

Civil Service Arbitration Tribunal

AWARD

RN 680

H. Balgobin - President

S. Hossenbux

B. Ramdharry

Parties

Union of Customs & Excise Officers (UCEO)

And

Ministry of Finance

1. This matter was referred to the Tribunal for settlement by the Minister for Civil Service Affairs in terms of Section 82(1)(f) of the Industrial Relations Act.
2. The legal representatives of both parties appeared before the Tribunal on 16.10.02 and stated that the dispute was of an urgent nature and prayed that the Award be delivered at the earliest possible time.
3. The legal representative of the Ministry of Finance has submitted a copy of a letter dated the 16.10.02 from the Financial Secretary and addressed to the Union.
4. The letter essentially states that the Ministry has decided that Mr Sarawan Gunnoo will continue to perform the duties of Comptroller of Customs and that the new appointee will not start performing the duties of Comptroller pending the determination of the Tribunal.
5. The Union of Customs and Excise Officers has reported the existence of an Industrial dispute in relation to the declared intention of the Ministry of Finance to amend the Scheme of Service for the Post of Comptroller of Customs in order to

select and recruit a person from outside the Customs Cadre to lead the Customs and Excise Department on a contractual basis.

6. UCEO contends that the declared intention of the Ministry is allegedly to modernise the Department.
7. UCEO however avers that -
 - Modernisation and reform process have already taken place and is an ongoing process
 - The Department has implemented successfully the Electronic Data Inter Change System
 - Has introduced new fast procedures for the clearing of goods in the case of non litigious consignments
 - A special team of Officers constituting the Change Management Team has been entrusted with the task of implementing the Customs Reform and Modernisation Programme
8. It is contended that the respondent simply wants to bar suitable officers in the hierarchy from being appointed Comptroller of Customs and deprive the Four Deputy Comptroller of Customs from their legitimate aspirations of being promoted.
9. It is stated that the appointment of a foreigner would generate frustration and adversely affect efficiency and productivity.
10. The respondent avers, in order to drive the re-engineering process at Customs it may need to recruit a high calibre professional, if necessary, and on a contractual basis to head the Customs Department for a few years. If the officer is not already in Service, he will be required to train a counterpart from among the Senior Customs Staff who will eventually take over.
11. There is no doubt that the Ministry's wish that it should consider the possible appointment of an outsider with appropriate qualifications and with international

exposure on a contractual and temporary basis acceptable in the precise context of the modernisation programme

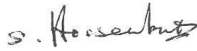
12. On the other hand, it is also a legitimate aspiration for Senior Officers to serve at the highest level. This is the desire of every public officer worth his salt.
13. The Tribunal has a duty to ensure that fairness prevails on both sides.
14. The Tribunal is of the opinion that ideally a serving officer in the department should be appointed as Comptroller.
15. Should an outsider be appointed, the Tribunal has decided to award temporary and exceptional measures.
16. The Tribunal finds that in the precise circumstances of this dispute an officer from outside the service may be appointed, on a strict temporary and contractual basis.
17. The Tribunal has also decided that should an officer from outside the service be appointed on contract, the next best-deserving Senior Customs Officer in the appointment exercise shall be entitled during the contractual period to an allowance representing the difference between his actual salary and the salary prescribed for the post of Comptroller of Customs by the Pay Research Bureau.
18. The allowance shall be personal and pensionable.
19. It shall exceptionally be deemed to be part of his salary when determining all his other conditions of service including transport arrangements and travelling benefits.
20. The officer may consequently be required during the contractual period of the Foreign Comptroller to shoulder additional responsibilities and undertake specific assignments in the context of the modernisation of the department.
21. His post shall, in view of his additional responsibilities during the contractual period be re-styled Associate Comptroller of Customs.
22. There shall be created a new post of Senior Deputy Comptroller of Customs to which the best-deserving officer referred to above shall be eligible and if appointed shall

retain the style of Associate Comptroller of Customs as well as all the benefits referred to earlier during the contractual period.

23. The Tribunal awards accordingly.
24. This Award shall not be considered a precedent and shall not be cited by any party as such before this Tribunal or any other Forum.
25. The Tribunal wishes to place on record the fair, able and just manner in which both the Ministry and the union conducted their respective case.



(H. Balgobin)
President



(S. Hossenbux)



(B. Ramdharry)

17th October, 2002