Annual Report on Performance of the Employment Relations Tribunal 2018/19
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 2018/2019 has been another fulfilling one. 226 cases (Industrial and Employment disputes) have been referred to or lodged before the Tribunal. All in all the Tribunal delivered 12 awards, 9 orders and 9 rulings, disposed of a total of 116 cases. The total number of cases pending as at 1st July 2019 thus stood at 167.

The Tribunal has disposed of 69 cases within statutory time limits. The Tribunal is below target in view of the increasing number of disputes referred to or lodged before the Tribunal (226 cases) and the complexity of cases.

It is never overstated that an efficient administration of justice cannot be quantified by the number of cases disposed but by ensuring that justice is done. A good evaluation of the Tribunal’s work cannot just be a calculation of the percentage of cases disposed.

In taking up the challenge to promote industrial relations as the number and complexity of cases grow year by year, the Tribunal prays that authorities responsible to fill up vacant posts at the level of the Tribunal act more diligently.

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 President 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, a recognised trade union of workers or a joint negotiating panel, and an employer which relates wholly or mainly to –

(i) the wages, terms and conditions of employment of, promotion of, or allocation of work to, a worker or group of workers;

(ii) the reinstatement of a worker, other than a worker who is appointed by, or under delegated powers by, the Judicial and Legal Service Commission, the Public Service Commission or the Local Government Service Commission –
(A) where the worker is suspended from employment, except where the alleged misconduct of the worker is subject to criminal proceedings; or

(B) where the employment of the worker is terminated on the grounds specified in section 64(1A);

(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 (as defined in the relevant section of the Employment Rights Act) 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. Mrs Jeanique PAUL-GOPAL
3. Mr Rabin GUNGOO
4. Mr Bharuth Kumar RAMDANY
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. Ms Teenah JUTTON
# STAFF LIST

<table>
<thead>
<tr>
<th>SN</th>
<th>NAME</th>
<th>TITLE</th>
<th>EMAIL</th>
<th>PHONE NO</th>
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</thead>
<tbody>
<tr>
<td></td>
<td><strong>Professional Level</strong></td>
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</tr>
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</tbody>
</table>
Part II: ERT ACHIEVEMENTS AND CHALLENGES

Status on Implementation of Budget Measures

Not applicable.

Major Achievements

For the period 2018/19, 226 cases (industrial & employment disputes) have been referred to or lodged before the Tribunal.

The Tribunal has delivered 12 Awards, 9 Orders and 9 Rulings and has disposed of a total of 116 cases. The total number of cases pending before the Tribunal as at 1 July 2019 thus stood at 167.

The Tribunal has disposed of 69 cases within statutory time limits. This is below target in view of the increasing number of disputes referred to or lodged before the Tribunal (226 cases) and the complexity of cases.
Status on Implementation of Key Actions

<table>
<thead>
<tr>
<th>Key Action</th>
<th>Key Performance Indicator</th>
<th>Target 2018/19</th>
<th>Status of Key Action as at 30 June 2019</th>
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<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 limit (actual 2017/2018: 87).</td>
<td>102</td>
<td>69 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 the increasing number of cases referred to or lodged before the Tribunal. The Tribunal has managed to dispose of a total of 116 cases for the period 2018/19 despite the increase in the complexity and number of cases referred to or lodged (226 cases) before the Tribunal.

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, Acting 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 has invited ICAC officers to educate the staff of the Tribunal on Corruption. Several issues were addressed at an awareness session including how to enhance organizational integrity, the rationalization trap, gratification, dangers of corruption and the need to report acts or suspected acts of corruption. Different offences related to corruption were also considered.

Representatives of ICAC were also invited subsequently to provide advice and guidance on anti-corruption issues to the members of the Tribunal. The last meeting of the anti-corruption committee was on 27 March 2019 with another meeting scheduled in October 2019.

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.
Part III – FINANCIAL PERFORMANCE

Financial Highlights
For financial year 2018/2019, Budget Estimates of Rs 25,300,000 were allocated to the ERT. Out of the total allocated budget, Rs 16,697,000 was estimated for the Compensation of Employees, Rs 8,583,000 was provided under Goods and Services and Rs 20,000 was provided under Grants to meet expenses as Contributions to International Organisations.

Statement of Expenditure
The table hereafter provides figures which shows the comparison as regards to Estimates for Year 2018-2019 and actual expenditure for the years 2017-2018 and 2018-2019

<table>
<thead>
<tr>
<th>Head/Sub-Head of Expenditure</th>
<th>2017-2018 Estimates (Rs)</th>
<th>2017-2018 Actual Expenditure (Rs)</th>
<th>2018-2019 Estimates (Rs)</th>
<th>2018-2019 Actual Expenditure (Rs)</th>
<th>Actual Expenditure for 2018-2019 is represented as a Percentage (%)</th>
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</thead>
<tbody>
<tr>
<td>Compensation of Employees</td>
<td>15,310,000</td>
<td>14,113,021</td>
<td>16,697,000</td>
<td>15,830,571</td>
<td>64.87</td>
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<td>Goods and Services</td>
<td>8,170,000</td>
<td>7,365,604</td>
<td>8,583,000</td>
<td>8,561,954</td>
<td>35.09</td>
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<td>Grants</td>
<td>20,000</td>
<td>10,207</td>
<td>20,000</td>
<td>10,286</td>
<td>0.04</td>
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<tr>
<td>Total</td>
<td>23,500,000</td>
<td>21,488,832</td>
<td>25,300,000</td>
<td>24,402,811</td>
<td>100.00</td>
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</table>

As demonstrated in the above table, 64.87% of the total budget relates to Compensation of Employees, 35.09% to Goods and Services and 0.04% to Grants.

To have a better overview of the distribution of the budget, the above calculated percentage of actual expenditure is illustrated on the chart as follows:
Analysis of Expenditure

The above table and chart of statement of expenditure is an illustration of actual expenditure for the financial year 2018/2019. The expenditure trends for 2017-2018 and 2018-2019 are comparatively the same.

As compared to financial year 2017-2018, the Estimates for year 2018-2019 were increased by Rs 1,387,000 and Rs 413,000 for Compensation of Employees and Goods and Services respectively. The increase in the Budget amount was to cater, inter alia, for additional post and salary increases and provision for legal fees.

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. Currently, all appointments have been carried out in relation to the members of the Tribunal (sixteen members) so that they are all available for the constitution of hearing panels.
One difficulty which may arise, however, is to find common dates to fix continuation cases to enable the Tribunal to complete hearings. 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, and 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 continuation.

The Employment Relations Act, very appropriately, grants a discretion 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, set up in 2013 will soon be repealed. The new Workers’ Rights Act 2019 (which is yet to be proclaimed) caters for the setting up of a Redundancy Board instead. It is provided however at section 122(4) of the new law that the EPPD shall continue to operate for such period as may be necessary to determine all matters referred to it by the Permanent Secretary under section 39B of the repealed Act. Despite the Redundancy Board, the number of cases to be heard by the Tribunal is not expected to decrease. Indeed, following amendments brought by the Employment Relations (Amendment) Act 2019, the Tribunal has been given new jurisdiction in relation to the reinstatement of workers following the termination of their employment on certain prescribed grounds. Also, the referral of cases by the Commission for Conciliation and Mediation to the Tribunal is no longer restricted to labour disputes reported by an individual worker. It is thus expected that the number of cases referred to the Tribunal will in fact increase even further.

A new post of Deputy Registrar was created in the PRB Report 2016 and there is currently a Deputy Registrar who is the Acting Registrar of the Tribunal. The incumbent in the post of Deputy Registrar may thereafter be promoted to the post of Registrar. An additional post of Deputy Registrar has been set up and will be
crucial to assist the Tribunal to deal with the increase in the number and complexity of cases referred and/or lodged before the Tribunal. There is currently a vacancy in relation to a post of Short Hand Writer and needful is being done for the filling of the said post.

**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.