

EMPLOYMENT RELATIONS TRIBUNAL

INTERPRETATION OF AWARD

Before:

Shameer Janhangeer	Vice-President
Sounarain Ramana	Member
Rajesvari Narasingam Ramdoo (Mrs)	Member
Triboohun Raj Gunnoo	Member

In the matters of: -

ERT/RN 24/2016

**Mr Girish Luchmee
Mr Maheshwarnath Mistry**

(Applicants)

and

Irrigation Authority

(Respondent)

The Applicants in the present matter brought two separate but identical disputes before the Tribunal on '*whether I should have been given the option to join the grade of Office Management Assistant (OMA) as per EOAC Report 2013 – Recommendation 15A (Parastatal Bodies & Other Statutory Bodies) or otherwise*'. The Tribunal issued an award [GN No. 191 of 2016] in favour of the two Applicants on 17 February 2016.

The Applicants have now come before the Tribunal on a question arising out of the interpretation of the award whereby they wish to know:

Whether the Irrigation Authority should implement the award of ERT delivered on 17.02.2016 and allow us to join the grade of Office Management Assistant as from 18.08.2014 or otherwise.

The Applicants have submitted a statement of case in the present matter. The Respondent has taken a preliminary objection, which was taken on the merits of the application, in the following terms:

The Respondent moves that the application made through an undated Statement of Case be set aside in as much as the said Statement of Case relates to implementation of the award of the Tribunal dated 17 February 2016 and thereby does not fall within the jurisdiction of the Tribunal.

Mr Maheshwarnath Mistry deposed in support of the application. He related a series of events whereby the Board of the Irrigation Authority has yet to appoint himself and his colleague Mr Girish Luchmee as *Office Management Assistants*. They sent a memorandum to the Acting General Manager dated 19 February 2016 to allow them to join the grade of *OMA* as from 18 August 2014. There was a Staff Committee of the Board held on the same date. They were later told by the Secretary of the Board on 22 February 2016 that the award may take time to be implemented or may not be implemented. They then informed the parent Ministry and the Chairman of the Board where matters stand requesting their prompt intervention. A Board meeting was held on 9 March 2016 and no decision was taken to allow them to opt to join the grade of *OMA*.

Mr M. Mistry also stated that their union requested management for a follow-up meeting on the issue and a letter was supposed to be sent to the ERT for interpretation of the award referring to a letter dated 10 March 2016. The letter was never sent and the union requested a follow-up meeting on the matter which was never held. They have had no option left than to refer the matter to the Tribunal for interpretation.

Mr M. Mistry also stated that he is not aware there have been measures already taken by the management and letters issued to different authorities to have the needful done.

Mrs Y. Dulthummon, Senior Human Resource Officer at the Irrigation Authority, has notably stated that steps have already been initiated regarding the implementation of the award following its receipt at the Irrigation Authority on 18 February 2016. Matters are at the level of the parent Ministry and they are following procedures as have been advised to them. An amendment has to be made to the scheme of service so that they can be reabsorbed. Steps have already been initiated to bring the amendment to the scheme.

Mrs Dulthummon also stated that they would like the Applicants to be nominated so they are trying their best. It is not within her scope or the scope of management to appoint them as they are guided by the Board and the *Irrigation Authority Act*. They cannot do otherwise and have always acted in good faith.

It has not been disputed that the Applicants are before the Tribunal pursuant to *section 75* of the *Employment Relations Act*. The relevant aspect of this provision reads as follows:

75. Interpretation of award

(1) *Where any question arises as to the interpretation of any order or award made by the Tribunal, or the consistency of an order or an award with any enactment, any party to whom the order or award relates, may apply to the Tribunal for a declaration on the question.*

The question which the Applicants have averred in relation to the present application is *'whether the Irrigation Authority should implement the award of ERT delivered on 17.02.2016 and allow us to join the grade of Office Management Assistant as from 18.08.2014 or otherwise'*.

The Respondent, as has been noted, has taken a preliminary objection whereby the Tribunal has no jurisdiction to hear the present application as the matter relates to the implementation of the award.

It may be noted that the Applicants, through their trade union representative Mr Kangloo, have not disputed that the matter is one of implementation rather than interpretation. However, they have gone to lengths to relate their frustration at the fact that the Board of the Irrigation Authority has not appointed them as *OMA* following the Tribunal's award.

The question as worded is also asking whether the two Applicants should be allowed to join the grade of *OMA* as from 18 August 2014. This, it may be noted, could be the subject matter of another dispute relating to the date of appointment of the two Applicants to the post of *OMA* and would not be a question arising as to the interpretation of the award delivered on 17 February 2016.

It cannot be overlooked that the Respondent, through its representative, has elaborated on the steps taken towards the implementation of the award. She has furthermore maintained having acted in good faith throughout.

In the circumstances, the Tribunal cannot find that the present matter relates to a question arising as to the interpretation of the award of the Tribunal in ERT/RN 05/2015 and ERT/RN 06/2015 as published in *GN No. 191 of 2016*.

The application is therefore set aside.

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Shameer Janhangeer
(Vice-President)

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Soumarain Ramana
(Member)

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Rajesvari Narasingam Ramdoo (Mrs)
(Member)

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Tribhohun Raj Gunnoo
(Member)

Date: 27th May 2016