

EMPLOYMENT RELATIONS TRIBUNAL
AWARD

RN 78/14

RN 79/14

Before:	Indiren Sivaramen	-	Vice-President
	Soonarain Ramana	-	Member
	Rabin Gungoo	-	Member
	Triboohun Raj Gunnoo	-	Member

In the matter of:-

CONSOLIDATED CASES

ERT/RN 78/14 – Mr Suraj Reedoo (Disputant No 1)

And

Irrigation Authority (Respondent)

ERT/RN 79/14 – Mr Rishi Dev Canhea (Disputant No 2)

And

Irrigation Authority (Respondent)

The above two cases have been individually referred to the Tribunal for arbitration in terms of Section 69(7) of the Employment Relations Act 2008 (the “Act”). The cases have been consolidated with the agreement of all parties since they relate to the same issue and are connected. The disputants and Respondent were assisted by counsel and the terms of reference (in both cases) were as follows:

“Payment for allowance for data entry and updating of information in the Irrigation Authority’s computerized system for billing.”

Disputant No 1 deposed before the Tribunal and he averred that as Field Officers, they were doing updating of planters' data on hard copy. He stated that he was not doing updating on 'excel' however. He added that his scheme of duties has not been amended since he joined Respondent. Disputant No 1 referred to paragraph 6 of Annex 4 to Respondent's Statement of Reply which reads as follows:

“Supervising Officers are requested to take urgent action for the framing/revision of schemes of service to reflect the recommendations contained in the PRB Report in respect of qualifications/duties/conditions of service taking into consideration the priorities of their Ministries/Departments.”

Since 2008, he has sent several memoranda to Management requesting for a review of their scheme of service and salary because the duties they were asked to perform do not (according to him) form part of their actual scheme of service. He sent a first letter in August 2008 and a last letter after several requests on 16 July 2012. He produced a document emanating from Respondent in relation to a proposed scheme of service for Field Officers (Doc A). Disputant No 1 added that they have not accepted the allowance of one increment since Management had mixed issues by also adding the work of a retired Field Officer. Management was proposing that they do the data entry which issue he stressed is as per the terms of reference now but, in addition, perform the pending work of a retired field officer for only one increment. He confirmed that the disputants are not currently performing the additional duties of the retired officer.

Disputant No 1 explained that what he was being asked to do was to make entries on the computer system for particular planters where there were any changes including making entries in a 'Remarks column' and separately under the item 'Incident History'. The system is password protected and, according to him, it takes time to make the relevant entries. Previously, they were updating all the changes on hard copy and sending same through dispatch to the Accounts Department where the changes were being updated on the computerized system. Disputant No 1 averred that now he is doing the changes both on hardcopy and then making the data entry on the system. He suggested that he was doing part of the duties of clerical officers. He clarified that he was seeking an allowance and not an increment. He also stated that the three increments he was asking are being reduced to one increment. He is praying for a back-pay of one "increment" as from September 2012 onwards when he started doing the job whilst for Disputant No 2 it would be from February 2012 onwards.

In cross-examination, Disputant No 1 did not agree that basic IT skills would come under cognate duties. He added that he requested for a computer to carry out his work, that is, to submit typed memoranda and other letters and not for doing data entry. He accepted that even prior to 2012, he was doing updating work but he averred that this was under protest since updating does not form part of their duties as per their actual scheme of service. They had always requested for their scheme of service to be reviewed. He maintained that previously they were making changes on hard copies and sending to the accounts section. The data was updated there and printed on hard

copies and sent back to them for future use. Sometimes they print the updated information obtained on floppy disk from the accounts department.

Disputant No 2 deposed at another sitting and he maintained what Disputant No 1 had stated. He was assigned the duties of updating data as from February 2012. He was using floppy disk before but he averred that it was for printing purposes. He maintained that updating and inputting of data were additional duties for him. He conceded that for the time being he was not doing the duties specifically mentioned in his scheme of service like contacting farmers in connection with signing of wayleave agreement or formation of water users' co-operative societies.

Mrs Seeneevassen, Finance Officer at Respondent, then deposed and she stated that the field officers submit their updated planters' data on hard copy. Upon receipt of the hard copy, the accounts department inputs the data on their system, that is, the pastel system whereby they can then prepare invoices to bill planters. She next averred that the field officers put the customer's data on their system but that for billing purposes they still have to re-input same on the "inventory item", that is, re-input the same data. She stated that there is no link in the system from "customer's data" to inventory items used for billing planters. Prior to the computerization of the accounts department, the account department was using excel to prepare invoices.

In cross-examination, Mrs Seeneevassen stated that the field officers are updating planter's data using hard copies and on the software 'sage pastel'.

Mr Dabeeah, the immediate superior of the two disputants then deposed and he listed the different projects allocated to each disputant. He stated that the disputants were working to his satisfaction. According to him, updating of planters' data does not form part of the duties of field officers as per their existing scheme of service. He stated that the field officers nevertheless perform such duty. They do it first on hard copy and then feed in the data to be sent to the 'dues' section. In cross-examination, he referred to duties which are in the scheme of service of the field officers and conceded that the field officers are not currently performing one of these duties (formation of water users' co-operative societies). As for the signing of wayleave, it arises only as and when required. He took over from Mr Thakoor who was the former line manager of the Disputants. He would not agree that updating of planters' data is covered by 'cognate duties'.

Mrs Dulthummon, Senior Human Resource Officer, then deposed on behalf of Respondent and she solemnly affirmed to the correctness of the contents of the Statement of Reply of the Respondent. She averred that management has agreed to give an allowance equivalent to one increment to the Disputants but that the latter would have refused same. She then averred that management is prepared to pay that allowance (equivalent to one increment) if the disputants perform input of planters' data for the whole list of projects allocated to them by the Board of directors. She conceded that updating planters' data is not explicitly stated in the scheme of service of the disputants but she averred that this would fall under 'cognate duties'. She stated that the disputants have always been performing updating work. Mrs Dulthummon added

that they are proceeding with amendments to the scheme of service and that they are waiting for the final version of the scheme of service to be vetted by the Ministry of Civil Service and Administrative Reforms.

In cross-examination, Mrs Dulthummon stated that the disputants wanted an allowance equivalent to one increment for data entry and updating of planters' data and three increments for performing the work of an ex field officer who has passed away. Proposals were submitted to the Board and the Board decided to give them one increment for working on all the projects. Mrs Dulthummon agreed that the case before the Tribunal concerned the allowance for data entry and updating of information. The scheme of service of the disputants has not changed since 2006. At the same time, Mrs Dulthummon added that the main duties mentioned in the existing scheme of service are no longer being performed by the disputants. Mrs Dulthummon was also cross-examined in relation to the minutes of proceedings of a meeting held between management and field officers.

Mr Thakoor, Divisional Irrigation Operation Officer, then deposed. Prior to Mr Dabeeah, he was the line manager of the disputants and the latter were reporting to him as from 2006 up to February 2013 when he was transferred. He distributed the work to be done among three field officers who were in post, that is, including the one who has now passed away. Mr Thakoor stated that updating works were the major works that were being done by the field officers. He explained that updating of data on excel started in 2005 and that the disputants also did the updating on excel when they joined in 2006. Mr Thakoor stressed that the field officers submitted both a hard copy and soft copy to the Accounts Department. He added that the disputants were trained to use the software sage pastel to meet the objectives of the Irrigation Authority. Mr Thakoor stated that computer is used to update the information and that this is not an additional duty but a more professional way of doing the work.

In cross-examination, Mr Thakoor maintained throughout that he was present at the meeting referred to by counsel where it was reported that field officers were not doing input of data on Sage Pastel. He agreed that updating of data and data entry are not mentioned in the scheme of service of the disputants but averred that even in 2001 when he was posted at Plaine des Papayes, field officers were doing updating works. When the disputants were appointed Field Officers, he allocated them updating works and they have been doing same without protest. Mr Thakoor stated that upon request of management, he sat down with the field officers to draft a new of scheme of service. The reason for preparing such a draft, as wished by the field officers, was to reflect what the field officers were indeed doing. He maintained that updating of planters' data was done on both hard and soft copies and that the disputants used floppy disks for updating works. He accepted that the disputants could have refused the training but opted for same. He did not agree that field officers were being requested to do the work of the accounts department.

Mr Thakoor stated that the disputants were allocated certain work to do pending other works to be allocated to them. He stated that in the draft scheme of service the duties

have been enlarged by putting in more details. In re-examination, Mr Thakoor tried to establish a link between the updating and inputting of data and the three duties mentioned in the existing scheme of service of the disputants. Updating work would be cognate to the duties laid down in the scheme of service.

Mr Kong Thoo Lin, Head of Operation and Maintenance then deposed before the Tribunal and he stated that the duty - formation of Water Users Cooperative Societies - is not being done at all whilst the other two duties listed, that is, signing of irrigation dues agreement and signing of wayleave agreement are not being done regularly but only "on and off". The disputants have always been doing mainly updating of the list of planters. In order to perform the duties listed in the scheme of service, the disputants need to know the actual owners of the plots. The updating work would be ancillary to the duties listed.

In cross-examination, Mr Kong Thoo Lin stated that management decided to give one increment for data input and updating of information for the whole of 'Stage 1'. The disputants refused. He stressed that it was the Board's decision and that he cannot comment on same.

Counsel for disputants submitted that it is not because duties in the scheme of duties have become redundant or are done very rarely that the disputants can be given additional duties without additional pay. He added that at the very outset the issue of the work attributed to the now deceased field officer was separated from the present matter. He submitted that the prayer for an allowance for the additional duties should be granted.

Counsel for Respondent submitted that there is evidence from the line manager and Head of Operation that updating work is not additional duty. The disputants have been doing this right from the day they were appointed Field Officers. He referred to the use of 'Excel' and floppy disks. He submitted that using computer to update planters' data is cognate to the duties mentioned in the scheme of service. Counsel argued that computerization cannot increase the workload of the disputants.

The Tribunal has examined all the evidence on record and the submissions of both counsel. The facts appear clear to us and the Tribunal finds:

- (1) that the disputants as Field Officers were always updating planters' data;
- (2) the updating of planters' data forms an essential part of the work of the Field Officers;
- (3) the updating of planters' data is an ongoing process with the critical period being from July/August to December;
- (4) the disputants are currently doing the updating by using hard copies but also by updating the data on the computerized system at Respondent;

- (5) even though data may be updated on the system by disputants, in some cases officers in the accounts department have to feed the data anew for technical reasons;
- (6) the disputants have made representations as from 2012 to be granted “increments” for input of data on the sage pastel software;
- (7) there were meetings involving management and field officers on the issue of data entry and updating of information by the field officers; and
- (8) the scheme of service of each disputant has not yet been amended and is still as per Annex 1(i) to Disputant’s No 1 Statement of Case.

After careful consideration of all the evidence on record, the Tribunal also finds that prior to the computerization of the Accounts Department the disputants were indeed, at least on occasions, using both hard copies and Excel to update planters’ data. The Tribunal finds the evidence led on this issue on behalf of the Respondent to be much more plausible. Officers in the Accounts Department however still had to re-input entries for billing purposes.

Now, it is accepted that the Disputants have been trained and are requested to do the data entry and updating of information on the computerized system. The 2008 Pay Research Bureau (PRB) report does recommend that in the future schemes of service should wherever appropriate include basic ICT functions. There was also a circular from the Ministry of Civil Service and Administrative Reforms (Annex 4 to Respondent’s Statement of Reply) to the effect that “all schemes of service (meaning schemes of service for office jobs as well as those in technical and professional cadres at entry level) should mention that incumbents would be required to perform word processing and other basic ICT functions but the schemes of service for the disputants have up to now not been revised. This is what eventually led to the present dispute. To make matters worse even though one of the main duties of the disputants (as Field Officers) is the updating of planters’ data, even this is not reflected in clear terms (underlining is ours) in their existing scheme of service. We understand that the proposed draft scheme of service for Field Officer is intended to cater for this amongst other things.

Now to consider whether an allowance should be granted for ‘additional duties’ several factors may be considered including the nature of such duties, the time spent on the said ‘additional duties’, whether the changes in duties are due to improvements in technology or improvements in operational methods and whether it would not be more appropriate or practicable to upgrade the particular job if the incumbents are regularly required to do the additional duties than to pay allowances. However, as clearly indicated in the 2008 PRB Report and the letter from the Ministry of Civil Service and Administrative Reforms (Annex 4 to Respondent’s Statement of Reply), it was incumbent on Respondent to amend as soon as possible the scheme of service of the disputants to reflect the operational improvements whereby data entry for instance would have become “inherent duties” of field

officers. The Respondent just like the civil service faces new challenges and has to evolve and it is sad that the job description of the disputants has up to now not been updated so much so that even the main duty of updating of planters' data does not appear in clear terms on the actual scheme of service. However, field officers have always been carrying out the updating of planters' data and the Tribunal has no hesitation in finding that such a duty is referred to even in the existing scheme of service. Indeed, the main duty of having to contact farmers in connection with the signing of irrigation dues agreement will necessarily imply the cognate duty of updating planters' data so that appropriate irrigation dues agreement may be signed in case of change of ownership or other change which may impact on the irrigation dues agreement. This explains why field officers including the disputants have always been updating planters' data and why the Disputants are not seeking allowances for instance for having to update planters' data but only seeking an allowance for the data entry and updating of information in the Respondent's computerized system for billing.

What has changed in 2012 and what the disputants are complaining about is the need for them to make the data entry and updating of information themselves on the Respondent's computerized system for billing. According to them, this additional process takes time and impacts on their work. Whilst there is evidence of an audit trail and time the disputants would have spent on the sage pastel software in the year 2013, there is absolutely no evidence from the disputants as to the time they would have spent instead if they had to put down everything in writing (including any new particulars) on hardcopies or if they had used excel. This was crucial to determine if at all an allowance was warranted the more so that the Tribunal finds that generally an allowance should not be granted for change in duties which result merely from the introduction of new technology or improvements in operational requirements.

Also, Annex B to disputants' Statements of Case provides that a Clerical Officer/Higher Clerical Officer should perform duties of a clerical nature such as data entry and updating of information in a computer system as and when required (paragraph 1(g)). Even the scheme of service for Accounts Clerk (still at the same Annex B) makes no specific reference to these duties. Whilst one may claim an allowance for performing additional duties, these duties should pertain to higher responsibilities or at least similar responsibilities to one's own duties/responsibilities. One cannot claim an allowance for performing the duties of a lower post unless there are very good reasons for same. In the present case, the alleged additional duties, which are of a clerical nature resulting from computerization at the Respondent, do not constitute such good reasons. As per the 2008 PRB Report which has been referred to during the course of the proceedings (there is also evidence that the disputants have signed the 2008 PRB option forms), the Field Officer has a much higher salary scale (IA 20) than a Clerical/Higher Clerical Officer (IA 15). Thus, the disputants cannot claim an allowance for performing duties allegedly pertaining to Clerical Officer/Higher Clerical Officer. It is apposite to note that even Counsel for disputants did put it to Mrs Seeneevassen that "prior to this

computerization, it was the Accounts Department and the Clerical Officers obviously of the Accounts Department who were doing the data entry and updating of information”.

Having said that, we however urge the Respondent to cause necessary amendments to be made, as soon as possible, to the scheme of service of the disputants so that the appropriate job description for the post of ‘Field Officer’ is available. As the PRB has itself stated in its 2013 report at paragraph 10.4: *“The scheme of service is of vital importance in the management of human resource functions such as recruitment, promotion, performance management, training and development, job evaluation, design of pay structures, organization design; and therefore the design or amendment to a scheme of service needs to be done with utmost care and in a timely manner. Delays in the prescription of schemes of service inevitably cause prejudice both to the organization and to the employees concerned.”* This will ensure fairness and provide added comfort to incumbents that a proper job evaluation will be carried out and the appropriate salary allocated to them. Finally, the Tribunal makes it clear that it has not dealt with the issue of allocation of work in the present award.

For the reasons given above, the Tribunal finds that the disputants have failed to show that an allowance should be granted to them and the dispute is set aside.

Indiren Sivaramen (Sd)

Vice-President

Soonarain Ramana (Sd)

Member

Rabin Gungoo (Sd)

Member

Triboohun Raj Gunnoo (Sd)

Member

22 January 2015