

EMPLOYMENT RELATIONS TRIBUNAL

AWARD

R.N 1047

Before:

Raj SEEBALUCK	Vice-President
Bulram TACOURI	Member
Philippe Edward BLACKBURN, M.S.K.	Member
Hurryjeet SOOREEA	Member

In the matter of:-

CHOOMNESH JANKEE

AND

MAURITIUS EXAMINATION SYNDICATE

The present dispute has been referred by the Minister of Labour, Industrial Relations & Employment in virtue of **Section 82(1)(f)** of the then **Industrial Relations Act 1973**, as amended.

The newly enacted **Employment Relations Act 2008** makes provision for such dispute to be heard before the newly constituted **Employment Relations Tribunal**:-

“Section 108(10) - Transitional Provisions: –

“Any proceedings pending immediately before the commencement of this Act before the Permanent Arbitration Tribunal and the Civil Service Arbitration Tribunal shall be deemed to be proceedings pending under this Act and may be proceeded with before the Tribunal.”

The points in dispute are:-

1.- “Whether Management was justified in constantly transferring Mr Choomnesh Jankee, Senior Programmer, from Data Processing Section to Invigilation Section Registry, Director’s Office, back to Invigilation Section, Finance Section, again to Invigilation and finally to Professional Examinations Section and whether these transfers adhere to his scheme of service as Senior Programmer.”

2.- “Whether since 2002 the course of action adopted by Management towards him is tantamount to harassment, victimization and alienation.”

3.-“Whether Mr Choomnesh Jankee should be posted back to the Data Processing Section and be treated fairly and be given equal opportunity as all other Senior Programmers.”

4.-“Whether keeping Mr Choomnesh Jankee out of the Data Processing Section amounts to deliberate attempts by Management to debar him from competing for the vacant post of Examinations Officer (Data Processing Section) and to reduce his chances for promotion.”

The Applicant was represented by Mr Sunil Bheeroo, of Counsel whereas the Respondent was assisted by Mr M. Oozeer, State Counsel.

The Tribunal invited the parties throughout the various proceedings held to undergo meaningful negotiations with a view to settle the points in dispute.

The Tribunal was pleased that the parties successfully reached that end.

At the sitting of the 26th October, 2009, both parties moved for an award in terms of the following agreement:-

- that since the present case has been lodged before this Tribunal the Applicant, Mr Choomnesh Jankee, has not been transferred within the Mauritius Examination Syndicate from one department to another;
- without admitting the allegations as per the Terms of Reference by the Respondent, as at present, no complaint has been received from the Head of Section of the Applicant in respect of his work and none has been received from the latter;

- that the Applicant, Mr Choomnesh Jankee, is not having any problem now regarding the harassment;
- that the Mauritius Examination Syndicate undertakes that it will provide a good and conducive working environment to the Applicant, Mr Choomnesh Jankee.

The Tribunal awards accordingly.

The dispute is otherwise set aside.

.....
(sd) Raj Seebaluck
Vice-President

.....
(sd) Bulram Tacouri
Member

.....
(sd) Philippe Edward Blackburn, M.S.K.
Member

.....
(sd) Hurryjeet Sooreea
Member

Date: 10 November 2009