

CIVIL SERVICE ARBITRATION TRIBUNAL

Award

R.N. 287

Harris Balgobin - President

Dr Farojdeo Hemraj - Assessor

Nunkoomar Deerpalsing - Assessor

Parties

Industrial dispute between:-

**Government Servants' Association
(Dispensing Branch)**

and

Ministry of Health

The Applicant initially moved that the dispute mentioned in paragraph 5.5 of the Statement of Case of the Respondent and relating to "SALARY ANOMALIES AND DUTY FREE CARS CONCESSIONS' be referred" to the Pay Research Bureau in its examination of alleged anomalies arising out of the Chesworth Report. The Motion has been granted.

It is agreed between the Parties that the Tribunal should now deliver an Award on the remaining Items.

The Case for the Staff Side is as follows:

1. Breach of agreement concerning implementation of roster for providing night coverage in main hospitals' pharmacies

With the implementation of the Civil Service Arbitration Tribunal Award of 5th March the Staff 1982, an agreement was signed, between the staff side and the Ministry of Health in June 1984 (refer Doc. I and Doc. J), concerning roster and mode of payment of overtime as a perfect roster could not be envisaged view the acute shortage of Staff since that time.

As from April 1989, the Ministry has acted contrary to the said agreement, with the issue of the Ministry of Health Circular MH/O18/55 of 2nd May, 1989, which unilaterally modified the mode of calculation of overtime.

The present Staff position hardly meets the requirements needed for the formulation of a perfect roster to eliminate overtime. Thus their members have been compelled to put in additional hours without any mode of compensation. The same measure has been adopted for the Pharmaceutical Laboratory Personnel although they are not supposed to operate on shift.

Moreover, this change has been done without any consultation with the Staff Side.

2. Curtailment of special allowance of Rs 200, to dispensing staff providing night coverage in main hospitals' pharmacies

Since July 1987, the Ministry has stopped the payment of the said allowance in contravention with an award of the Civil Service Arbitration Tribunal 1982.

Unfortunately the differentiation in nature of work, in virtue of posting as pointed out by the Award, still exists.

3. Withdrawal of standby / on-call allowance to dispensing staff of district / specialized / Rodrigues hospitals as well to senior dispensers in pharmacy store of main / district / specialised hospitals

These officers have got, besides their normal day duty, to provide standby/on-call services from 4.00 p.m. to 8.00 a.m. next morning (16 hours). Extraneous effort is required from these officers who have got to stay at home for the said period to provide night coverage. Since July 1987, the Ministry has stopped payment of the said allowance to the detriment of our members.

4. Recruitment/filling of vacancies

(a) Recruitment

Despite the fast development occurring in the Ministry of Health, the pharmacy division has not followed pace. Thus the division is not in a position to cope with the expansion taking place. Because of this "lacune" on the part of responsible Head of Division, our members are presently working under much stress and pressure.

Leaves cannot be entertained as it should, contrary to Ministry Circular on the said issue. Allowance is not made, while postings are effected, for the catchment area to be in a position to cater for leave, be it casual or vacation and not to mention sick leave. Thus catchment areas are at times left unattended when certain senior officers are on leave or their requests for leave are persistently delayed.

Since 1977, the Management Services Unit recommended that recruitment be made on a regular basis in order to cater for expansion of the service and to provide for night coverage main hospitals.

Unfortunately, the exercise as well as the training have been done in a very haphazard manner, with the result that the number of qualified Dispensers needed is still far below the figure recommended 13 years ago.

It is high time that this issue be given the required attention if Pharmacy Management really wants the department to follow the trend of development taking place in the Ministry of Health.

(b) Filling of vacancies

Vacancies, at the level of Principal Dispensers and its consequential, existed since 1984. Despite repeated representations, and assurance. given in the course of negotiations, the Ministry has not yet initiated, any action to fill the said vacancies.

To add insult to injury, the Ministry has even gone, the Ministry has even gone to the extent of not filling the vacancy arising out of the retirement of Principal Dispenser - Mr. Gaston Crouche. The Ministry has not even deemed it necessary to recommend actingship pending filling of the said

vacancy.

Such a stand on the part of the Ministry goes against the principle behind the creation of the said posts in 1977 by the Fin Committee Report ratified by the Civil Service Arbitration Tribunal in 1982.

This measure debars serving officers reckoning more than 20 years service in pharmacy work, of their promotion prospects and prevents the pharmacy extension and that was envisaged by the various reports published in 1977, from being carried out.

Many pharmacy sections of Health Centres as well as sections of the Central Stores having to do with drugs/pharmaceuticals are manned by unqualified personnel because of these vacancies.

6. Training, refresher course, issue of certificate

(a) Training

Despite various changes occurring in the field of pharmacy, training of Dispensers is still being conducted on the same syllabus/basis that was in force twenty years ago.

Moreover students that have lately been recruited have not yet started courses after three weeks. The old style of Pharmacists giving lectures in all the various aspects of the programme, is still continuing though these officers do not have the necessary aptitude/qualifications in some fields which the syllabus covers.

It is high time that the Ministry/Management of the Pharmacy Division think of updating the course/raising its standard to be in line with the pattern in force in developed countries.

Fin Committee recommended that the course be conducted under the aegis of the University of Mauritius. Despite the fact that Government has endorsed the Report in 1977, no action has been initiated to have the course under the umbrella of the University of Mauritius.

(b) Refresher Course

It is unfortunate that none of the Dispensing Staff has had the opportunity to attend any refresher course beside their initial training which dates many years back. These officers are thus deprived to be in touch with the latest development taking place in pharmacy.

Moreover the few scholarships for available Technicians are only the concern of professionals who repeatedly attend the same training/seminar/course abroad.

This stand is not to the advantage of the Ministry as these officers are not involved in the day-to-day running of hospital pharmacies/dispensing.

(c) Issue of Certificate

Contrary to the Fin Committee Report, officers of the Cadre have not yet been issued with the appropriate certificate repeated despite negotiations on the said issue.

7. Management Audit Bureau Report/Health sector review

No action has yet been initiated to consider the part of the Report concerning the Dispensing Cadre although the Ministry has already implemented that part concerning setting-up of Health Centres/Community Health Centres. These Centres will have to be serviced by pharmacy personnel as recommended, yet appropriate provisions have not been made.

Drugs distribution system will have to be reviewed from central to peripheral level meaning involvement of Dispensing Cadre. The Ministry promised a meeting, under the chairmanship of the Chief Medical Officer, to examine the whole issue.

The Official Side has submitted the following:-

2. Dispensing Staff

The staffing structure in the Dispensing Service is made up of four grades namely Chief Dispenser, Principal Dispenser, Senior Dispenser and Dispenser. Schemes of service of these grades are at Annexes A to D.

Senior Dispensers and Dispensers are shift workers and are accordingly required to work on a shift basis with a view to providing a 24-hour service in the hospitals.

3. Pre-P.R.B. Regime

3.1 There were two types of working arrangements for Dispensers: and Senior Dispensers in order to provide a 24-hour service in our pharmacies in the hospitals as indicated below:-

3.2 (a) A 24-hour service in the main hospitals - (Sir S. Ramgoolam National, Victoria Hospital, Dr A. Jeetoo, Hospital) based on weekly duty rosters (of varied number of hours ranging between 39 to 60 hours a week) designed to obtain the physical presence of the staff day and night at the hospital.

(b) In the hospitals namely the District and Specialised hospitals, the day-service (normally 8.00 a.m to 4.00 p.m on week-days and 8.00 a.m to noon on Saturdays, Sundays and public holidays) was followed by an “on-call” system to provide coverage after day service against payment of compensatory allowances. This system provided for a dispenser to be on call at his residence where he was fetched and conveyed to the hospital whenever his services were required in order to attend emergencies.

(The District and Specialised Hospitals: Flacq, Souillac, Mahebourg, Poudre d’Or, E.N.T, S. Barati Eye, Brown Sequard and Long Mountain)

3.2 Before the P.R.B. Report, the Senior Dispensers and the Dispensers were considered as potential shift workers and granted allowances as indicated below:-

(a) those posted to the main hospitals - a flat shift allowance of Rs200 per mensem, in accordance with a Civil Service Arbitration Tribunal Award dated 5th March, 1982; and

(b) those posted to the District/Specialised hospitals an “on call” allowance at the rate of Rs 10.00 daily as stand-by fee plus Rs 6.00 per call in addition to overtime whenever they put in additional hours of attendance during week-end.

A copy of the Civil Service Arbitration Tribunal Award is at Annex 'E'.

4. P.R.B. and Chesworth Reports

The P.R.B. has at paragraphs 8.9.15 specifically mentioned that Dispensers and Senior Dispensers are shift workers. Further, both the P.R.B. and Chesworth Reports have at Para. 8.9.15 and 4.10 respectively taken into account, in respect of all shift workers, the element of shift work, including

night work and work on Public Holidays and Sundays in determining their respective salaries. The relevant extracts of the P.R.B. and Chesworth Reports are at Annexes 'F' and 'G'.

5. Items in dispute

5.1 Computation of overtime

In order to provide a 24-hour service in the hospitals, as previously stated, Senior Dispensers and Dispensers who are shift workers have been performing overtime work, in excess of normal working hours, because of shortage of staff.

Until recently (April 1989) overtime was paid to the Dispensing Staff posted to main hospitals in respect of the very week additional hours of work were performed by them. Those posted to District/Specialised hospitals were paid overtime for work performed on Sundays and Public Holidays.

In accordance with standing regulations a shift worker should be entitled to overtime.

(i) where the shift is of 40 hours weekly, he has performed more than 40 hours of work in a week; and

(ii) where the shift covers a cycle, if he has put in work in excess of the appropriate multiple of 40 hours.

However, the dispensing staff were working on shift of varied duration contrary to other shift workers in the Ministry. In order to rationalise the computation of overtime, authority was issued in April 1989, for the payment of overtime for work in excess of 160 hours over a cycle of four (4) weeks in accordance with existing regulations.

Further, the Association was not prepared to discuss the duty rosters of 40-hour week which the Ministry intended to introduce - A copy of the Note of Meeting is at Annex 'H'.

5.2 'On-call' allowance - District/specialised hospitals and 'shift allowance' - main hospitals

P.R.B. has classified Dispensers and Senior Dispensers as shift workers, i.e. officers whose salary have been taken into account the element of shift and the necessity to perform inter alia night, week-end and public holiday duty, Further the Pay Research Bureau Report makes no mention of

the on-call system and the shift allowance which, it is understood, have lapsed on the application of the Report. Likewise the Chesworth Report is silent about these matters.

In the circumstances and taking into account the fact that all the dispensers and Senior Dispensers have opted for the new revised salary and conditions of service, the payment of shift allowance does not arise.

As regards the 'on-call' system, it has not been possible, owing to shortage of staff, to provide in its place a pattern of work based on a shift system and designed to obtain the physical presence of the staff at the District and Specialised hospitals for a 24-hour service. The system has therefore continued. However, this arrangement which is not considered to be entirely satisfactory is under review.

5.3 Recruitment of staff

The present staffing position in the dispensing service is as follows:

<u>Grade</u>	<u>Authorised Establishment</u>	<u>N° of persons in post</u>
Chief Dispenser		1
Principal Dispenser	15	14
Senior Dispenser	46	42
Dispenser	110	89

Every effort has been made to recruit as many student Dispensers as possible with a view to filling vacancies. However, these efforts are constantly being upset by large number of drop-outs in respect of each intake, as will be read from the figures given below:

<u>Date</u>	<u>Recruitment</u>	<u>Accepted</u>	<u>Rejected</u>
02.10.89	30	1	29
19.12.89	14	3	11
05.03.90	22	9	13
25.06.90	11	3	8

03.09.90	10	2	8
11.12.90	10	4	6
18.03.91	7	5	2
		<u>27</u>	

The contention of the Association that requests for leave are not being entertained is not exact. In fact is being allowed to go on leave as and when the staff requested.

In only very few occasions the leave has either been curtailed or postponed owing to the exigencies of the service.

5.4 Filling of vacancies - Principal Dispenser

In 1984, the grade of Principal Dispenser was created in the context of the reorganisation of the Pharmacy Division, and it is made up of 15 posts. All the posts have been filled with the exception of one post for Rodrigues. The need for the filling of this vacancy is still under study bearing in mind that the work load and the staffing position in Rodrigues do not fully justify the filling of the post up to now.

5.6 Training and refresher course

A pre-requisite for appointment as Dispenser is the successful completion of a two-year training course of study carried out by the Ministry under The Management Audit Bureau carried out a review of the Health Sector in Mauritius and the Bureau accordingly submitted its Report in October 1988, which, *inter alia*, recommended that the Medical Stores should be regionalised and the Dispensing Staff should take charge of all medical stocks in the place of members of the Stores Cadre who are responsible for these stocks at present. A copy of the relevant part of the Report related to Pharmacies is Annex 'I'.

The recommendations contained therein are far embracing in many cases new policy decisions and cannot be in many cases new policy decisions and cannot be implemented fully in the immediate future.

The implementation of the relevant part of the Report regarding to Pharmacies will be fully considered when there is adequate staff and the health services are fully regionalised.

Items 1 & 2

1. Breach of agreement concerning implementation of roster for providing night coverage in main hospitals' pharmacies

2. Curtailment of special allowance of Rs200, to dispensing staff providing night coverage in main hospitals' pharmacies.

The Tribunal shall consider items 1 & 2 together.

The shift element has been taken into account by the P.R.B. 1987 in determining their salary scales and we see no cause for intervention. The Tribunal awards accordingly.

Supervision of Government Pharmacists. This course is considered adequate to enable them to acquire the necessary skills and knowledge to perform fully the duties of a Dispenser in the service. The organisation of refresher courses is being looked into by Dr. Gupta in close collaboration with the Institute of Health.

5.7 Issue of certificate of Assistant Pharmacist

Dispensers are awarded a 'Dispensing Qualifying Certificate' on successful completion of their two-year training. They are employed in the Ministry of Health to serve in the capacity of a technician in the Government pharmacies and not to be trained as Pharmacists or Assistant Pharmacist does not exist in the Government service. The conditions of training, the syllabus and the examinations in respect of courses leading to the award of "Dispensing Qualifying Certificate" and "Assistant Pharmacist" are different.

The Pharmacy Board which is the only authority empowered to examine, scrutinize or assess diploma or degrees in the Pharmacy sector has ruled that there is no degree of comparison between Dispensers of Ministry of Health and Assistant Pharmacist of Pharmacies.

The issue of certificate of Assistant Pharmacist is not considered relevant for the purpose of the Public service.

5.8 Implementation of Management Audit Bureau Report relating to Dispensing Staff

Item 3

3. Withdrawal of stand-by/on-call allowance to dispensing staff of district/specialized/Rodrigues hospitals as well to senior dispensers in pharmacy store of main/district/specialized hospitals.

The Tribunal is satisfied that on-call allowance should have been maintained for the officers concerned during the relevant period and awards accordingly.

Item 4

4. Recruitment/ filling: of vacancies

These issues have since been reviewed. They are consequently set aside. The Tribunal awards accordingly.

Item 6

6. Training, refresher course, issue of certificate

Training: It is essential that training be an ongoing process in view of development taking place in this field. It is for management to determine which kind of certificate to be issued, taking into consideration the type of course being run.

Item 7

7. Management Audit Bureau Report/Health sector review

This matter has been the subject of a MAB report which Government will implement when there is adequate staff and the Health Services are fully regionalised. The Tribunal declines to intervene and awards accordingly.

(H. Balgobin)
President

(Dr.F. Hemraj)
Assessor

(N. Deerpalsing)
Assessor

27th October, 1995