

EMPLOYMENT RELATIONS TRIBUNAL

AWARD

RN 95/14

Before

Indiren Sivaramen	Vice-President
Raffick Hossenbaccus	Member
Jay Komarduth Hurry	Member
Khalad Oochotoya	Member

In the matter of:-

Mr Anant Kumar Udhin (Disputant)

And

Private Secondary Schools Authority (Respondent)

The present matter has been referred to the Tribunal by the Commission for Conciliation and Mediation under Section 69(7) of the Employment Relations Act (hereinafter referred to as "the Act"). The terms of reference of the dispute read as follows:

"Whether I, Mr. Anant Kumar UDHIN, Senior Supervisor at the Private Secondary Schools Authority (PSSA), am entitled to the grant of an increment in my basic salary after having successfully completed my Master in Business Administration (MBA) degree in March 2012 as in the case of my colleague Supervisor Mr. D.Patpur for his Master's degree, in line with the – recommendation of the Ministry of Education and Human Resources as regards Educators holding that certificate."

Both the Disputant and the Respondent were assisted by counsel. Disputant deposed before the Tribunal and he stated that in March 2012 he obtained his Master in Business Administration (MBA). Before doing his MBA, he was in the grade of Supervisor/Senior Supervisor at the Respondent. After obtaining his MBA, he sent a letter and a reminder to management seeking to have an incremental credit for additional qualification as per the same criteria from which Mr. Patpur benefitted for

his Master's degree the previous year. He was informed that his request was turned down. He then caused a letter to be sent to the Chairman of the Board through his trade union. Disputant stated that his request for increment should be granted because his colleague who was at the same grade as him and who had started his Master's degree after him had been granted the increment upon reconsideration of the latter's case.

In cross-examination, Disputant accepted that the said Mr Patpur had a Master's degree in Educational Administration and Technology. He agreed that the relevant policy decision of the Ministry of Education and Human Resources was in relation to the qualification of MSc Educational Administration and Technology (MEAT) and that there was no mention of "equivalent qualification". He also accepted that with his PGCE (Postgraduate Certificate in Education) he had been granted an increment before joining Respondent. He retained his salary when he joined Respondent. He then conceded that when he made his application for the increment his scheme of service already provided for a postgraduate qualification in the field of Administration. He finally stated that even his colleague Mr Patpur was not qualified for the increment.

Mr Patpur deposed at another sitting and he stated that the decision in relation to his request for increment was reviewed on the basis of a policy decision of the relevant Ministry. He was not granted any increment for his PGCE.

Mr Gajadhur, the Secretary of the Respondent then deposed and he stated that in November 2010 Mr Patpur made a request for increment but same was turned down. Later, the Respondent received a policy decision regarding Educators possessing the MEAT qualification only. The Board decided to extend this policy decision to staff of the Respondent and Mr Patpur was the only staff concerned who had the said MEAT qualification. Also, Mr Patpur had not been granted an increment for his PGCE. He stated that the policy decision of the relevant Ministry (Ministry of Education and Human Resources) was not applicable to the Disputant because the latter did not possess the MEAT qualification and had been awarded an increment for his PGCE.

In cross-examination, Mr Gajadhur did not agree that because both Mr Patpur and Disputant possessed the qualifications under parts B and C of the item "Qualifications" of the 2008 scheme of service, they were both entitled to an increment.

Ms Peerbaccus, Assistant Manager of Human Resource of the Ministry of Education and Human Resource then deposed and she produced a copy of a policy decision dated 27 May 2011 emanating from the Ministry bearing the heading “Incremental Credit for Additional Qualification MSc Educational Administration and Technology”. She was also cross-examined by counsel for Disputant.

Mrs Reega, Assistant Manager Human Resource, Ministry of Civil Service and Administrative Reforms, then deposed and she produced a copy of advice given by her Ministry to the Ministry of Education and Human Resource based on information submitted at the time the advice was sought from her Ministry. Mrs Reega stated that it was only in January 2015 that her Ministry was made aware that Disputant had crossed QB in July 1993 with another post graduate qualification (a MSc and not the PGCE) and was in fact granted “an additional qualification” (which we understand to be an increment as per the evidence before us) for his PGCE in 1998. She stated that Disputant was not eligible for an increment for his MBA and also for his PGCE and she produced a very recent document from her Ministry to that effect. In cross-examination, she was referred to the status and qualifications of Disputant.

The Tribunal has examined all the evidence on record including the submissions of both counsel. The present dispute is a fairly straightforward matter as rightly submitted by counsel for Disputant. The Tribunal has to determine whether Disputant is entitled to the increment he is claiming. At the time Disputant obtained his MBA and applied for an increment, his scheme of service had already been amended and was the scheme of service of 2008 (as per Annex 2 to Disputant’s Statement of Case). It is not disputed before us that the MBA is a postgraduate qualification in the field of Administration and was as from 2008 (including at the material time in 2012) a qualification required for the post of Supervisor/Senior Supervisor.

The Pay Research Bureau (PRB) reviews the pay and grading structures and conditions of service at the Respondent. In its 2008 report, besides recommending the changes to the scheme of service of the Supervisor/Senior Supervisor, the PRB provided for the grant of incremental credit for additional qualifications. However, these additional qualifications had to be qualifications “which are higher than the qualifications specified in the scheme of service for the grade” Indeed, paragraph 18.9.19 of Volume 1 of the said 2008 report provides as follows:

18.9.19 We recommend that qualifications which:

(a) are fully, or part of which are directly, relevant to the performance of the duties of the grade and which are higher than the qualifications specified in the scheme of service for the grade; and

(b) have been obtained as a result of studies, whether carried on one's own or as a result of a fellowship, of at least one academic year duration, full-time or its equivalent in terms of contact hours/part-time studies would qualify for incremental credit subject to the following conditions:

(i) the additional qualifications are obtained following an examination and duly recognised by the Mauritius Qualification Authority or the Tertiary Education Commission;

(ii) where different qualifications are laid down in a particular scheme of service, the highest one would be taken as the basic qualification for the purpose of determining eligibility for incremental credit;

(iii) only officers holding a substantive appointment would be considered for the grant of incremental credit for additional qualifications;

(iv) no incremental credit for additional qualifications would be granted to officers who have already benefited from incremental credits for the same qualification in another capacity;

(v) the number of incremental credits granted for additional qualifications would in no case exceed three depending on the duration of studies for obtention of the additional qualifications as follows:

(a) up to two years' study full-time or equivalent part-time - One increment

(b) above two years' up to three years study full-time or equivalent part-time - Two increments (inclusive of the increment at (a))

(c) above three years' study full-time or - Three increments (inclusive of the

**equivalent part-time two increments at
(b))**

Paragraph 18.9.23 of the same volume (as amended by the Errors, Omissions and Clarifications of the 2008 PRB Report) reads as follows:

18.9.23 We recommend, notwithstanding the provision at paragraph 18.9.19(a) and (b) (ii), the grant of one incremental credit to officers having obtained an additional qualification equivalent to a degree or higher, which is in a different field from those specified in the scheme of service but is significantly relevant to the performance of the duties of the grade.

As per these recommendations, one may, in a few instances, be granted an increment despite not having acquired a qualification which is of a higher level than the qualification specified in the scheme of service. The qualification must be in a different field from those specified in the scheme of service and must be significantly relevant to the performance of the duties of the grade. In the present case, the MBA is not a qualification in a different field but is a postgraduate qualification in the field of Administration required in the scheme of service of Disputant. The latter would thus not be entitled to be granted an increment for his MBA.

It is apposite to note that Disputant stated clearly that his colleague Mr Patpur, who was called as a witness on his behalf, was not eligible to obtain the increment. In his Statement of Case, Disputant has averred at paragraph 3(v)(e) that the “digression from the rule to grant him (meaning Mr Patpur) the increment was for the Master’s Degree which he was not due as per the SOS” (meaning the scheme of service). Yet, the Disputant has chosen to report a dispute to be granted an increment based on the fact that his colleague would have been granted same. If the averments of Disputant are to be believed, Disputant must have known that he was not entitled to the increment. The Tribunal cannot make any award in the case of Mr Patpur. Suffice it to say, that in any event the case of Disputant is not on all fours with that of Mr Patpur. Indeed, very importantly, Disputant was granted an increment for his PGCE unlike Mr Patpur. Also, whilst the terms of reference refer to whether Disputant is entitled to the grant of an increment for his MBA as his colleague and in line with the recommendation of the Ministry of Education and Human Resources, the only evidence in relation to any

particular recommendation from that Ministry will be the document produced by Ms Peerbaccus bearing the heading “Incremental Credit for Additional Qualification MSc Educational Administration and Technology”. This document is specific to that qualification and even requires that the MEAT be awarded by the UTM (University of Technology, Mauritius). The Disputant does not hold a MEAT from the UTM and the averred recommendation thus cannot apply to Disputant.

For the reasons given above and even after considering the principles mentioned in section 97 of the Act, the Tribunal finds in the light of all the evidence on record (including the evidence from the representative of the Ministry of Civil Service and Administrative Reforms) that the Disputant has failed to prove that he is entitled to the grant of an increment after completing his MBA. The dispute is thus set aside.

SD Indiren Sivaramen
Vice-President

SD Raffick Hossenbaccus
Member

SD Jay Komarduth Hurry
Member

SD Khalad Oochotoya
Member

9 February 2015