

CIVIL SERVICE ARBITRATION TRIBUNAL

AWARD

R.N. 373

Mr. H. Balgobin	-	President
Dr. F. Hemraj	-	Assessor
Mr. N. Deerpalsing	-	Assessor

Parties:

The Medical Records Staff Power Union

and

The Ministry of Health

This dispute relates to the adjustment of salaries of officers following the appointment/promotion of their junior colleagues who are drawing higher salary as a result of the grant of three increments to them in accordance with the 1988 Chesworth Report.

The Union has submitted as follows:

Messrs. P. Napaul, S. Boodhun, and D. Bholah joined services on 15.9.70, 22.9.70, 19.9.70 respectively as extra Clerical Assistant. They were appointed Clerical Assistant on 5.9.74, 25.11.75, 25.11.75 respectively and were all appointed Medical Records Assistant on 22.1.79, whereas -

Mr. Sooba joined service as casual labourer on 4.2.71. was appointed Clerical Assistant on 23.6.78 and Medical Records Assistant on 24.5.84.

They cannot understand why Mr. Sooba should draw a salary of Rs600 as Medical Records Assistant as at 22.1.79 against only Rs480 to the other group as at same date and same grade.

The Ministry submits that Mr. Sooba was appointed as Medical Records Assistant on 24.5.84 but his appointed was backdated from 24.5.84 to 22.1.79 in view of the fact that he reckoned six months experience in Medical Records work as at 1st January 1976. The Union claims that as at that date the grade of Mr. Sooba was Hospital Servant, the question arises therefore as to how Mr. Sooba was allowed to perform Medical Records work.

The union claims that various measures taken in favour of Mr. Sooba have been detrimental to them.

(a) Long Backdating of his Appointments

Mr. Sooba was not eligible for appointment as Medical Records Assistant in the first intake in January 1979. He was appointed as such on 24.5.84 after the Scheme of Service was amended, but his appointment was backdated from 24.5.84 to 22.1.79 under the first Scheme of Service under which he was not eligible. Therefore his appointment should have

taken effect from the date the Scheme of Service was amended and not from 22.1.79 when he was ineligible.

(b) All his backdatings from the grade of Hospital Servant to the grade of Medical Records Assistant have accrued to him a superior salary and hence detrimental to them.

(c) Conversion Table

The applicants claim to have been unduly penalised by the Conversion Table. After having completed the Pre-Chesworth scale (2700 - 3600) in the grade of Medical Records Clerk they had to start from the initial point in the Chesworth scale (3600 - 4750). Whereas Mr. Sooba as Medical Records assistant moved from Chesworth scale (1860 - 3200) to Chesworth scale (2200 - 4000) at a corresponding point and as this scale overlaps, Mr. Sooba therefore came just two increments behind them.

(d) Three Incremental Credits

The Union states that on his very appointment as Medical Records Clerk in 1990 (11 years later) Mr. Sooba benefited from three incremental credits thereby overtaking his senior mates by one increment.

"The Ministry states that it had issued 3 circulars on the subject of salary on promotion as guidelines on the interpretation and application of the recommendation contained in the Chesworth Report.

(1) Ministry for Civil Service Affairs & Employment Circular Note No.9 of 1989.

(2) Ministry for Civil Service Affairs & Employment Circular Note No.6 of 1990.

(3) Ministry for Civil Service Affairs & Employment Circular Note No.10 of 1991.

Ruling of the PRB

With the provision of these circulars it was expected that

10.6.4 'All anomalies arising with the implementation of the recommendation to grant three increments on promotion would be redressed. Such has, however, not been the case. Adjustments have been possible only in respect of anomalies resulting from grade to grade promotion'.

10.6.5 "The difficulty arose particularly in the case of class to class promotion, where officers very often come from different source grades'.

The Ministry submits that the nomination of Mr. Sooba from Medical Records Assistant to Medical Records Clerk on the 20th November 1990 when he was granted three increments is considered as grade to grade promotion.

The Applicants state that applying the provision of the Circular Note No.9 of 1989 of the Ministry for Civil Service Affairs & Employment in their case, and taking into consideration

(a) Seniority in the service

(b) Senior officers

(c) Mr. Sooba as a junior worked under them in the same department, it is therefore incumbent that their salaries be adjusted accordingly.

The Ministry has submitted as follows:

In the statement of case submitted to the Tribunal by the Medical Records Staff Power Union, the Association has raised several points which can be summarized as follows:

- (1) what was the salary drawn by Mr. Sooba, Medical Records Clerk since he joined the Service until he started to draw salary at the rate of Rs600 when he was a Medical Records Assistant;
- (2) in what circumstances Mr. Sooba was allowed to perform Medical Records work while he was a Hospital Servant;
- (3) the appointment of Mr. Sooba to the post of Medical Records Assistant should have taken effect from the date the scheme of service was amended;
- (4) the conversion table provided in the Chesworth Report 1988 has not been properly devised resulting in the Medical Records Clerks being unduly penalised;
- (5) in the light of the Ministry for Civil Service Affairs and Employment Circular Note No.9 of 1989- and being given that the Medical Records Clerks (applicants) are senior to Mr. Sooba, their salary should be adjusted.

Arguments of the Ministry of Health

1. The wages/salary drawn by Mr. Sooba since he joined the Service on the 4th February, 1971, until he started to draw salary at the rate of Rs600 monthly, when he was a Medical Records Assistant, is given in the annexed statement.
2. The officer who could have given the reasons why Mr Sooba (formerly Hospital Servant) was posted to the Medical Records Department has now retired from the Service. It is most probable that at that time there was a shortage of Medical Records Staff.
3. Mr. Sooba was appointed Medical Records Assistant under the scheme of service which came into force on the 26th June, 1978 (copy enclosed). The Ministry is not in a position to comment further on the appointment of Mr. Sooba as Medical Records Assistant being given that power to appoint persons in the Public Service rests with the Public Service Commission as provided under section 89 of the Constitution. It is also felt that the Civil Service Arbitration Tribunal is not the appropriate forum before which the Association could take up the question of the appointment of Mr. Sooba as Medical Records Assistant.
4. The conversion tables provided in the P.R.B. Report 1987 have lapsed with the implementation of the recommendations contained in the Chesworth Report 1988 which came into force with retrospective effect from the 1st July, 1987. All the applicants have opted for "the new salaries and other conditions of service contained in the Chesworth Report. The Association has not indicated what the conversion tables should have been and in what way they have been penalised.
5. The Salaries Commissioner (Mr. Chesworth) has, at paragraph 4.10.10 of his report published in 1988, endorsed the recommendation of the Pay Research Bureau to the effect that grade to grade promotion (just like that from Medical Records Assistant to Medical

Records Clerk) should in general be marked by an increase representing the quantum of three increments. However, he observed at paragraph 4.10.11 of his report that, following the application of the "point to point" salary conversion on the implementation of P.R.B. salaries, officers in certain grades appointed before the 1st August, 1987, were drawing salaries less than their colleagues who had been appointed on or after that date and to whom the grant of three increments had applied. He accordingly recommended at paragraph 4.10.12 that in such anomalous cases the salaries of the officers concerned should be adjusted so that they would draw the same salaries as their colleagues, appointed after them. It is clear therefore that Mr. Chesworth referred specifically to adjustment of salaries in only those anomalous cases where following the application of the point to point salary conversion on P.R.B. salaries, officers appointed before 1st August, 1987, were drawing salaries less than their colleagues who had been appointed on or after that date and to whom the grant of these increments had applied. As the point to point system of conversion lapsed with the Chesworth Report all the anomalous cases, should have arisen between the 1st July, 1987, and September 1988, that is, the date on which the report was published. It follows therefore that only those anomalous cases require to be adjusted.

Mr. Sooba was appointed Medical Records Clerk on "the 26th November, 1990, that is, after the publication of the Chesworth Report. On the application of the system of grant of three increments on promotion he started to draw salary at the rate of Rs4,250 monthly which is higher than the salary the applicants senior to him, were drawing. In the light of the Ministry for Civil Service Affairs and Employment Circular Note No.10 of 1991 (dated the 10th September, 1991) (copy enclosed) this is not an anomalous case. It has been highlighted in the circular that the anomaly occurs only where an officer drawing the same or higher salary than his colleague in the same grade is promoted to a higher office before 1st August, 1987, and subsequently finds himself drawing less than that colleague when the latter is promoted to the same higher salary than the applicants when he occupied the post of Medical Records Assistant.

For the above reasons the Ministry submits that the request of the applicants for their salary to be adjusted with effect from the 26th November, 1990, to be in line with that of Mr. Sooba, should be rejected.

The Tribunal finds that this situation, which may appear unusual to those who were already promoted, may occur in other similar instances and it would not be reasonable to adjust the salary of all officers in order to bring their salaries at par with that of the newly promoted officer.

This dispute is therefore set aside and the Tribunal awards accordingly.

H. Balgobin
President

Dr. F. Hemraj
Assessor

N. Deerpalsing
Assessor

27th October, 1995

