CIVIL SERVICE ARBITRATION TRIBUNAL

Harris Balgobin - President

Dr Farojdeo Hemraj - Assessor

Miss A.N.J. Maulloo - Assessor

Parties:

R.N. 346 -

Government Servants' Association

and

The Government of Mauritius

(represented by the Ministry for Civil Service Affairs)

1. The Minister for Civil Service Affairs and Employment (The Minister) has referred to the Tribunal various industrial disputes about alleged anomalies arising out of the 1993 Report of the Pay Research Bureau (PRB).


3. The Report was not unanimously received and following meetings between the Government and a number of Federations and Staff Associations, it was decided that the reports would be implemented on the condition that foreign Salaries on a Commissioner be appointed within six months to review them and his reports would then be published within a delay of six months.
4. It was further agreed that the salary recommendations would take effect as from the 1st July, 1987.

5. It was also agreed that every employee would be given the opportunity of opting either for the new salaries contained in the PRB Reports on the basis of conversion in accordance with the corresponding point system or for an increase in salary of Rs 400 per month.


8. Following the publication of the Chesworth Reports a series of alleged anomalies was reported by a number of Civil Service Unions and subsequently referred by the Minister to the Tribunal under Section 82(1)(f) of the Industrial Relations Act.

9. The Tribunal, in a number of preliminary Awards, referred those disputes to the PRB with the express conditions that:

(a) the PRB shall look into the specific terms of reference; and

(b) the PRB shall submit its recommendations to the Tribunal for consideration.


11. The Report included "corrective recommendations" in relation to the alleged anomalies and was submitted to the Tribunal which awarded accordingly.

12. The Pay Research Bureau has described in its Report the context in which recommendations were made in relation to the latest report.

13. We consider it appropriate to quote the following paragraphs:
Methodology

4.9 The job descriptions of newly created jobs and those of jobs that have undergone changes since the last evaluation exercise, were scrutinized to identify any new critical factors with a view to updating the Bureau’s point rating job evaluation schemes. New factors did not, however emerge. All job descriptions of entry as well as promotional grades were reassessed on the basis of the existing job evaluation schemes.

4.10 As regards entry grades two sets of scores were obtained, i.e. the total scores and the job content scores. The job content score is the total score less the score for the factor “Education”. The total score provided the basis for determining the salaries of entry grades. For the promotional grades, the job content score was the main determinant.

4.11 The scores obtained for the entry grades have then to be converted into salaries. To achieve this objective the need arose for the determination of a proper frame of reference. As a first step the top salaries of certain benchmark grades have had to be worked out. This exercise has been done taking into account the: Permanent Secretary/Labourer salary ratio; the levels of pay existing in the private sector; the loss of purchasing power for the period July 1987 to June 1993 and the cost involved in the acquisition of qualifications and skills. We have elaborated at Chapter 5 on the major considerations of these parameters which basically underlie the determination of the recommended pay structures.

4.12 Once the salaries of benchmark jobs were determined these were used as anchorage for determining the salary for all entry grades, manual as well as non-manual. To avoid a multiplicity of scales grades of more or less comparable level of responsibility have been grouped together for grading purposes.

4.13 Compensation for work on shift, work on roster or work at staggered hours which do not apply to all jobs in the public sector have been worked out separately and integrated in the recommended salaries.

4.14 To rationalise the pay structure, a master salary scale with annual incremental progression of about 3% has been systematically designed. As already mentioned grades of more or less comparable level of responsibility have been grouped together. A standard salary has, therefore, been adopted for each group of entry grades. The standard salary scale is the appropriate segment of the master scale which is given below for ease of reference.
MASTER SCALE

Rs 2100 x 75 - 2700 x 100 - 4000 x 125 - 5000 x 150

- 5600 x 200 - 7000 x 250 - 9000 x 300 - 9600 x 400

- 14000 x 500 - 18000 x 600 - 21000 x 750 - 27000 x 1000 - 35000

4.15 Promotional grades have been provided with segments of the master scale which have been determined taking into consideration the salary grading of the source grade; the job content scores of the promotional grades and the number of levels in the hierarchy.

MAJOR CONSIDERATIONS OF PAY REVIEW

5.1 The environment in which this review is being conducted is highly complex. The Pay Structures in the Public Service are characterised by certain fundamental weaknesses and these undermine considerably their effectiveness to maintain in the long run an adequate supply of different categories of skill and to ensure that people already committed are fairly treated and motivated to give the best of themselves. The shortcomings of the structures range from inappropriate internal differentials to relatively low absolute pay levels for several categories of employees. These weaknesses as well as the causes and problems associated thereto have to be addressed.

5.2 Over the years, the extent of the compression of pay differentials has been enormous. The Permanent Secretary/Labourer salary ratio which stood at 13:1 in 1977 fell down to 6.25:1 in 1987 with the implementation of Chesworth Report. This ratio has further been reduced to 5.5:1 to-day. There are two reasons to explain this fall - the absolute pay levels set by Chesworth and the policy of tapering increases for cost of living compensation adopted over the years. The compression of differentials has been very damaging to the Public Service as adequate differential is not only a recognition of, and a reward for, increased responsibilities but is also a major incentive for gaining promotion. An inadequate differential is also seen as a devaluation of the worth of a job and of the individual with a consequent loss of motivation.
5.3 Concurrently with the compression of differentials, the salaries of top officers and of certain
categories of skills have increasingly been losing ground in relation to their private sector
counterparts. To-day the absolute levels of pay at, and near, the top (say in the upper third
and last quartile) remain significantly low in relation to pay of comparable levels in the
private sector. Even the pay of certain executives of privatised public companies bear little
or no reasonable relationship to the pay of analogous levels in the public sector. As a
result, public sector organisations have been facing serious difficulty to recruit and retain
several categories of well qualified staff, and this, at the cost of a good and effective public
service. In certain areas the vacancy rates i.e. the number of vacant posts as a percentage
of established posts, and turnover rates i.e. the rate at which people quit the service are
intolerable. We expatiate on this issue at Chapter 6 which deals on scarcity and
employment on contract.

5.4 Historically, the relative value of pensions and of job security and status in the public sector
have been seen as advantages which justified a significant level of discount when making
pay comparison with the private sector. But in recent years there have been great changes
and this assumption need be qualified. Private sector pension schemes and other
perquisites, especially for executives, are now becoming very common. While the benefits to
the recipient, at the lower level, are normally higher for the public sector, the same cannot be
said for executives and professionals whose fringe benefits in general compare favourably
with the Public Service. In spite of this, we do not consider that pay levels in the public
sector should match the salaries of analogous levels in the private sector, nor do we believe
that public sector employees expect such equality. In certain areas, generally on ground of
public social policy, Government is bound to lead and in others to follow. On the whole,
however, there must be a reasonable relationship between public sector pay and the pay of
jobs of comparable weight elsewhere in the economy.

5.5 The loss of purchasing power for the period July 1987 to June 1993 has also been an important
consideration. Obviously with the tapering increases as regards cost of living compensation, the
loss of purchasing power has been more acute for officers in the higher pay brackets than for
those in the lower pay brackets. Taking this into account and also in order not to perpetuate the
narrow differentials mentioned adjustments have above, certain necessarily been while
computing the made, compensation for loss of purchasing power that has been integrated in
the recommended salary scales.
5.6 The cost involved in the acquisition of qualifications and skills is also a relevant consideration. The inputs required and the sacrifice involved in getting through an examination, in learning a trade and in acquiring a professional qualification, differ largely and depend on numerous factors like the field, the stage or level or the degree of speciality. By and large, the longer the length of training/study, the higher the cost of inputs involved, the greater the effort required, and the shorter the professional career. In spite of the numerous courses run by the University of Mauritius and other local vocational training institutions, several disciplines still require formal overseas study and training at very high costs. The inputs involved for the obtention, of professional qualifications abroad are conservatively estimated at about Rs 500,000 for a graduate to more than a million rupees for a postgraduate. We consider that the aspiration of individuals for their remuneration to be seen as a return for investment on their training and formation is very legitimate and this has been taken into account.

5.7 We are extremely conscious of the sensitivity and public interest attached to the pay of civil servant, just as we are also concerned with the long term quality and effectiveness of the public sector. We consider that in the long term, salaries should be set at levels required to retain and motivate existing staff with the issue of affordability and the need of not undermining our competitive position in mind (vide Chapter 3 on economic background). Lastly, an overriding factor that influences pay is the factor of fairness and equity. If public sector employees feel their level of remuneration to be unfair, then in the long term the quality and motivation of public servants will suffer. At a time when the Civil Service is undergoing great change, it is essential not to undermine the commitment of its employees.

The Official Side has made the following submissions:

14. The Pay Research Bureau has carried out a comprehensive overall Review of Pay and Grading structures and Conditions of Service in the Civil Service, Para-Statal Bodies and Local Authorities and Private Secondary Schools in order, *inter alia*, to:

   (a) dispose of disputes, anomalies etc. arising out of the Chesworth Reports whether referred to PRB by the Civil Service Arbitration Tribunal or Permanent Arbitration Tribunal or directly;

   (b) redress, whenever expedient and desirable relativities established through job evaluation and distorted by the Chesworth Commission without plausible reasons;
(c) bring about changes in structures and Conditions of Service that are both expedient and desirable for organisation to be efficient and effective.

15. In its approach and methodology exercise described at Chapter 4 of its Report, the Bureau has, *inter alia*, mentioned that it has had meetings with all Staff Associations and even individuals not forming part of any unions and management of Ministries/Departments/Local Authorities/Para-Statal Bodies. It is therefore evident that all parties concerned have had the opportunity of stating their cases and expressing their views on all relevant issues.


17. As regards the question of any other changes to the recommendations of the PRB Report, the Bureau has made it clear at paragraph 1.15 of its Report that "Except for these errors and omissions, no piecemeal adjustment of salary should be effected until the next review". Practically all public officers have opted for the revised salary and new conditions of service recommended in the PRB Report, and are therefore bound by these recommendations.

18. In this context, a Circular has been issued (Circular Note No.3 of 1993 dated 18 May, 1993) inviting all parties concerned to submit to the Pay Research Bureau with a copy to the Ministry for Civil Service Affairs and Employment, within a period of three months as from the date of the Circular Note, any genuine errors and omissions identified.

19. Nonetheless many Civil Service Unions have reported industrial disputes on alleged anomalies arising out of the PRB Report and the Minister for Civil Service Affairs and Employment has no alternative but to refer them to the Civil Service Arbitration Tribunal in terms of Section 82(1) (f) of the Industrial Relations Act. The Tribunal will appreciate that in almost all these reports of disputes, the items raised cover virtually all grades catered for by the Unions. Moreover, the dispute reported by the Government Servants Association on anomalies of 88 grades covers almost all the minor grades in the public service.

20. It is submitted that the machinery set up for arbitration for the public service under the Industrial Relations Act was not meant to deal with such a global and complex issue as salary review for the Public Service. Neither the Tribunal nor the government as employer can be engaged in a perpetual exercise of the review of salary and other
conditions of service in the Public Service arising from continuous reports of industrial disputes. The hearing of all these cases would be tantamount to a complete and full review of the whole salary structure in the Civil Service, a task which is meant to be performed by a fully equipped salary revision commission and not by the Tribunal under the Industrial Relations Act.

21. On the other hand, should the Tribunal attempt to consider some specific grades, it is submitted that any piecemeal revision of salaries and other conditions of service in respect to certain grades cannot also be entertained inasmuch as -

(a) it would lead to a disturbance of relativities amongst different grades of the public service;

(b) the whole salary structure in the public service would be affected;

(c) there would be a proliferation of similar claims for revision;

(d) the salaries and other conditions of service have been determined in a global manner by the PRB taking into consideration a number of other benefits and allowances;

(e) the very basis and assumptions on which the PRB recommendations were made, that is, the state of the economy, expected long term growth of the economy, the fragile nature of the economy, the need to avoid inflation and the notions of national affordability and economic prudence, can be undermined.

The Staff Side has, inter alia, submitted thus:

22. The trade unions on behalf of their members, who are all public officers have given notice of industrial disputes to the Minister. The Minister has referred these disputes to the Tribunal.

23. Counsel for the Government, the employer, objects to the disputes being considered by the Tribunal on the ground that the Pay Research Bureau has made a report, and "issues relating to the salary structure, emerging from the PRB Report cannot be considered as anomalies".

24. Whatever may be the machinery used by the Government for the revision of salaries, and conditions of service of public officers, salaries Commissioner or Pay Research Bureau, it is part of the machinery of the Government, it reports to the Government and the Government
is free to accept the Report or to reject it.

25. In other words, the PRB does not act as an arbitrator between the employer and the employees and its report does not bond anybody, employer or employee. When the Government accepts it, with or without modifications, the employee is given an option to accept the recommendations which apply to him. When he accepts, a new contract of employment intervenes embodying the changes made by the PRB. We have here a "contrat d'adhesion" because the public officer has to accept the "contract" as a whole.

26. Once there is a contract of employment, any party who is dissatisfied with his conditions of employment in one or more of its clauses, may give notice of an industrial dispute to the Minister. Whatever be the term used, "anomaly" or otherwise, it is sufficient that the officer is dissatisfied and that the clause complained of is part of his conditions of employment.

27. It is the Minister - subject to an appeal to the Tribunal in the case of a rejection of the notice of industrial dispute - who decides whether there is an "industrial dispute" or not, and what step should be taken to settle the dispute.

28. All the submissions in the "Submission of the Official Side" are therefore irrelevant to the matter before the Tribunal. It is the Minister who "seizes" the Tribunal with a dispute; the PRB cannot purport to take away the right of an employee to give notice of an industrial dispute or purport to relieve the Tribunal of its jurisdiction. The PRB was free to give an opportunity to trade unions to call its attention to "errors and omissions", the PRB is free to correct errors and to supply omissions, but it cannot purport to lay down the law that "no piecemeal adjustment of salary should be effected until the next review."

29. The Tribunal has carefully considered all the evidence adduced before it including the various documents produced. It has also carefully considered the submission of all the Parties before it.

30. The Tribunal is also in duty bound in the exercise of its powers under the Industrial Relations Act, 1973 to take the following into consideration -

(a) The interests of the persons immediately concerned and the community as a whole;

(b) the principles and practices of good industrial relations;
the need for Mauritius to maintain a favourable balance of trade and balance of payments;

d) the need to ensure the continued ability of the Government to finance development programmes and recurrent expenditure in the public sector;

e) the need to increase the rate of economic growth and to provide greater employment opportunities;

f) the need to preserve and promote the competitive position of local products in overseas markets;

g) the need to develop schemes for payment by results, and so far as possible to relate increased remuneration to increased labour productivity;

h) the need to prevent gains in the wages of employees from being adversely affected by price increases;

(i) the need to establish and maintain reasonable differentials in rewards between different categories of skills and levels of responsibilities; and

(j) the need to maintain a fair relation between the incomes of different sectors in the community.

31. The word anomaly is a favourite Mauritian expression and has acquired throughout the years an emotional ring and has also defied every serious attempt at giving it a precise definition.

32. As far back as 1975, the late Donald Chesworth lamented thus: “The different Commissions had worked both with diligence and speed but unfortunately the problems to which they referred particularly that of anomalies, a somewhat all embracing term in Mauritius for salary dissatisfaction, made for many difficulties.

33. "History has once again generously repeated itself.

34. The Tribunal has especially considered the constant complaint of Public Officers where the alleged "anomaly" is essentially the salary dissatisfaction referred to by Chesworth.

35. We were faced with the choice of adopting a strict definition of the term Anomaly and possibly send the vast majority of complainants to their homes on the pretext of being linguistic purists. We have decided in these exceptional circumstances to give the term Anomaly its widest possible definition leaving aside theoretical niceties in favour of practical solutions. This is an
arbitration tribunal and one of our main duties is the promotion of social and industrial peace..

36. It is also clear from an examination of the present disputes' as well as all similar disputes referred to the Tribunal that the present exercise involves a majority of public officers.

37. The Tribunal has reached the conclusion that any attempt at altering the present Salary Structures would result in organized chaos and disorder by curing a large number of anomalies and possibly creating an equally large number of other anomalies.

38. We have reached the conclusion that in the light of the remarks made earlier that all the grievances regarding pay of the Public Officers concerned are to varying extents justified especially at the level of the middle and lower paid. Since it is not possible for us to tamper with the existing scales we have decided to adopt the following practical solutions.

39. The Tribunal has decided that pending the next salary review that:

   all officers concerned in these disputes and drawing salary up to and including Rs20,400 in a scale or at the top of a scale or at a flat rate shall be granted an allowance equivalent to 3 increments at the point reached in the master scale.

   all officers concerned in these disputes drawing salary above Rs 20,400, shall be granted an allowance of Rs 1800.

   All such allowances shall where appropriate have a direct bearing on the officers existing conditions of service. However, the privilege of the official chauffeur driven car shall continue to be as be laid down in the PRB report and shall pending the next salary review be restricted to public officers drawing a salary of Rs 24,300 and above.

   There shall be no change regarding officers presently entitled to overtime.

   The Tribunal awards accordingly.

40. The serious financial repercussions of these Awards must be a vital consideration in the
next PRB report. These Awards cannot be dissociated from the next report.

41. The Act provides in the Second Schedule that the Tribunal may refrain from further hearing or from determining any matter if it is undesirable in the public interest. The Tribunal is aware that the PRB has started its exercise in connection with an overall review of Pay and Grading Structures and Conditions of Service.

42. The Tribunal has decided that all the other disputes referred to it concerning other conditions of service especially issues relating to re-structuration and re-styling of posts shall be referred to the PRB for determination. In short for the PRB to do the work for which it has been set up for. The Tribunal awards accordingly.

43. The Tribunal considers after anxious consideration that the PRB should in its on-going process of reviewing salary and other conditions of service correct possible inherent anomalies within the present scales but shall in our opinion only do so in the context of the future.

44. These awards are transitional measures to be completed by the PRB and concern solely the Public Service and no other sectors of the economy and cannot therefore be cited as a precedent before this Tribunal or any other forum.

45. The Tribunal finds that since a majority of Public Officers are concerned by these Awards, it is necessary and appropriate to recommend to the Official Side to consider the desirability of these Awards being extended to the whole of the Public Service.

The Tribunal so recommends.

The Tribunal has, after anxious consideration, decided that these Awards shall take effect on the 1st of January 1996 for pay as awarded and on the 1st of November 1996 for other conditions of service affected by the present Awards.

The Tribunal awards accordingly.

Any further backdating cannot be supported by our economy. This is the plain truth. And we have to face it. The Tribunal has been quite fair to Public Officers but is not prepared to be a party to unreasonable demands for further backdating that would cause grave prejudices not only to these
Public Officers but to other workers who are unconcerned by this exercise. We have to consider the financial repercussions of our decisions not only in relation to the Public Service but also to the other sectors of economy.

47. Arrears of salary shall be paid in two equal instalments as follows:-

1st Instalment - Latest date 23.12.96
2nd Instalment - Latest date 30.6.97

The Tribunal awards accordingly.

48. Since this Award takes effect in relation to pay on the 1st January, 1996, the Tribunal has to consider for fair pension purposes the cases of those officers in service at the time the PRB Report was implemented but who have retired between the date on which the Report took effect and the effective date of this Award.

49. The Tribunal considers that for such officers their pension and gratuity, where appropriate, should be recomputed on the basis of these Awards and as if the Award in relation to them regarding their pay had come into effect on their last salary day.

The Tribunal awards accordingly.

50. The Tribunal wishes to thank the following members of the Anomalies Advisory Committee for their valuable assistance.

Mr P. Beeharry
Principal Assistant Secretary,
Ministry of Finance

Mr B. C Apanna
Assistant Director,
Pay Research Bureau

Mr S Sawmynaden
Secretary, Federation of
Civil Service Unions

Mr R Sadien
President, State
Employees Federation
51. The Tribunal equally wishes to thank all the parties, their legal representatives as well as the Staff of the Tribunal.

52. We have heard complaints that proceedings before the Tribunal have lasted far longer than necessary. We must again point out that such global and complex issues as the examination of anomalies in the civil service must be taken together. We had expected the Unions to refer all the disputes at more or less the same time. No such dispute can be disposed of in isolation. We fully understand that the Unions may have other public activities. In the old days most of the serious work was done in the Court House and not outside it. Sadly not any more.

The Unions referred the disputes before us in the following order. The first dispute was referred to the Tribunal in July 1993 and the last connected dispute in July 1996 i.e. 3 years later. We leave the following for fee-paying members of the Unions to appreciate. They will then understand why these thirty-nine disputes concerning 394 grades and involving about 40 thousand public officers and arising out of a single report published as far back as May 1993 took such a long time before determination. They were referred to us at the request of the Unions on the following dates:

Brace yourselves.

27.7.93
5.8.93
16.8.93
30.8.93
1.9.93
26.1.94
28.2.94
8.4.94
25.4.94
10.5.94
17.5.94
6.7.94
11.7.94
18.7.94
19.7.94
28.7.94
3.8.94
5.8.94
9.8.94
15.8.94
23.8.94
29.8.94
13.9.94
14.9.94
19.9.94
26.9.94
and in the final furlong:

19.6.96

15.7.96

Go figure!

53. Never again.

54. We wish all Public Officers, Trade Union leaders and representatives of the Staff Side well.

55. We repeat that these Awards cannot be dissociated with the next PRB report in view of the
financial repercussions. In fact they must eventually become part and parcel of the next report.

(H. Balgobin)
President

(F. Hemraj)
Assessor

(Miss A.N.J. Maulloo)
Assessor

26th September 1996