CIVIL SERVICE ARBITRATION TRIBUNAL

In the matter of:-

The Industrial Dispute between the Federation of Civil Service Unions and the Government of Mauritius.

The Terms of Reference of the Official Side and of the Staff Side on one of the disputes which was taken separately are respectively the following:

The introduction of a 40-hour week in the Public Service.

“Whether Civil Servants should be called upon to work a maximum of 40 hours a week and when should the new scheme be implemented”.

Documents on this issue were filed and oral evidence was also adduced thereon.

From the start, Government did state that they were not against the principle of a 40-hour week, but that the implications of such a new departure in the Civil Service would have to be fully investigated before it could be implemented.

While the case was before the Tribunal the parties met and started new negotiations on this issue.

On the 20th April, 1977, at a sitting of the Tribunal, Counsel for the Government made the following declaration:

At the Tribunal’s sitting of the 24th January, Counsel for the Federation proposed that the date for the implementation of the 40-hour week in the Public Service should be the 1st July, 1977, and further declared that his clients had no objection to work more than 40 hours a week as from that date if the exigencies of the service so required, provided that they were paid an adequate allowance.

2. On the 21st February, my colleague, Mr. R. Lallah, Q.C., declared before the Tribunal that the Government had reacted favourably to the proposal made by the Federation but that he needed some time to make a declaration in precise terms to that effect.

I am now pleased to inform the Tribunal that the Government which had more than once publicly declared that it was not against the principle of a 40-hour week in the Public Service and while it would have wished the full implications of the introduction of the 40-hour week to be fully known, agrees to the proposal from the Federation, subject to the following:-

(a) as already made known to the Tribunal, the 40-hour week should apply to the Public Service. Those grades who presently work less than 40 hours will retain their present conditions as regards hours of work and the payment of overtime, provided that those who are now working less than 40 hours per week may, on occasion arising, be required to work for up to 40 hours without any extra allowance as already provided,

(b) since the hours of work of many grades, particularly those on a shift basis, vary very often from week to week owing to the nature of the service provided, the hours of work of such grades should be calculated on an annual basis; officers should normally in a year, put in a total of not more than 2,080 hours of work (i.e. 52 weeks x 40 hours), appropriate
allowances being made for leave, public holidays etc. and the payment of any overtime which may be due to such category of employees being calculated on a quarterly basis or such shorter period as may be agreed upon between the Staff Side and the Official Side;

(c) the introduction of the 40-hour week should not entail any change in salary in the context of the current salary structure.

3. The implementation of the 40-hour week as detailed above does not obviously apply to the Police whose case is different from the rest of the Public Service and for whom therefore separate arrangements will have to be worked out between the relevant parties”.

Counsel for the Staff Side then stated that the Federation had been made aware of the proposals contained in the declaration, that it was in agreement therewith, and requested the Tribunal that the agreement be made a judgment of the Tribunal.

The Tribunal then stated that it understood that a formal agreement had been reached between the parties, that this agreement had now been recorded and was now a contract of record which, in due course, would be included in an award.

It has now been requested that for procedural reasons, the Tribunal be pleased to deliver an official award on this issue.

There is no objection on the part of the Tribunal to do so and accordingly awards that since there has been an agreement, there is no longer any dispute and that the terms of the agreement be binding on the parties.

It is, however, clear that full implementation of the 40-hour week in all departments and sections of the Civil Service may offer some difficulties for which elaborate solutions will have to be found and special arrangements made.

It is also understood that the 40-hour week means 40 hours’ work per week or 2,080 hours’ work per year and does not mean 40 hours’ attendance. For example, an employee who, by the special nature of his work, may have to be in attendance for twenty four hours which include work, attendance and sleep-in-time, cannot be deemed to have worked for 24 hours for purposes of the 40-hour week.

For the above reasons and because of the great complexity of new arrangements to be prepared and approved, although in principle the effective date is July 1st, 1977, the Tribunal considers that the full implementation of the 40-hour week may have to be spread over a period of time which should, however, not go beyond the 30th September, 1977. The Tribunal awards accordingly. As from the 1st of October, 1977, therefore will be presumed that the needful has been done; consequently for all these special and difficult cases, as from that date any work in excess of the 40-hour week principle will be accounted for by means of overtime.

The Tribunal wishes to commend here the attitude and conduct of the parties and their Counsel who, by their approach and flexibility, have helped the Tribunal in making this present award.

This Tribunal wishes to express the hope that their example be followed by others, whether the forum be the present one, or the Permanent Arbitration Tribunal.

L. J. Vallet
President
16th August, 1977

(D. Soopramanien)
Assessor

(C. Yip Tong)
Assessor