

EMPLOYMENT RELATIONS TRIBUNAL

ERT/RN/ 06 / 2014

AWARD

Before:

Shameer Janhangeer	Vice President
Esther Hanoomanjee (Mrs)	Member
Rabin Gungoo	Member
Renganaden Veeramootoo	Member

In the matter of:

Mr Anand Kumar Jhurry

(Disputant)

and

Mauritius Institute of Training Development

(Respondent)

ipo

The Ministry of Education and Human Resources

(Co-Respondent No.1)

and

The Ministry of Civil Service and Administrative Reforms

(Co-Respondent No.2)

The present matter has been referred to the Tribunal by virtue of *section 69 (7)* of the *Employment Relations Act 2008*, as amended (the "Act") by the Commission for Conciliation and Mediation (the "CCM"). The terms of reference of the dispute read as follows:

Whether having regard to the contents of circular letter No.29 of 29.07.03, E/60/17/01VH, communicating government's decision in relation to the refund of the course and examination fees, coupled with paragraphs 14.14 and 14.15 of the PRB Report 2003, and PRB Report 2008, Disputant is entitled to the refund of the sum of Rs 112,981, being expenses incurred by the Applicant, as course and examination fees, incurred by Disputant for the pursue of the enhancement of Disputant's professional qualifications.

The Disputant was assisted by Counsel and the Respondent and Co-Respondents were assisted by State Counsel instructed by State Attorney. The parties in the matter have respectively submitted a statement of case in relation to the dispute.

The Disputant has, in his statement of case, averred that he has 18 years of service at the Lycée Polytechnique run by the *Mauritius Institute of Training and Development* (the "MITD") occupying the post of *Assistant Procurement and Supply Officer* ("APSO"). He listed his qualifications as follows: Certificate in Purchasing and Supply (2004-2005); Advanced Certificate in Purchasing and Supply (2005 – 2006); and Advanced Diploma in Purchasing and Supply (2007). He completed the aforesaid courses by distant learning having been encouraged by *Circular Letter No. 29 of 29 July 03* (the "Circular Letter") and the *Pay Research Bureau* (the "PRB") *Report* of 2003. He incurred Rs 112,981/- in expenses for the enhancement of his professional qualifications and has annexed receipts in support of same. He has also given an account of an exchange of correspondence with the relevant authorities requesting for a refund of his expenses and has enclosed same to his statement of case.

The MITD has, in its statement of reply, stated that the Disputant was promoted to the post of APSO on 02 September 2003 having joined the then *Technical School Management Trust Fund* (the "TSMTF") as from 14 March 1995 as *Assistant Stores Officer*. The MITD has admitted the Disputant's first two qualifications and to a testimonial from the Chartered Institute of Purchasing & Supply (CIPS) certifying his admission as an Associate Member of the Chartered Institute of Purchasing & Supply. In relation to the exchange of correspondence, the MITD acting upon advice received from the *Ministry of Education and Human Resources* informed the Disputant, on 10 December 2007, that he was not eligible for a refund of the course and examination fees. Following further representations, the MITD on 22 February 2010 basing itself on fresh advice from the Co-Respondent, declined the request for refund.

The *Ministry of Education and Human Resources* has notably averred that following its advice dated 17 February 2010 to the *MITD*, the Co-Respondent made a new request for course and examination fees on 26 January 2012 followed by a letter from his Counsel dated 28 March 2012 to which it replied on 24 April 2012 that it is maintaining its decision. The Co-Respondent has also averred that it has stood guided by the policy of the *Ministry of Civil Service and Administrative Reforms* (the second Co-Respondent in the matter).

The statement of case of the *Ministry of Civil Service and Administrative Reforms* has notably referred to its letter dated 26 March 2007 that Officers of the Purchasing and Supply cadre not required to follow an approved course in Purchasing and Supply Management and that there is no policy at the ex-*TSMTF* to sponsor such officers. The *Circular Letter* refers to refund of course and examination fees to officers in the Civil Service who according to their Scheme of Service are required to follow a training course which is sponsored by the Government, subject to certain conditions. It has further been averred in the letter dated 26 March 2007 that *Paragraphs 14.14 and 14.15* of the *PRB Report 2003 Volume II Part I* made provision for sponsored courses in Purchasing and Supply Management and for promotion to the grade of Higher Purchasing and Supply Officer, on the basis of merit and experience, to those who hold a Certificate Course in Purchasing and Supply Management. The relevant provisions of the *PRB Report 2003 Volume II* are not reflected in the Schemes of Service for the posts of Purchasing and Supply Officer and Higher Purchasing and Supply Officer submitted by the ex-*TSMTF*. The aforesaid letter concludes that Purchasing and Supply Officers are not required to follow an approved course in Purchasing and Supply Management sponsored by the *MITD* and that the Disputant's application for refund of fees does not meet the conditions of the *Circular Letter*.

Mr A. K. Jhurry has notably stated it is his case that he is entitled to the refund of the course and examination fees incurred for the enhancement of his professional qualifications. He reckons 18 years of uninterrupted service at the Lycée Polytechnique which was under the former *TSMTF* and now *MITD*, where he is now *APSO*. He confirmed his qualifications as per his statement of case. He produced a copy of *Circular Letter No.29 of 29 July 2003* (Document A). His department, the *MITD*, falls under the aegis of the *Ministry of Education* and is set up under law despite its structure not being in place. Encouraged by the *Circular Letter*, he embarked in pursuing studies to enhance his qualifications for which he incurred the sum of Rs 112,981 and referred to the receipts annexed to his statement of case in support of same. He wrote to the *Ministry of Education and Human Resources* on 26 January 2012 wherein he mentioned recommendations of the *PRB Report 2003* and *2008* and the *Circular Letter*. The *Ministry of Education and Human Resources* on 24 April 2012 maintained its initial decision refusing his claim. The courses he has referred to in his letters asking for a

refund of his expenses are the Certificate in Purchasing and Supply; Advanced Certificate in Purchasing and Supply Management; and Advanced Diploma and Procurement in Purchasing and Supply Management for which he was awarded an Associate Member of the Chartered Institute of Purchasing and Supply. He also referred to *Paragraphs 14.14 and 14.15 Recommendation 2* of the *PRB Report 2003 Volume II Part I* and to *Paragraphs 19.33 and 24.21* of the *PRB Report 2008 Volume I* as well as *Paragraphs 22.18 to 22.20* of the *PRB Report 2013 Volume I*, producing a copy of the latter paragraphs (Document B). He is therefore asking the Tribunal for an award in his favour on the basis of the documents relied on and the courses he has followed.

The Disputant also stated that he was promoted to his present post in 2003 from Assistant Stores Officer. He produced a letter dated 04 April 2014 (Document C). He maintained that he completed his Advance Diploma in 2007. He agreed that the *Circular Letter* does not state that it applies to Parastatal Bodies. The Scheme of Service for APSO does not require any additional qualifications. Referring to the *PRB Report*, the advent of information technology and the introduction of modern management techniques, he stated that there is a need to enhance qualifications. He made his claim for refund to the MITD. He does not agree that the recommendations made at *Paragraph 14.15* of the *PRB Report 2003 Volume II Part I* applies to the *Deputy Prime Minister's Office and Ministry of Finance* as the front page of the *PRB Report* states that the report applies to the public sector. He agreed that there is no specific recommendation for the refund of sponsorship/fees. He referred to *Circular Letter No. 66 of 2012* in relation to the Schemes of Service and produced a copy of same (Document D). There has been no alignment of his Scheme of Service at the MITD with that in the Civil Service. He maintained that the *Circular Letter* applied to him.

The Disputant further produced a table detailing his receipts, the amounts incurred and on which dates (Document E); an extract of the *PRB Report 2008 Volume II Part II* showing his post of AFSO at the then TSMTF (Document F).

Mrs C. Deepchand, a trainer at the MITD and President of the Mauritius Institute of Training and Development Staff Association, was called as a witness on behalf of the Disputant. She did not agree that according to the Scheme of Service for the post of APSO, possession of a Certificate or Advance Certificate in Procurement and Supply is not a requirement for promotion to the post inasmuch as the Scheme of Service of Purchasing and Supply Officers dated 1 November 2002 from the *Ministry of Finance* states that they "may be required to follow appropriate courses to make them conversant with relevant computer packages to perform purchasing, storekeeping and stock control among others". The Schemes of Service at the TSMTF were aligned to those of the Civil Service and they had

all the conditions that were prevailing in the Civil Service. She produced the Scheme of Service for the post of Procurement and Supply Officer at the *Ministry of Finance* (Document G). Prior into coming under the *MITD*, the policy of applying what was applicable in the Civil Service to them prevailed. She cited the examples of two persons in the same cadre as the Disputant who have been refunded their fees for courses followed, one of them being a clerk whose Scheme of Service does not mention that she should be sponsored for such a course. The other was given a refund for following the course at a University recommended by the *PRB* in the report referring to the Civil Service, not Parastatal Bodies. She also stated that she could not answer nor was she aware if the case of the other two persons was based on the *Circular Letter* of 2003 as Mr Jhurry's case was prior to the *PRB* of 2008. She agreed that the *PRB* makes recommendations and the implementation is done by the organization.

Mrs N. Sakaloo, HR Management Officer at the *MITD*, was called on behalf of the Respondent. She produced the Scheme of Service for the post of *APSO* occupied by the Disputant (Document H). She came across the *Circular Letter* when it was submitted by Mr Jhurry along with his claim. She confirmed the qualifications of the Disputant save for the Advance Diploma of which she did not have a copy in his personal file. When the (Ministry of) Civil Service issues a circular applicable to Parastatal organizations, the parent *Ministry* transmits it to their organization; in this case, the *Circular Letter* was not received and that it why they wrote to the *Ministry of Education* for advice. She also stated that the only Higher Purchasing and Supply Officer did receive a refund for course fees from the *TSMFB* for a course followed at the University of Technology (Mauritius) after being refused on three occasions; he however did not rely on the *Circular Letter*. The other officer who was refunded was considered under the Learning Development Strategy which is applicable at the *MITD*. She wrote to the *Ministry of Education* on behalf of Mr Jhurry for his post to be upgraded to Procurement and Supply Officer. She produced a copy of the reply dated 18 September 2013 (Document J) wherein the request was not acceded to. She also confirmed that the Scheme of Service produced for the post of *APSO* at the *TSMFB* is still the same and has no requirement for additional qualifications.

The representative of the *MITD* also produced a copy of the letter dated 31 July 2013 from the *MITD* addressed to the *Ministry of Education and Human Resources* (Document K). She did not agree that *paragraph 24.21* of the *PRB Report 2008 Volume I* refers to alignment all across the public sector. She also stated Mr Jhurry did not inform the organization of the course he was following and made a request for a refund after having completed the Certificate in Purchasing and Supply. She maintained that the request of Mr Jhurry was considered despite it being based on a specific circular; unfortunately this could not be acceded to.

Mr A. S. B. Adam, Acting Principal Job Analyst at the *PRB*, was also called on behalf of the Respondent. He produced the cover page of the *PRB Report 2013 Volume I* as well as the first three pages of the said report (Documents L & L₁). He stated that *Volume II Part II* of the *PRB Report* deals with Parastatal, other Statutory Bodies and Private Secondary Schools, and includes the *MITD*. Paragraphs 14.14 and 14.15 of the *PRB Report 2003 Volume II Part I* falls under the *Deputy Prime Minister's Office and Ministry of Finance* under the subheading of Purchasing and Supply Cadre and the recommendation at Paragraph 14.15 is applicable exclusively to the *Ministry*. Paragraph 24.23 of the *PRB Report 2008 Volume I* applies for the general service grades which appear in almost all Parastatal Bodies, e.g. Clerical Officers and Office Attendants. The Purchasing and Supply Cadre is a technical grade to whom the recommendation at Paragraph 24.23 does not apply.

He also stated that the structure of the *PRB Report 2013* has remained the same as it was previously and produced the cover page of the *PRB Report 2003 Volume I* (Document M). The *MITD* which is included in Parastatal Bodies is under the aegis of the Ministry of Education. He agreed that Paragraph 14.14 of the *PRB Report 2003 Volume II Part I* refers to better services in the public sector. He also referred to Paragraph 19.33 of the *PRB Report 2008 Volume II Part I* which applies to the Purchasing and Supply Cadre at the *Deputy Prime Minister's Office and Ministry of Finance and Economic Development* falling under the Civil Service. In relation to the recommendations on alignment in the Schemes of Service, the recommendation under Paragraph 19.33 does not apply to Parastatal Bodies as the organisational structures in these two bodies are not the same with a 6 level structure in the civil service and a 1 to 3 level structure in Parastatal Bodies depending of the size of the organization. Parastatal Bodies will not have to adapt when the *PRB* speaks of alignment recommending similar Schemes of Service as Paragraph 19.33 states 'wherever relevant' which means that the structure is the same and the levels should be the same. There are different number of levels in the cadre from the salary schedule of the *MITD* which gives the number of grades and the number of levels the cadre has. The Scheme of Service has to be amended wherever applicable and relevant, even if it does not mean that everything is identical, the number of levels is of great importance. He also produced a copy of the EOAC 2013 for the *PRB Report 2013 Volume II Part II* regarding the salary schedule of the *MITD* (Document N).

Miss N. Peerbaccus, Assistant Manager at the *Ministry of Education and Human Resources*, adduced evidence on behalf of the first Co-Respondent in the dispute. She stated that her *Ministry* is not involved in the administrative functions of the *MITD* or the ex-*TSMTF* which is managed by its board of directors. The *Circular Letter* did not have written instructions for it to be sent to Parastatal organizations. She produced an example of a

circular letter dated 13 May 2014 (Document O) wherein it is written that it should be brought to the 'attention of all Heads of Parastatal and Statutory Bodies falling under the aegis of their respective Ministries/Departments'. She also produced a circular letter dated 3 November 2011, No. 60 of 2011 (Document P) which does not mention Parastatal Bodies. However, she confirmed that the contents of the aforesaid circular letter were extended to Parastatal Bodies. A letter dated 19 February 2007 was sent from the *Ministry of Civil Service and Administrative Reforms* to which information was submitted to the aforesaid *Ministry* in a letter dated 15 March 2007 including a copy of the Scheme of Service for the grade of Stores Officer. She agreed that the Scheme of Service referred to was outdated as the Disputant was occupying the post of Purchasing and Supply Officer.

Mrs I. Reega, Assistant Manager Human Resources at the *Ministry of Civil Service and Administrative Reforms*, notably stated that not all policies emanating from circulars are extended to all Parastatal Bodies. The *Circular Letter* does not emanate from recommendations of the *PRB Report* and was devised by the *Ministry of Civil Service Affairs*. She was also questioned by counsel for the Disputant. She agreed that the circular letter dated 3 November 2011 does not mention that its contents should be extended to Parastatals and could not say whether officers posted in Parastatal Bodies are enjoying the privilege of the aforesaid circular. She agreed that although the Scheme of Service that was communicated by the *TSMTF* by a letter dated 15 March 2007 referred to Stores Officer and Higher Stores Officer, which was restyled to Purchasing and Higher Purchasing Officer, it was still valid as the Scheme of Service has remained the same and there should not be any confusion with the renaming of the post. Stores Officer is not restyled as *APSO*. She agreed that since 2003 the *PRB* has recommended the amendment of the Scheme of Service. Whenever the *PRB* makes recommendations, it is for the organization to decide to implement which will be according to the needs of the organization. The advice of the *Ministry of Civil Service* on the *Circular Letter* as sought by the *MITD* through the *Ministry of Education* was given according to the Scheme of Service submitted to the *Ministry*. The Scheme of Service at Annex 6 of her Statement of Case is the same and only the name has changed. She referred to the second paragraph of the letter dated 6 April 2007 wherein the *Ministry of Civil Service Affairs* put forward its reason why the Disputant was not eligible for a refund of course and examination fees and stated also that the reply is based on the *Circular Letter*.

The representative of the *Ministry of Civil Service and Administrative Reforms* also stated that the restyled Scheme of Service of *APSO* is an entry grade post whereas the previous Scheme of Service of the post of Stores Officer was by promotion. Referring to Document G, there may be a requirement to follow an appropriate course in computer packages, not procurement, which would be funded by the Government. There was no

requirement for a training course according to the Scheme of Service for the post of Stores Officer. She further explained the steps to be taken and the documents required for an application for refund of course fees in accordance with the *Circular Letter*.

Mrs Sobah Seeboruth, Human Resource Executive at the *Ministry of Finance*, adduced evidence in relation to *Paragraphs 14.14 and 14.15* of the *PRB Report 2003 Volume II Part I* which falls under the chapter of *Deputy Prime Minister's Office and Ministry of Finance* in the report. She stated that the Purchasing and Supply Cadre is mainly about the procurement of goods in relation to the stock of the Ministry, which is to say the timely purchase and supply of materials, works, goods and services of the Ministry. The officers in the cadre are out-posted across various Ministries and Departments. Their establishment is at the *Ministry of Finance*. They are not posted to Parastatal Bodies, only to Ministry and Departments. In relation to the recommendation at *Paragraph 14.15* to the effect that the *Ministry of Finance* should make arrangements with the University of Technology, Mauritius or any other recognised institution for the mounting of appropriate courses in purchasing and supply management, her Ministry's policy has been to initially sponsor courses to Higher Purchasing and Supply Officers who after successful completion of the Diploma course would have been appointed Senior and they are normally selected on a seniority basis. Courses are being sponsored since 2003. In relation to the present dispute, she stated that their report is very distinct from that of a Parastatal Body and that the aforesaid paragraphs of the *PRB Report 2003* apply to the *Ministry of Finance* and not to the *MITD*. In reply to questions from Counsel for the Disputant, Mrs Seeboruth notably agreed that the public sector includes the civil service and other government sectors but that the *PRB Reports* are distinct from one another and was referred to *Paragraph 19.31* of the *PRB Report 2008 Volume II Part I*.

The Disputant presently occupies the post of *Assistant Procurement and Supply Officer (APSO)* at the Lycée Polytechnique operated by the *MITD*. He joined the service at the *TSMTF* as *Assistant Stores Officer*, post to which he was confirmed on 23 March 1996. He was promoted to his present position, which was *Purchasing and Supply Officer* before being restyled to its present appellation in the *PRB Report 2008*, on 2 September 2003. The *MITD* having come into existence with the proclamation of the *Mauritius Institute of Training and Development Act* on 16 November 2009 has repealed the *Technical School (Management Trust Fund) Act*, under which the Disputant was formerly employed and taken over its functions.

Whilst being in service, he has studied for and obtained a CIPS Level 2 Certificate in Purchasing and Supply dated 09 August 2005; a CIPS Level 3 Advanced Certificate in

Purchasing and Supply dated 11 August 2006 and an Advance Diploma in Purchasing and Supply which he completed in 2007.

The terms of reference of the present dispute allows the Tribunal to enquire into whether the Disputant would be entitled for a refund of his expenses incurred as course and examination fees for the enhancement of his professional qualifications. This in having regard to the *Circular Letter* coupled with *paragraphs 14.14 and 14.15 of the PRB Report 2003 Volume II Part I* and the *PRB Report 2008*.

The Disputant has placed much emphasis on the *Circular Letter* bearing subject-matter 'Refund of Course and Examination Fees' in support of his claim. The contents of this document addressed to 'Supervising Officers-in-Charge of Ministries/Departments' reads as follows:

There are several posts in the civil service, the incumbents of which are required according to the scheme of service to follow a training course which is sponsored by the Government. However, some officers who registered and completed the courses on their own have requested that the University fees for the course and examinations fees be refunded to them.

(The underlining is ours)

2. After careful consideration of the request, it has been decided that officers who, after joining the cadre/post, registered and completed the course on their own would be eligible for the refund of the course and examination fees provided the total amount involved in any one case does not exceed the amount which the government has disbursed as the course and examination fees for the training of an officer in the same grade.

3. Supervising Officers in charge of Ministries/Departments are kindly requested to submit to this Ministry at latest by 29 August 2003 a list of officers who are eligible for a refund of the course and examination fees. The information should be submitted as per enclosed pro forma.

The opening paragraph of the *Circular Letter* refers to posts whose Scheme of Service requires their incumbents to follow a training course sponsored by the government. This is where the Scheme of Service of the Disputant as APSO is relevant. It may be noted that the importance of a Scheme of Service has been explained at *Paragraph 10.1 of the PRB Report 2008 Volume I*:

A Scheme of Service is the legal document, which outlines the profile of every grade of the Public Service specifying the qualifications, experience and qualities required of prospective employees, and delineates the duties and responsibilities for incumbents to understand the requirements of the job. The remuneration of the grade is also mentioned. The scheme of

service is, therefore, a vital document for the effective selection and/or promotion of the most suitably qualified personnel in the Public Service.

The Disputant in his evidence did not rightly so rely on his Scheme of Service in support of his claim. He has instead stated that there was a need to enhance his qualifications with the advent of information technology and the introduction of new management techniques. On the other hand, the Respondents have laid much emphasis on the Scheme of Service of the Disputant wherein there is no requirement for additional qualifications. Indeed, the Scheme of Service produced by the representative of the *MITD* for the post of *APSO* does not mention any need for additional qualifications. This was also confirmed by the evidence of the representative of the *Ministry of Civil Service and Administrative Reforms*.

Paragraphs 14.14 and 14.15 of the *PRB Report 2003 Volume II Part I* must also be considered in the context of the present dispute. These paragraphs, which fall under the heading of 'Purchasing and Supply Cadre' in the *Deputy Prime Minister's Office and Ministry of Finance* chapter of the *Report*, state as follows:

14.14 *With the advent of Information Technology, introduction of modern management techniques and the urge for delivery of better services in the public sector, it is imperative to inject a certain level of technical expertise into the cadre. Given the specificity of competence required, it would be advisable to make arrangements with the University of Technology, Mauritius or any other recognised institution for the mounting of an appropriate course in Purchasing and Supply Management for officers of the cadre.*

Recommendation 2

14.15 We recommend that:

- (i) the Ministry of Finance should make arrangements with the University of Technology, Mauritius or any other recognised institution for the mounting of appropriate courses in Purchasing and Supply Management;**
- (ii) promotion to the grade of Higher Purchasing and Supply Officer should be made, on the basis of merit and experience, from among Purchasing and Supply Officers having successfully followed a Certificate Course in Purchasing and Supply Management;**
- (iii) promotion to the grade of Senior Purchasing and Supply Officer should be made, on the basis of merit and experience, from among Higher Purchasing and Supply Officers who have successfully followed a diploma course in Purchasing and Supply Management; and**

(iv) the recommendations concerning the revised qualification requirements at (ii) and (iii) should take effect from 1.7.2006 and 1.7.2007 respectively to enable officers in the grades to acquire the necessary qualifications.

Although these provisions of the *PRB Report 2008* have been expressly cited in support of the claim made by the Disputant for the refund of his course and examination fees, the representative of the *PRB* in adducing evidence on behalf of the Respondent stated that the provisions apply exclusively to the Purchasing and Supply Cadre of the *Deputy Prime Minister's Office and Ministry of Finance*. This has also been confirmed by the representative of the aforesaid Ministry who gave a description of the cadre on the establishment of her Ministry and elaborated on the recommendation made at *paragraph 14.15 (i)*. She also stated that officers of this cadre are only posted to Ministries and Departments and not to Parastatal Bodies. Indeed, a brief description of the functioning of the cadre may be read from *Paragraph 19.29* of the *PRB Report 2008 Volume II Part I*:

By adhering to established norms and prescribed procedures, officers of the Purchasing and Supply Cadre ensure the timely procurement and supply of goods, works and services. At present, there are some 400 officers who are posted in different Ministries and Departments.

The importance of the cadre in the structure of the *Deputy Prime Minister's Office and Ministry of Finance* is amply reflected in the following paragraph of the *PRB Report 2008 Volume II Part I*:

19.3 *The Financial Secretary is the technical and administrative head of the Ministry of Finance and Economic Development and he is assisted by officers from the various cadres and classes namely: Economist, Economic Analyst, Financial and Management Analyst, Finance, Purchasing and Supply, Internal Control and Administrative as well as officers belonging to the general service grades.*

The Disputant has also relied on the provisions made for the alignment of schemes in the public sector in the *PRB Report 2008 Volume I*, in particular *paragraphs 24.21 to 24.23* thereof. These paragraphs read as follows:

Alignment of Schemes of Service in the Public Sector

24.21 *We have, in this Report, brought certain changes in the qualifications, duties and responsibilities of several grades in the Civil Service. The salaries recommended for the grades take into account all these changes. Moreover, for the sake of harmonisation, identical/comparable grades in the Parastatal Bodies and Local Authorities, though under different appellations, have been aligned salarywise on their Civil Service counterparts.*

24.22 *Following the revision in the qualification requirements of these grades in the Civil Service, it is necessary that adjustments be made in the schemes of service of the corresponding grades in the Parastatal Bodies and Local Authorities in alignment with what obtain in the Civil Service.*

Recommendation 2

24.23 *We recommend that where the salaries of identical/comparable grades in Parastatal Bodies and Local Authorities have been aligned on those of the Civil Service, the schemes of service of these grades should, wherever relevant, be amended along the lines of counterparts in the Civil Service.*

The terms of the present dispute has *inter alia* referred to the *PRB Report 2008* in asking whether the Disputant should be entitled to the refund of his course and examination fees. The above quoted provisions which have been relied upon by the Disputant speak of alignment the Schemes of Service of comparable grades in Parastatal Bodies and Local Authorities to their Civil Service counterparts recommending that where salaries have been aligned, the Schemes of Service should where relevant be amended along the same lines to the grades in the Civil Service. The issue is whether it would be relevant to align the Scheme of Service of the Disputant as an *ASPO* to his Civil Service counterparts, which would normally be to the identical post of *APSO* in the Purchasing and Supply Cadre of the *Deputy Prime Minister's Office and Ministry of Finance*. It may also be noted that the salaries of the respective grades of the post at the aforesaid Ministry and at the former *TSMTF* bear similar salary scales as per the *PRB Reports* of 2008 and 2013.

The evidence on this issue of the representative of the *PRB* has been to the effect that the recommendation under *paragraph 24.23 of the PRB Report 2003 Volume I* does not apply to the technical grade of the Purchasing and Supply cadre. The paragraph applies to general service grades such as clerical officers and office attendants which are to be found in almost all Parastatal Bodies.

In any event, it has not been shown whether the Scheme of Service of an *ASPO* from the Purchasing and Supply Cadre at the *Deputy Prime Minister's Office and Ministry of Finance* has the requirement of obtaining additional qualifications in the field of Purchasing and Supply Management as per the recommendations made at *Paragraph 14.15 of the PRB Report 2003 Volume II Part I*. However, the Tribunal can note from the Scheme of Service of *Purchasing and Supply Officer* posted at the aforesaid Ministry, now restyled *APSO*, that 'Purchasing and Supply Officers may be required to follow appropriate courses to make them conversant with relevant computer packages'.

In the course of the hearing of the present matter, Counsel for the Disputant has also referred to *Paragraph 19.31* of the *PRB Report 2008 Volume II Part I*, which does also fall under the chapter of *Deputy Prime Minister's Office and Ministry of Finance*, in support of the dispute which states:

19.31 Following the proclamation of the Procurement Act 2006 which brings harmonization of procurement activities with international norms and standards, additional responsibilities have been conferred upon the staff of the Purchasing and Supply Cadre for a more cost effective use of public funds. As a result, both Management and the staff side have impressed upon the Bureau the need for further enhancing the recruitment qualifications of the entry grade as well as upgrading the various posts in the cadre.

Although the need for harmonisation of procurement activities has been recognised with the coming into effect of the *Public Procurement Act 2006* along with the need for enhanced recruitment qualifications in relation to the entry to and the upgrading of the cadre, this must be limited to the context of the *Deputy Prime Minister's Office and Ministry of Finance* and cannot by implication be read to apply to Procurement and Supply Officers of the *MITD* or the former *TSMTF*.

In view of the contents of the *Circular Letter, Paragraphs 14.14 and 14.15* of the *PRB Report 2003* as well as provisions of the *PRB Report 2008*, the Tribunal cannot therefore find that the Disputant is entitled to the refund of the course and examination fees incurred by him for the pursue of the enhancement of his professional qualifications.

It may be noted that the evidence adduced during the course of the proceedings has also revealed that two of the colleagues of the Disputant have been sponsored and/or reimbursed in relation to additional qualifications obtained. Although, the present terms of reference do not allow the Tribunal to enquire into this aspect, it cannot be left unnoticed that this has created a sense of unfairness in the matter and that the Disputant should be encouraged to pursue the matter further and seek other avenues for redress. This in bearing in mind the fundamental principles of fair employment as was stated in the award of the Permanent Arbitration Tribunal in *Mrs D.C.Y.P. and The Sun Casinos Ltd. (G.N. No. 1390 of 1988)*.

In the circumstances, the dispute is set aside.

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Shameer Janhangeer
(Vice-President)

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Esther Hanoomanjee (Mrs)
(Member)

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Rabin Gungoo
(Member)

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Renganaden Veeramootoo
(Member)

Date: 24th December 2014

