

CIVIL SERVICE ARBITRATION TRIBUNAL

AWARD

RN 873

BEFORE

Rashid Hossen	-	Ag President
Philippe Noel Jeantou	-	Assessor
Said Hossenbux	-	Assessor

In the matter of:

Medical Records Staff Power Union
and
Ministry of Health & Quality of Life

The Minister of Civil Service Affairs and Administrative Reforms referred the following disputes to the Civil Service Arbitration Tribunal in terms of **Section 82 (1) (f) of the Industrial Relations Act 1973**, as amended.

Medical Records Staff Power Union is hereinafter referred to as the Applicant and the Ministry of Health and Quality of Life, as the Respondent.

Agreed Terms of Reference between the parties read as follows:-

"Whether Medical Records Staff should fill in log-books in connection with transport duty which is not part of the Scheme of Service of Medical Records Staff but pertaining to Gate keepers".

The Statement of Case is as follows:-

1. The dispute referred by the Ministry of Health and Quality of Life should be examined as per Scheme of Service specified under Regulation 15 of the Public Service Commission Regulations, 1967, most particularly to the duties of the Medical Records Staff.
2. It is a fact that according to their Scheme of Service, the Medical Records Staff were only required to make transport arrangements as per stipulated at clause 1 (b) Duties – of the Scheme of Service specified under Regulation 15 of the Public Service Commission Regulations, 1967, which refers to “arranging transport of patients whenever directed.”.
3. The Medical Records Staff Power Union will therefore rely on the Scheme of duties of the Medical Records Staff most particularly at clause 1(b).
4. The duties assigned to Gate keepers in respect of “filling in log books of vehicles and making transport arrangement” are clearly stipulated at clause 1(e) of the duties of the Gate keepers as per Scheme of Service specified under Regulation 15 of the Public Service Commission Regulations, 1967.
5. The Medical Records Staff Power union will also rely on Clause 28.1.57 Pg 411 of the Pay Review of the Ministry of Health and Quality of Life pertaining to Medical Records Assistant

The Statement of Case of the Respondent is as follows:

1. The Respondent takes note of paragraph 1 of the Statement of Case of the Applicant and avers that the Schemes of Service of the Medical Record Staff, i.e Medical Records Assistant, Medical Records Clerk, Senior Medical Records Clerk, Assistant Medical Records Officer, Medical Records Officer are to be found at Annexes A to E respectively.

2. The Respondent denies paragraph 2 of the Applicant's statement of case and avers that the duties "organization of transport facilities for patients" and "arranging transport of patients, whenever directed" are in fact at section 1 (c) in the Scheme of Service of Medical Records Officer and 1 (h) in that of the Medical Records Assistant.
3. The Respondent takes note of paragraph 2.1 of the Applicant's statement of case and avers the following:-
 - (i) in accordance with existing Schemes of Service, the Medical Records Officers and the Medical Records Assistants are responsible for the organization of transport facilities for patients;
 - (ii) the medical Records Clerks and the Senior Medical Records Clerks have, inter alia, to perform the duties of the Medical Records Assistant as and when required;
 - (iii) the Medical Records Assistants are required to make arrangements for the transport of patients, which also includes the filling in of log books of ambulances;
 - (iv) the filling in of log books referred to under (iii) above, is directly related to the work of the Medical Records Department in 1969 for the Medical Records Staff to fill in log books of ambulances, when arranging transport for patients.
 - (v) a patient's first contact in a hospital is with the Medical Records Staff. It will be additional hardship for patients who have already attended several points (Medical Records, Nursing, X-ray Department, dispensing, etc...) during their hospital visit to be directed to another counter for the filling in of log books whilst the Medical Records Staff is required to arrange transport of patients. It is further considered that in the interests of patients, the Medical Records Staff should continue to fill in the log books of ambulances or other vehicles transporting patients.
4. The Respondent takes note of paragraph 3 of the Applicant's statement of case and avers that the gate keepers are required to make transport arrangements for staff and other services but not for patients since gatekeepers do not deal with patients.

5. The Respondent takes note of paragraph 4 of the Applicant's statement of case and avers that in accordance with paragraph 28.157 of the PRB Report 2003, Medical Records Assistants should, inter alia, arrange transport for patients.
6. The Respondent therefore moves that the Applicant's statement of case be set aside.

Mr Napaul Parmanand, Senior Medical Records Clerk deponed under oath as the representative of the Union. He has been in the Health Department for 36 years and he first joined as Medical Records Assistant. He was promoted Medical Records Clerk and he is now Senior Medical Records Clerk. According to him, the Medical Records Cadre is a department where confidentiality is of essence as Officers deal with the files of patients. In fact, this is the first contact a patient has with the Health Department. The records consist of appointments, medical results among the other things. Files are then referred to the doctors and the Medical Records Officers note down in the file as per the instructions of the doctors. The Medical Records Officers received some 700 to 800 patients. The witness reckons that it should be around 30, 35 members of staff who work on a 24 hour basis. In the past the records were kept by the doctors themselves. The Medical Records Officers started doing the job under protest at the request of the doctors.

The witness produced a copy of the said log book and stated that this is not part of the scheme of service. It consists of some 11 lines that they are supposed to fill up and that include the date, name of the officer, the driver, the reason for the trip, the meter reading and the time the vehicle leaves hospital, the number of kilometres effected and the reading of the odometer, as well as the fuel tank. The officer has to sign the document as well as the Controlling Officer. The witness maintained that all this is not compatible with the work of Records Officers which should be left for Transport Officers. The witness added that he is prepared to accept making arrangements

for the organization of the transport and send it to the gate and this only whenever the doctor makes such request exceptionally. The filling of the log book is the job of the Gatekeeper.

The Respondent's representative, Mr S. Manohar, Assistant Medical Records Organiser at the Ministry of Health explained under oath the scheme of duties of the Medical Records Officer and Medical Records Assistant. The Medical Records Officer is responsible of the Medical Records Department of the hospital and the Medical Records Assistant is at the bottom line of the Medical Records Department providing services to the patient and things related to documentation, patient's file, appointments including transportation of patient and the Medical Records Officer is the Supervising Officer. The Medical Records Staff would make transport arrangements for patients which is part of their scheme of duties. As regards the filling of log books, the witness stated that this has been the practice from the very beginning of the Medical Records Department. There are 12 hospitals catering for the health service together with some Health Centres and everywhere it is the Medical Records Assistant and Medical Records Clerk who performed the duties, depending on whether officers are available. The Medical Records Cadre started in 1969 with very few officers. They were eventually co-opted as Medical Records staff. The witness added that it is well-known that the Medical Records Department is the first and last point of contact for the patient. When a patient attends the health institution the first place he goes is the Medical Records Department for his card or Medical record; he then goes to the nursing officer, doctor, dispensing staff, X-ray Department, Pathological department and in case there is any transport arrangement to be organized, he comes to the Medical Records staff, so that, the Medical Records staff is the first and last point of contact for the patient. There are two ways that transports are being organized. The first one is that the patient attending the outpatient department or the casualty department and requiring transport is given a transport slip which is

signed by the doctor authorizing an officer to do the needful. There are also patients who from their places of residence, especially at night require the services of an ambulance. They have to go to the police station and the latter makes arrangement with the Medical Records Department that provides the transport. As regards the physiotherapy patient or the patient coming on dialysis they come and go 2 or 3 times a week to the hospital and their transport is also organized by the Medical Records Staff. At the end of the day the transport slip does not emanate from the doctor. For example, the physiotherapy patient is given one slip for a whole session of three weeks or any lapse of time. But it is the doctor who initially transcribed the authority. Finally the witness added that he does not think that it is correct that Medical Records Officers actually accompany patient to the Gatekeeper. Their concern is more filling up the log book.

A perusal of the various schemes of service no doubt makes references to cognate duties.

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**SCHEME OF SERVICE SPECIFIED UNDER REGULATION 15 OF THE PUBLIC
SERVICE COMMISSION REGULATIONS, 1967**

Effective Date: 14th November, 1975

- Duties:*
1. *To assist and deputise, when necessary, for the Medical Records Officer over the whole range of his studies at a main or district hospital*
 2. *To perform other cognate duties*

Effective Date: 24th July, 1979

Duties: To be responsible to the Hospital Administrator/Head of the Institution for:-

- (a) *premises*
- (b) *opening and closing of gates whenever necessary;*

- (c) *keeping a register and recording therein the time of arrival and departure of staff;*
 - (d) *recording the registration number and time of arrival/departure of vehicles entering/ leaving the compound;*
 - (e) *filling in log books of vehicles and making transport arrangements;*
 - (f) *answering queries from visitors/patients and directing them;*
 - (g) *exercising control with a view to preventing stolen goods from being removed through the gate;*
 - (h) *the custody of keys*
 - (i) *calling the electrician in case of electricity breakdown and, whenever requested, any other officer.*
2. *At Brown Séquard Hospital, in addition to the above duties, to record the number of patients leaving and returning through the gate.*
 3. *To perform other cognate duties.*

Effective Date: 31 May 1999

- Duties: 1. To be responsible for:*
- (i) *the organization and supervision of the Medical Records Services of a hospital and satellite Health Centres, including patient reception, registration, appointments, waiting list for operations, medical records procedures for inpatients from admission to final disposal, diagnostic index storage and retrieval of records;*
 - a. *the compilation of statistical data on inpatients and outpatients;*
 - and*
 - b. *the organization of transport facilities for patients.*
2. *To perform such cognate duties as may be assigned*

Effective Date: 11 June 2001

Duties: To be responsible to the Head of the Hospital/Division through the Medical Records Officer or the Assistant Medical Records Officer or the Senior Medical Records Clerk for –

- (a) supervision of a section/s of the Medical Records Department;*
- (b) coding of diagnoses according to the latest WHO Manual of International Classification of Diseases etc; and*
- (c) performing the duties of Medical Records Assistant as and when required.*

2. To perform such cognate duties as may be assigned

Note

Medical Records Clerks will be required to work on shift, covering a 24-hour service including night duty, Saturdays, Sundays, Public Holidays and officially declared cyclone days.

Effective Date: 11 June 2001

Duties: To be responsible to the Head of Hospital/Division through the Medical Records Officer or Assistant Medical Records Officer for –

- (i) the supervision and co-ordination of the work carried out in sections/units of the Medical Records Department of a hospital or any other health institution;*
- (ii) organizing the medical records work in Area Health Centres, Community Health Centres or any other health institution;*
- (iii) collecting and compiling health statistics; and*
- (iv) performing the duties of Medical Records Clerk as and when required.*

2. To perform such cognate duties as any be assigned.

Effective Date: 11 June 2002

Duties: To be responsible through the Medical Records Officer or the Assistant Medical Records Officer or the Senior Medical Records Clerk to the Head of the Hospital/Division for –

- (a) receiving and registering patients;*
- (b) giving appropriate appointments to patients;*
- (c) preparing, distributing, collecting, storing and retrieving medical records and reports;*
- (d) keeping a separate register for all cases requiring police action and ensuring that all relevant police forms are properly filled and transmitted to the Police;*
- (e) collecting and compiling health statistics;*
- (f) keeping the master index and waiting lists of patients;*
- (g) filling diagnostic coding index and clinic lists; and*
- (h) arranging transport of patients, whenever directed".*

We also find in the PRB report 2003 the following extract:

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MEDICAL RECORDS GROUP

28.155 Medical Records are concerned with health related information and the management of systems to collect, store, process, retrieve and communicate information to appropriate health professionals, management and the public. To achieve a substantial improvement in quality of health care, the existence of a comprehensive national health information infrastructure is essential for the rapid delivery of health care, its evaluation, monitoring auditing, management, planning and research. The medical records staff is in the front line of the health services. They are generally the first contact with patients attending hospitals and provide a service round the clock.

28.156 The Medical Records Organiser is at the apex of the Medical Records Cadre and operates at the level of the Ministry. He is assisted by the Assistant Medical Records Organiser. Other grades of the Records Cadre are Medical Records assistant, Medical Records Clerk, Senior Medical Records Clerk, Assistant Medical Records Officer and Medical Records Officer.

Medical Records Assistant

28.157 Medical Records Assistant is the source grade in the Medical Records Cadre. Recruitment thereto is, at present, made from among candidates possessing the Cambridge School Certificate with credit in at least three subjects including English and Mathematics. Incumbent receives and registers patients, gives appropriate appointments, prepares, retrieves and stores reports, collects and compiles health statistics and arranges transport for patients. In view of the nature of duties and responsibilities devolving on incumbent, we are reviewing the entry qualifications requirements of the grade of Medical Records Assistant.

Recommendation 48

28.158 We recommend that in future Medical Records Assistants should be recruited from among candidates holding a Cambridge School Certificate with credit in at least five subjects including English Language and Mathematics or passes not below Grade C in at least five subjects including English Language, French and Mathematics or Principles of Accounts at the General Certificate of Education "Ordinary Level".

The Respondent submitted that Medical Records Assistants are required to perform cognate duties as well and that organizing transport are part of their scheme of service.

The Applicant's Union holds the view that Medical Records Staff are responsible for transport and filling up of log book and a change in that appellation is now called for.

It is not disputed that the scheme of duties include those of a cognate nature, and that arrangements for transport are part and parcel of them.

We would not want to close the curtain on what we consider the Union's reasonable request to at least recognize what the Medical Records Group have agreed to do although under protest. In other words, if we conclude that filling up the log book is part of their scheme of duties and therefore part of the contract of work, we would be adding to increased frustration and this would be against all principles of good industrial relations. It is because we accept the fact that they have done so under protest that we consider the time has come for a solution to be found. We do not believe that cognate duties should go as far as reading up the contents of vehicles odometers and that somewhere a line has to be drawn. The sky cannot be the limit or Medical Records Staff might end up fixing flat tyres of Government vehicles. Curiously, one would expect Medical Records Group to be in charge of records regarding "Medical".

We are aware of official consultation being presently held by the PRB for its report to be published in 2008. We invite the applicant's Union to make recommendations to that body in line with what we have said. The PRB in fact is the ideal forum that should at least adjudicate upon that issue and consider whether the time has not come for Transport Officers posts to be created or additional duties with regard to filling up log books be extended to gatekeepers while re-adjusting the latter's salaries. We bear in mind that Medical Records Group complained about the distance between the hospital and the gate sometimes which makes it more obvious that this should not be part of their job. It is not for the Tribunal to assess the full implications of new schemes of service as we are not in presence of all the facts and figures. Surely, finance remains the basis of it all; but that should not hinder the PRB from looking into the reorganization of work. It is apposite to quote here the following:-

*"It stands to reason therefore, that the duty to prepare schemes of service rests on the responsible officer but that these must obtain the sanction of the Head of the Civil Service and agreed to by the Public Service Commission (Reg. 15). The application cannot succeed as one of the main parties is not before us: see **Heeraman v. Local Government Service Commission [1991 SCJ 188]**. But even on the merits of the application, leave should not be granted. It is not for this Court to substitute itself for Ministries and tell them how to run their departments. The Court can only intervene when there has been a departure from established legal rules and procedures, but is certainly not the function of the Court to direct Ministries or government departments how schemes of service should be prepared or amended to suit the changing needs of society. In **Heeraman v. Local Government Service Commission (supra)**, the Court made the following observations:*

"We know of no rule which prevents an appropriate authority from altering a scheme of service to provide for different qualifications. Indeed learned counsel for the applicant conceded that he could only press his point if we assume that the alteration was made overnight."

*In **Planche v. (1) Conservatoire de Musique Francois Mitterand Trust Fund; (2) The Permanent Secretary, Ministry of Education and Science [1994 SCJ 129]**. The Court held that it could not, on an application for **judicial review**, substitute its own views on schemes of service."*

We award accordingly. The present dispute is otherwise set aside.

(sd) Rashid Hossen

Ag President

(sd) Philippe Noel Jeantou

Assessor

(sd) Said Hossenbux

Assessor

Date: 7th February 2007