

EMPLOYMENT RELATIONS TRIBUNAL

ORDER

ERT/ RN 62/20

Before

Indiren Sivaramen	Acting President
Francis Supparayen	Member
Bharuth Kumar Ramdany	Member
Arassen Kallee	Member

In the matter of:-

**Special Education Needs School and Other Education Employees Union
(Applicant)**

And

Anna Medical College (Respondent)

The present matter is an application made by the Applicant union under section 36(5) of the Employment Relations Act, as amended (the "Act"), for an order directing the Respondent to recognise the Applicant as the bargaining agent in a bargaining unit consisting of workers in the following categories: Receptionist, Admission Assistant, Administrative Assistant, Clerk, Housekeeping, Security, Librarian, Lab Attendant and Driver employed by the Respondent and posted at Anna Medical College, Sans Souci road, Montagne Blanche and Labourdonnais street, Port-Louis. Ex facie the application before us, the Applicant sent a letter dated 8 February 2020 to the Respondent (copy of document annexed to the application) seeking for recognition as bargaining agent for the said bargaining unit. The Respondent is resisting the application and both parties conducted their own case before the Tribunal.

The support the Applicant had among the workers in the bargaining unit was at issue. Both parties, as represented before us, were agreeable to a secret ballot being carried out. Following evidence adduced before the Tribunal, the Tribunal was satisfied that a

secret ballot should be held in the interest of good industrial relations. The Tribunal thus ordered that a secret ballot be held in the relevant bargaining unit.

The secret ballot was organised and supervised by the Tribunal at the Respondent at Sans Souci Road, Montagne Blanche on Thursday 23 July 2020. The list of employees in the relevant bargaining unit was agreed by both parties. There was a total number of thirty-four employees in the relevant bargaining unit as agreed by the parties and all thirty-four employees participated in the secret ballot. Only two employees were in favour of the recognition of Applicant as their bargaining agent in the bargaining unit at the Respondent whilst thirty-one employees were against the recognition of the Applicant as their bargaining agent at the Respondent. There was one void ballot paper. The Applicant thus secured the support of only 5.9 per cent of the workers in the bargaining unit.

Section 38(1) of the Act reads as follows:

“(1) The Tribunal shall, on an application made under section 36(5), determine whether the trade union or group of trade unions, as the case may be, has the support of at least 20 per cent of the workers forming part of the bargaining unit, or where the application is for recognition as a sole bargaining agent, has the support of more than 50 per cent of the workers in the bargaining unit, or otherwise.”

In the light of the results of the secret ballot and since the Applicant has failed to secure the support of at least 20 per cent of the workers forming part of the bargaining unit, the Tribunal finds that the Applicant has failed to show that an order granting recognition to the Applicant as bargaining agent should be granted. The application is thus set aside.

SD Indiren Sivaramen

Acting President

SD Francis Supparayen

Member

SD Bharuth Kumar Ramdany

Member

SD Arassen Kallee

Member

24 July 2020