

Annual Report on  
Performance of the  
Employment Relations  
Tribunal  
2019/2020

# Vision

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

# Mission

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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 financial year 2019/2020 has been marked by the Covid-19 pandemic in Mauritius and in the world. Mauritius has witnessed unprecedented events with the nationwide Curfew Order which took effect as from Monday 23 March 2020 at 2000 hrs and which was extended until 1 June 2020. Nevertheless, arrangements were made in various sectors for business continuity during that period with a minimum number of employees in service. The phased resumption of economic activities and activities in the public service gradually led to 'some sort of normalisation' across the country.

With a crisis as acute as the Covid-19 pandemic, the impact on economic growth and employment opportunities cannot be ignored. Various measures and incentives have been put in place by Government to minimise the impact. The issue however is the lack of visibility as to what lies ahead in relation to the pandemic and when it will end. It is against this new background that the present annual performance report is being prepared.

It is apposite to note that following the enactment of The Covid-19 (Miscellaneous Provisions) Act 2020, a new provision at section 70(4) has been added in the Employment Relations Act. It provides that during the Covid-19 period (starting as from 23 March 2020 and ending on 1 June 2020) or such further period as may be prescribed (a further period starting from 2 June 2020 up to 31 December 2020 has been prescribed *vide* Government Notice No. 215 of 2020), a labour dispute which is reported to the President of the Commission for Conciliation and Mediation, by or on behalf of any party to the dispute in any service industry specified in Part I of the Third Schedule to the Act, shall **forthwith** be referred to the Employment Relations Tribunal and the Tribunal shall, within 30 days of the referral, enquire into the dispute and make an award thereon. The service industries specified in Part I of the Third Schedule concern air transport services, any airline and aviation related services, air traffic control, civil aviation and airport, including ground handling and ancillary services, health and hospital, and the port including cargo handling services and other related activities in the ports. The Tribunal is striving to determine these disputes within this new demanding time frame whilst at the same time attending to other cases including cases which had to be rescheduled because of the Curfew Order.

Despite the disruption caused by the pandemic and the departure of key members of staff during the current year (including no less than the President of the Tribunal who retired from the service on 3 November 2019 after a long and fruitful career in the State Law Office, the Judiciary and at the Tribunal), the Tribunal delivered 12 Awards, 2 Orders and 2 Rulings and has disposed of a total of **157** cases. The Tribunal also managed to dispose of **88** cases within the statutory time limits and this was only just below its target of **90** cases for the year.

I would like to thank the former President, Mr Rashid Hossen and the Vice-President, Mr Shameer Janhangeer for their contribution, the members and the whole staff of the Tribunal for their support and efforts without which the Tribunal would not have been able to achieve such a performance.

**Indiren Sivaramen**  
**Acting 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, variation of or non-compliance with a procedure agreement, check-off agreement and any other issues under the Employment Relations Act.
- Sitting on appeal in relation to certain decisions of the President of the Commission for Conciliation and Mediation and of the 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, as amended, 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, variation of or non-compliance with a procedure agreement, unfair labour practices 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 date the cases have been referred to the Tribunal. It is similar to a Court of Law delivering judgment after hearing parties. Orders have to be delivered within even shorter periods as may be prescribed in the relevant sections of the law.

## Gender Statement

The Employment Relations Tribunal (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 rather any position is open to the best available candidate. Even in relation to members appointed 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

#### **Acting President**

**Mr Indiren SIVARAMEN**

#### **Vice-President**

**Mr Shameer JANHANGEER**

## **Members**

### **Representatives of Workers**

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

### **Representatives of Employers**

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

### **Independent Members**

1. Mr Parmeshwar BUROSEE
2. Mr Yves Christian FANCHETTE
3. Mr Ghianeswar GOKHOOL
4. Mr Arassen KALLEE
5. Mr Kevin C. LUKEERAM



## STAFF LIST

| SN                                      | NAME                                  | TITLE   | EMAIL  | PHONE NO (230)   |
|---|---------------------------------------|---|--|------------------|
| <b>Professional Level</b>               |                                       |   |  |                  |
| 1                                       | Mr HOSSEN Rashid                      | President (Retired on 03 November 2019)                     |  |                  |
| 2                                       | Mr SIVARAMEN Indiren                  | Acting President  | <a href="mailto:sivaramen@govmu.org">sivaramen@govmu.org</a>         | Thro' CS 2132892 |
| 3                                       | Mr JANHANGEER Shameer                 | Vice-President  | <a href="mailto:sjanhangeer@govmu.org">sjanhangeer@govmu.org</a>     | Thro' CS 2100998 |
| 4                                       | Mrs HORIL Luxmi                       | Acting Registrar  | <a href="mailto:registrar-ert@govmu.org">registrar-ert@govmu.org</a> | 212 8286         |
| <b>Administrative/Supportive levels</b> |                                       |   |  |                  |
| 5                                       | Mrs GOBURDHONE Lalita                 | Office Management Executive (Retired on 17 June 2020)       |  |                  |
| 6                                       | Mrs JHURREEA Sandya                   | Financial Officer/Senior Financial Officer                  | <a href="mailto:fin-ert@govmu.org">fin-ert@govmu.org</a>             | 211 1303         |
| 7                                       | Mrs WAN CHUN WAH Chong How Rosemay    | Senior Shorthand Writer                                     | <a href="mailto:cwan-chun-wah@govmu.org">cwan-chun-wah@govmu.org</a> | 211 6913         |
| 8.                                      | Mrs MOTALLA Ayesha Bibi Ismael Moussa | Human Resource Executive (Part-Time)(up to 16 July 2020)    |  |                  |
| 9                                       | Mrs DAVIS Wilma                       | Human Resource Executive (Part – Time) (from 6 August 2020) | <a href="mailto:Wilmad75@gmail.com">Wilmad75@gmail.com</a>           | 2081681/ 2128286 |
| 10                                      | Mr MUNORUTH Karishdeo                 | Office Management Assistant                                 | <a href="mailto:ert@govmu.org">ert@govmu.org</a>                     | 212 4636         |
| 11                                      | Miss UJODHA Lakshana                  | Shorthand Writer  | <a href="mailto:ert@govmu.org">ert@govmu.org</a>                     | 208 0091         |
| 12                                      | Mrs DOOBUR Vidiawatee                 | Shorthand Writer  | <a href="mailto:ert@govmu.org">ert@govmu.org</a>                     | 208 0091         |
| 13                                      | Mrs PURREMCHUND Priya Ashvini         | Temporary Shorthand Writer                                  | <a href="mailto:ert@govmu.org">ert@govmu.org</a>                     | 208 0091         |

|    |                                     |  |  |          |
|----|-------------------------------------|--|--|----------|
| 14 | Mrs FUTLOO-ROSSAYE<br>Bibi Adila    | Assistant Procurement<br>and Supply Officer<br>(Part- Time)  | <a href="mailto:ert@govmu.org">ert@govmu.org</a>           | 212 4636 |
| 15 | Mrs TOOFANY Bibi<br>Ansoo           | Confidential Secretary<br>(Retired on 02<br>February 2020)   |  |          |
| 16 | Mrs DOSIEAH<br>Deeneshwaree         | Confidential<br>Secretary  | <a href="mailto:ddosieah@govmu.org">ddosieah@govmu.org</a> | 208 0091 |
| 17 | Mrs LAM TO Yvonne                   | Confidential Secretary   | <a href="mailto:ylamto@govmu.org">ylamto@govmu.org</a>     | 208 0091 |
| 18 | Mrs LABONNE Mary<br>Joyce           | Management Support<br>Officer (up to 24<br>December 2019)  |  |          |
| 19 | Mrs CHANDUL<br>BOWOL Ashwani        | Management Support<br>Officer  | <a href="mailto:ert@govmu.org">ert@govmu.org</a>           | 212 4636 |
| 20 | Miss NEERUNJUN Binta<br>Devi        | Management Support<br>Officer  | <a href="mailto:ert@govmu.org">ert@govmu.org</a>           | 212 4636 |
| 21 | Mrs JHANGEER Bibi<br>Faranz         | Employed to give<br>assistance at<br>Management Support<br>Officer Level (as from<br>26 December 2019) | <a href="mailto:ert@govmu.org">ert@govmu.org</a>           | 212 4636 |
| 22 | Mrs DAUHAWOO-<br>GUNGADIN Priscilla | Employed to give<br>assistance at<br>Management Support<br>Officer Level                               | <a href="mailto:ert@govmu.org">ert@govmu.org</a>           | 212 4636 |
| 23 | Miss AULEEAR Bibi<br>Nagma          | Employed to give<br>assistance at<br>Management Support<br>Officer Level                               | <a href="mailto:ert@govmu.org">ert@govmu.org</a>           | 212 4636 |
| 24 | Mr BHUGALOO<br>Mohammud Naguib      | Head Office Auxiliary  | <a href="mailto:ert@govmu.org">ert@govmu.org</a>           | 208 0091 |
| 25 | Mrs RAMPHUL Nivedita                | Office Auxiliary/<br>Senior Office Auxiliary   | <a href="mailto:ert@govmu.org">ert@govmu.org</a>           | 208 0091 |
| 26 | Mr MOHUN<br>Purmessursingh          | Office Auxiliary/<br>Senior Office Auxiliary   | <a href="mailto:ert@govmu.org">ert@govmu.org</a>           | 208 0091 |
| 27 | Mr RAMLAL Ken<br>Hemant Kumar       | Intern STM (up to 26<br>August 2020)   |  |          |

## **Part II: ERT ACHIEVEMENTS AND CHALLENGES**

### **Status on Implementation of Budget Measures**

Not applicable.

### **Major Achievements**

For the period 2019/20, 111 cases (industrial & employment disputes) have been referred to or lodged before the Tribunal.

The Tribunal has delivered 12 Awards, 2 Orders and 2 Rulings and has disposed of a total of 157 cases. The total number of cases pending before the Tribunal as at 1 July 2020 thus stood at 121.

The Tribunal has disposed of 88 cases within statutory time limits. This is only just below target (90 cases) but nevertheless this is a very satisfactory performance given the circumstances during the said period and more particularly the nationwide Curfew Order following the Covid-19 pandemic.

## Status on Implementation of Key Actions

| Key Action   | Key Performance Indicator  | Target 2019/20 | Status of Key Action as at 30 June 2020  |
|--|--|----------------|--|
| 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. | Number of cases disposed of within statutory limit (actual 2018/2019: 69). | 90             | 88<br>Just below target but exceptional performance given the confinement following the Covid-19 pandemic. |

## Other Internal Developed KPI's

### Number of cases disposed

The number of cases disposed of gives an indication of the ability of the ERT to cope with the number of cases referred to or lodged before it. The Tribunal has managed to dispose of a total of 157 cases for the period 2019/20 (compared to a total of 111 cases which were referred to or lodged during the same period) despite the increase in the complexity of cases and the situation prevailing in the light of the Covid-19 pandemic. The ERT has thus with the contribution of each and every member of staff, members of the Tribunal and litigants before it been able to reduce the number of cases pending (121 as at 30 June 2020) 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.

The anti-corruption policy of the Tribunal 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 now chaired by the Acting President of the Tribunal. The Acting Registrar of the Tribunal, Mrs Luxmi Horil, is the Integrity Officer and acts as the Secretary of the committee. Ms H. D Khadun, officer at the Independent Commission against Corruption (ICAC) is an ex-officio member of the committee and has as main responsibility to guide the committee in its process to fully implement the PSACF within the Tribunal.

The committee meets regularly and the last meeting of the anti-corruption committee was on 30 July 2020 with another meeting scheduled in November 2020. The Tribunal has started the process of conducting Corruption Risk Assessments (CRAs) and with the help of the anti-corruption committee will endeavour to meet the new Key Performance Indicator (KPI) worked out by the Ministry of Public Service, Administrative and Institutional Reforms for Financial Year 2020/2021 which is to conduct two CRAs annually.

## Implementation Plan – Director of Audit Comments

Not applicable.

## Part III – FINANCIAL PERFORMANCE

### Financial Highlights for 2019-2020

A Budget Estimates of Rs 25,400,000 was allocated to the Employment Relations Tribunal (ERT) for the financial year 2019-2020 comprising of:

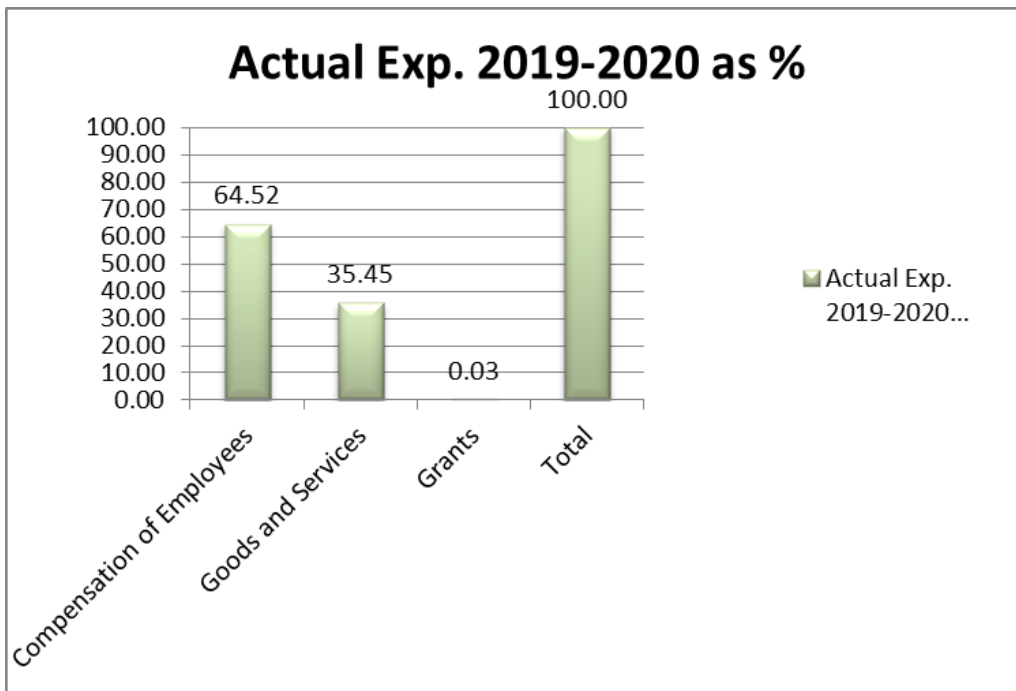
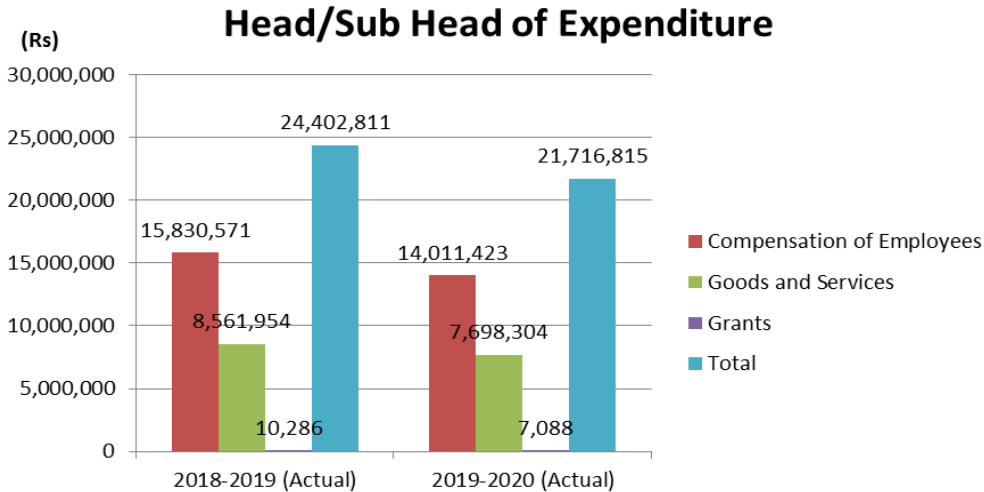
Rs 16,595,000 for **Compensation of Employees**.

Rs 8,785,000 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 as regards to Estimates for Year 2019-2020 and actual expenditure for the years 2018-2019 and 2019-2020

| Head/Sub-Head of Expenditure | 2018-2019 Actual  | 2019-2020 Estimates | 2019-2020 Actual  | ACTUAL EXPENDITURE FOR 2019-2020 REPRESENTED AS % |
|------------------------------|-------------------|---------------------|-------------------|---|
| Compensation of Employees    | 15,830,571        | 16,595,000          | 14,011,423        | 64.52   |
| Goods and Services           | 8,561,954         | 8,785,000           | 7,698,304         | 35.45   |
| Grants                       | 10,286            | 20,000              | 7,088             | 0.03  |
| <b>Total</b>                 | <b>24,402,811</b> | <b>25,400,000</b>   | <b>21,716,815</b> | 100.00  |



## Analysis of Expenditure

There is a decrease in the actual expenditure for year 2019-2020 compared to the previous financial year 2018-2019. This is mainly due to a reduction in the 'Compensation of Employees' following the retirement of the former President of the ERT who was also receiving an allowance as former President of the then Civil Service Arbitration Tribunal and also the departure of other officers (some of whom have not yet been replaced).

## PART IV – WAY FORWARD

### Trends and Challenges

The Tribunal is currently constituted of the Acting President, Mr I.Sivaramen and the Vice-President, Mr S.Janhangeer. The post of President is vacant and when the post is filled, this may require further staff such as the filling of the vacant post of Confidential Secretary. In view of the trend in number of cases and the recent amendments brought to various legislations, we have reasonable grounds to believe that the number of cases referred to the Tribunal will not abate. Also, the complexity of cases will rise. Indeed, previously only disputes reported by an individual worker could be referred to the Tribunal by the Commission for Conciliation and Mediation for arbitration whereas now, with the recent amendments brought to the Employment Relations Act (effective as from 27 August 2019), even disputes reported by trade unions may be referred to the Tribunal for arbitration. These disputes more often than not contain several issues and points in dispute in one single case as opposed to disputes reported by individual workers which generally concern one or two issues.

Also, the discretion which the Commission for Conciliation and Mediation previously had to refer a matter to the Tribunal for arbitration has been removed and the Commission shall henceforth refer a relevant dispute to the Tribunal for arbitration at the request of the party reporting the dispute.

The Workers' Rights Act 2019 has set up the Redundancy Board whose jurisdiction includes hearing cases which previously would have come before the former 'Employment Promotion and Protection Division' (EPPD) of the Tribunal. However, in view of the small number of cases dealt with by the former EPPD (five in all since the EPPD was set up as from 11 June 2013) of the Tribunal, and the amendments to the law mentioned above, the number of cases before the Tribunal is not expected to be affected significantly by the repeal of the EPPD.

The appointments of members of the Tribunal have already come to an end (since 27 April 2020) and the panel of members of the Tribunal has not yet been reconstituted as per section 85 of the Act. As per relevant provision in the 'Interpretation & General Clauses Act', members in office shall continue in office until new members are appointed and shall be deemed to be the duly appointed



members. This enables the Tribunal to continue its work. However, some members, for various reasons, are no longer or less available for sittings of the Tribunal and this constitutes a major hindrance to the fixing of cases.

Thus, as things evolve positively following the Covid-19 pandemic, we hope that vacancies at the Tribunal can be filled so that the Tribunal has sufficient staff to deliver on its mandate.

## 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.