officer might be called upon to perform duties of both divisions at the same time.

The organisational chart of the Social Aid and National Pensions Divisions of the Ministry of Social Security, has been filed before the Tribunal. Each division is under the supervision of an Assistant Controller, and the only two officers having overall responsibility are the Controller himself and his Deputy.

The increase in the number of officers as a result of the reorganisation was as follows:

<table>
<thead>
<tr>
<th>Officer Type</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assistant Controller</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Principal Social Security Officers</td>
<td>4</td>
<td>10</td>
</tr>
<tr>
<td>Senior Social Security Officers</td>
<td>13</td>
<td>24</td>
</tr>
<tr>
<td>Higher Social Security Officers</td>
<td>38</td>
<td>91</td>
</tr>
<tr>
<td>Social Security Officers</td>
<td>56</td>
<td>86</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>112</strong></td>
<td><strong>213</strong></td>
</tr>
</tbody>
</table>

Further, in relation to general services, there was a very significant increase in supporting staff.
It appears therefore that the overall increase in number of staff is close to double what it used to be. The very high increase in number at the level of Higher Social Security Officers has meant that all those who, previous to the reorganization, were at the bottom of the ladder i.e. Assistance Officers, obtained an immediate promotion to the higher grade and about half those who used to be graded as District Assistance Officers were promoted to the grade of Senior Social Security Officer. It is also to be noted that more than half of the officers at the Senior Assistance Officers level had then the occasion of being promoted to the grade of Principal Social Security Officer while two of the latter grade were promoted to the Assistant Controller grade.

It is accordingly manifest that being given the increase in the number of officers, the career prospects of all those who were in service prior to the reorganization have considerably improved. On the other hand, it is also evident that, on the whole, for the new entrants the promotional prospects are also better than what they used to be.

The Tribunal has therefore no hesitation in holding that from the establishment point of view, there cannot be any justifiable complaint from the officers of the Ministry of Social Security.

The other point which is to be resolved is whether or not the reorganization has thrust upon the staff's shoulders additional responsibilities requiring that they should be compensated by an increase in remuneration.

This question must be considered on two legs:

1. Has the volume of work per officer increased due to this reorganization
2. Has the passing of the National Pensions Act caused the officers to assume additional responsibilities?

On the first leg, the Tribunal, after analysing all the evidence and documents before it, can but come to the following conclusion: The overall volume of work has certainly increased, but the number of officers having almost doubled and the work shared out among officers posted either in the Social Aid Division or in the National Pensions Division, it cannot be said that the work load has increased to any significant extent for the individual officer.

The second question may appear more complex and delicate but should be viewed very objectively. Ministries of Government and other Government Departments when taken as a whole, are meant to cover a very wide spectrum of activities which have to be looked after by the Public Service. Ministries and Departments are therefore divided in such a way that each Ministry or Department will cover a certain field of activity which logically and naturally falls within the ambit of the responsibility of the Ministry or Department concerned.

It does happen especially in this fast moving modern world of ours that Government activity may increase and encompass a particular subject which previously was not the direct responsibility of Government. One then must see whether such a subject could normally be covered by one of the existing Ministries or Departments, or whether it is so unconnected that it necessitates the creation of a new Ministry or Department.

If it is found that the nature of the subject is much that the activities projected are so linked with one Ministry or Department that it would be better dealt with by that Ministry or Department, this new development is added to the coverage of the Ministry or Department and it need be some administrative reorganization is put afoot. It is important to remember on this point that the unwarranted creation of a new Department or Ministry may well apart from the financial aspect, create embarrassment between two Ministries or Departments where the activity of the new body may encroach upon or overlap that of the other or vice versa.
If on the other hand, the new activity is so unconnected that the improper linking thereof with an existing organization would be detrimental to the service, then the creation of a new Department or Ministry may have to be considered. For example, would it have been warranted to include “Women’s affairs” under the responsibility of the Ministry of Labour?

In the present case, we do think that the proper Ministry to take charge of matters covered by the National Pensions Act was the Ministry of Social Security. As a matter of fact, if it is bad then been decided to create a completely new and separate Ministry or to assign the new duties to another Ministry the probabilities are that there would have been an outcry from the Ministry of Social Security Staff. They would then certainly not have missed such an opportunity to point out that the creation of the new entity was depriving them of a promotion resulting from an eventual reorganization, had National Pensions duties been assigned to their Ministry which is the proper one for such duties.

It is therefore clear in our minds that national pensions duties do form part of duties which are to be undertaken by the Ministry of Social Security even though such duties were not being performed by the Ministry previous to the law being passed by Parliament.

In other words, duties which are now being performed by officers working in the ‘National Pensions’ division are not foreign to their vocation. even though the performance of such duties for the first time in Mauritius required a proper in-service training with a view to acquiring new skills and knowledge.

Being given the right decision taken that such duties be under the aegis of the Ministry of Social Security, it necessitated the setting up of a separate division or unit within the administrative set up. The resulting organization was that instead of having to perform additional duties, officers had to perform alternative duties.

In view of the fact that the former scheme of service did not spell out the alternative aspect of the duties and so that, for all concerned, no difficulty should arise the scheme of service had to be amended so as to protect the officer against his being made to cover 'social aid' as well as 'National Pensions' duties.

Although it may well be that the extension of the coverage by the Ministry may be one of the factors to be looked at in any future salary review the Tribunal has no hesitation in holding that there is no justification for the granting of an increase of salary because of increase in work and added responsibilities which are the grounds stated in the terms of reference.

While investigating the present claims, the Tribunal has not failed to notice the first annex to the Statement of Case of the Staff Side and has accordingly gone into the facts to be found therein.

This aspect of the Statement of Case is however outside the precints of our terms of reference and we are therefore precluded from making at this stage any reward on this point which as a matter of fact and of law, was not mooted in depth before us.

On the face of it however; we do feel that such a case might well deserve further attention and/or consideration as it has not been possible for us to find, in any definite way some plausible explanation related to the claim by the Union that in relation to the Social Security staff there has been an unjustifiable change in relativities.

This is however a matter which may have to be looked into now. so that if it so found, there may be a rectification or correction, or if it is not so .found that the status quo be maintained.
The Tribunal must at this stage point out that all concomitant claims by Civil Service Unions for adjustment of anomalies resulting from several salary revision reports were referred at the request of all parties, to two Ad Hoc Committees under the aegis of the Tribunal. It may well be therefore that this matter raised by us "obiter" and because of our desire for fair treatment, may find its proper forum there. This course of action however may necessitate some interlocutory process.

C. CONCLUSION

The Tribunal thanks the parties and their Counsel for their cooperation in relation to this matter which had a novel but delicate aspect and which accordingly deserved very careful handling.

L. J. J. VALLET  
President

C. YIP TONG  
Assessor

R. DOOKHONY  
Assessor

4th November 1982
ANNEXE

TERMS OF REFERENCE

"Whether, having regard to:

(a) the declared policy of the Government that an overall review of pay and grading structures in the public service is currently being carried out by the Pay Research Bureau, and

(b) the present economic and financial situation of the country there is any justification for any increase, adjustment or correction of anomalies in the salary of any category of public officers before the completion of the overall review by the Pay Research Bureau and if so, to make recommendations as to the quantum and the effective date of the increase, adjustment or correction of anomalies",

TERMS OF REFERENCE OF STAFF SIDE

"Whether following the implementation of the National Pensions Scheme of service and the added responsibility incumbent upon the Social Security Stall of all grades there would be a revision of salaries on the following lines:

<table>
<thead>
<tr>
<th>Post</th>
<th>Actual Salary per memsem</th>
<th>Salary claimed per memsem</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. Control Social Security</td>
<td>4,000 + 500 personal allowance</td>
<td>5,200</td>
</tr>
<tr>
<td>2. Deputy Controller</td>
<td>3,350 + 150 personal allowance</td>
<td>4,800</td>
</tr>
<tr>
<td>3. Assistant Controller</td>
<td>2,300 x 100 – 2,600 + 100 personal allowance</td>
<td>4,500</td>
</tr>
<tr>
<td>4. Principal Social Security Officer</td>
<td>1,775 x 75 – 2,000</td>
<td>3,750</td>
</tr>
<tr>
<td>5. Senior Social Security Officer</td>
<td>1,350 x 50 – 1,600</td>
<td>2,500 x 100 – 2,600 x 125 – 2,850</td>
</tr>
<tr>
<td>6. Higher Social Security Officer</td>
<td>1,000 x 40 – 1,080 x 45 - 1,260</td>
<td>1,625 x 75 – 1,800 P.B. 2,000 x 100 – 2,300</td>
</tr>
<tr>
<td>7. Social Security Officer...</td>
<td>680 x 40 – 920</td>
<td>828 x 40 – 1,020 P.B. 1,100 x 50 – 1,500</td>
</tr>
<tr>
<td>8. Trainee Social Security Officer</td>
<td>400 x 20 – 440</td>
<td>400 x 20 - 440</td>
</tr>
</tbody>
</table>