

setting aside preliminary objections raised by Respondent. The terms of reference are the same in all the cases and read as follows:

“Whether my monthly salary presently on the AML Grade 09 salary scale must be revised to the corresponding salary point on the AML Grade 08 salary scale following the recent revision of salary and terms and conditions of service at Airports of Mauritius Co. Ltd.”

Disputant No 2 deposed on behalf of the disputants and he stated that the disputants applied for the post of Fire Safety Controller. The post was advertised in May 2013 on the AML 12 salary scale. They were offered the post of Fire Safety Controller in August 2013 in the salary scale AML 09. A report on the review of pay and grading structure dated 26 June 2013 (Doc E) was produced. In Doc E, there was no mention of the post of Fire Safety Controller. Reference was made to page 15 of Doc E where the ‘Current AML Grades’ AML 11 & 12 were merged to AML 08. Copies of a letter from disputants addressed to Co-Respondent, of agreements signed between Co-Respondent and Respondent on 16 July 2013 and 14 October 2013 (Docs F, G and H respectively) and of the Errors, Anomalies and Omissions Report dated 3 February 2014 together with the amended Final Report (Doc I) were also produced. In Doc I, the post of Fire Safety Controller was inserted at AML 09. Reference was also made to the final agreement entered into between Co-Respondent and Respondent dated 26 June 2014 (Doc A).

The post of Terminal Airside Supervisor was also advertised in May 2013 along with the post of Fire Safety Controller but at AML 11. Following the Errors, Anomalies and Omissions Report of the consultant (Doc I), the post of Terminal Airside Supervisor was graded at AML 08. Disputant No 2 deposed in relation to duties allegedly performed by Fire Safety Controllers and Terminal Airside Supervisors. He averred that the disputants have been prejudiced since the post of Fire Safety Controller should also have been graded at AML 08.

In cross-examination, Disputant No 2 accepted that the posts of Fire Safety Controller and Terminal Airside Supervisor were new posts. Disputant No 2 was referred to the 2009 salary report at Respondent and which the salary consultant was meant to revise. This document was produced together with the corresponding Errors, Omissions and Clarifications report (Docs J and K respectively). A consolidated salary scale which formed the basis of the new Salary Report was also produced (Doc L). Disputant No 2 agreed that the new posts were not considered in the first report of June 2013. He accepted that the compression of salary scales considered in the salary report of June 2013 did not include the post of Fire Safety Controller. In his letter of offer, Disputant No 2 was offered appointment at salary scale AML 09.

Disputant No 2 agreed that there are many exceptions to the recommended AML grading structure in the Final Report (to the merging of grades at page 15 of Doc E) but he added that the exceptions would lead to grading above the recommended grades and not below them. He agreed that the entry requirement for Fire Safety Controller is SC whilst for Terminal Airside Supervisor it is HSC. Copies of job descriptions for

posts in the salary scale AML 08 (Docs M1 to M6) and AML 09 (Docs N1 to N6) were produced. Disputant No 2 agreed that the representations made by the Fire Safety Controllers as reproduced in Annex 2 to the letter dated 2 May 2014 from the union were considered by the consultant. The consultant thus wrote that the job has been evaluated and validated with Management at AML 09. Disputant No 2 agreed that the salary scale for Fire Safety Controllers has been validated but he argued that this was not approved by the union.

In re-examination, a copy of the said letter dated 2 May 2014 from Co-Respondent to the Respondent was produced and marked Doc O.

Mr Mohung deposed on behalf of the Respondent and he solemnly affirmed to the correctness of the contents of the Statement of Reply of the Respondent. He explained that with the start of operations at the new Terminal building, Management received a request from Airports Terminal Operation Limited (for which Respondent has a mandate to recruit) to fill a number of positions including two new posts. Based on the qualifications required and responsibilities, the post of Fire Safety Controller was advertised at AML 12 even though in parallel the salary consultant was asked to do an evaluation for the same post. There were regular meetings with the consultant and at one of these meetings the consultant was required to give his recommendation about the two new posts – Fire Safety Controller and Terminal Airside Supervisor. The salary code in the letters of offer issued to the disputants was in accordance with the consultant's recommendation. When the Errors, Anomalies and Omissions Report dated 3 February 2014 came out, the post of Fire Safety Controller was put at AML 09.

In cross-examination, Mr Mohung averred that a document was sent to the salary consultant for evaluation of the post of Fire Safety Controller. He however had no such document/s in his possession. Mr Mohung maintained that the posts which were compressed to AML 08 were posts which already existed as at 2012. He was also questioned in relation to a number of other posts graded at AML 08. He did not agree that by inadvertence or otherwise there was an anomaly as regards the post of Fire Safety Controller.

The Tribunal has examined all the evidence on record and the submissions of counsel on either side. The Co-Respondent shall abide by the decision of the Tribunal. Also, the representative of that union chose not to put questions to the deponents. At this stage, it is clear that the Errors, Anomalies and Omissions Report dated 3 February 2014 (Doc I) specifically refers (at page 9) to the post of 'Fire Safety Officer' which is a new position and which is to be inserted at the new salary structure AML 09. At the same page, a distinction is made with the new position 'Terminal Airside Supervisor' which is instead graded at AML 08. Thus, in the amended final report at page 39, the two said posts are inserted in their respective salary scales. It is also averred in the Statement of Reply of Respondent (at paragraph 11 c) that pending the submission of the Errors and Omissions Report, the consultant advised that the post of Fire Safety Controller would be in the new scale of AML 09. This has not been rebutted before us. We are thus unable to find even on a balance of probabilities that the salary scale AML

09 was mentioned by inadvertence in the letters of offer issued to the disputants. The salary consultant was fully aware of his own recommendations in relation to the merging of certain grades as provided at page 15 of his Report of 26 June 2013 (Doc E) and reproduced in the amended final report. The Tribunal has no hesitation in accepting the version of the Respondent that the merging of grades as recommended by the salary consultant and eventually adopted related to “changes to the existing grading structure” (underlining is ours).

Doc O with its annexes in fact confirm that the consultant has considered the representations made by the disputants and after evaluation of the post of Fire Safety Controller, the post has been validated at AML 09. Indeed Annex 2 to the letter from the then President of the Co-Respondent refers to “Union comments upon consultations with concerned employees as regards to the Consultants comments on their representations.” In that annex, at row 31 it is clearly provided under details of the representations of Fire Safety Controllers that the post was advertised in AML 12 (former) and that the appointment was made in AML 09 instead of 08. The Consultant’s comments are clear: “The job has been evaluated and validated with Mgt at AML 09.” Though this may not have been approved by the incumbents the fact remains that what appeared to the incumbents to be an anomaly has been considered by the salary consultant and the decision was to validate the post at AML 09.

In any event, the Tribunal has perused all the documents produced including documents in relation to the main duties and minimum qualifications and experience required for the various posts graded at AML 08 and AML 09, and does not find anything to suggest that the post of Fire Safety Controller should have been at AML 08 instead of AML 09. On the contrary, everything militates towards the post of Fire Safety Controller being graded at AML Grade 09 salary scale. This may also avoid any anomalies, for example, in relation to the post of Terminal Airside Supervisor. The only point upon which the disputants relied was the Internal Vacancy circular dated 17 May 2013 when the post of Fire Safety Controller had not been mentioned at all in Doc E which is dated 26 June 2013. The compression of grades recommended by the consultant in Doc E related to changes to the existing grading structure. The consultant at that time did not consider the post of Fire Safety Controller as being on the existing grading structure of Respondent. It is only in the Report on Errors, Anomalies and Omissions of 3 February 2014 that the said post has been considered as a completely “new position” to be added to the Final Report (page 9 of Doc I). The consultant referred to using the ‘Hay Group Decision Tree Method of Job Evaluation’ (involving measurement of six factors) “to evaluate and grade each job position at AML” (page 5 of amended Final Report -Doc I) and based on the evidence before us, there is nothing to suggest that the post of Fire Safety Controller has been wrongly evaluated at AML 09.

The disputants have accepted the letters of offer of employment issued to them (Docs B1 to B5) and the salary scale was clearly mentioned in the said letters as AML 09. There is no averment that the disputants (who were already employees of Respondent) accepted the offers of employment (Docs B1 to B5) by mistake (“erreur”). It is this acceptance of the offer of employment which constituted the new contract between the

parties (and not the Internal Vacancy circular). The Tribunal finds absolutely no reason to intervene in the present matter since the disputants have failed to show on a balance of probabilities that they should be on AML 08 salary scale. For all the reasons given above, the dispute is thus set aside.

(Sd) Indiren Sivaramen
Vice-President

(Sd) Vijay Kumar Mohit
Member

(Sd) Jay Komarduth Hurry
Member

(Sd)Triboohun Raj Gunnoo
Member

23 September 2015