

EMPLOYMENT RELATIONS TRIBUNAL

AWARD

ERT/RN 91/17

Before

Rashid Hossen	-	President
Vijay Kumar Mohit	-	Member
Eddy Appasamy	-	Member
Kevin C.Lukeeram	-	Member

In the matter of:-

**ERT/RN 91/17 – Mrs Malini Venkiah
And
Tertiary Education Commission**

The Commission for Conciliation and Mediation referred the present labour dispute to the Tribunal for arbitration in terms of Section 69 (7) of the Employment Relations Act 2008 as per the following Terms of Reference:

“Whether my 6 years continuous services and benefits from year 2010 to 2016 on contractual basis at the Tertiary Education Commission should be considered as pensionable upon my appointment as Assistant Secretary on 29th September 2016 on permanent basis or otherwise”

It is Mrs Malini Venkiah who reported the existence of the dispute on 31st March 2017 between herself, hereinafter referred to as the Disputant and the Tertiary

Education Commission, hereinafter referred to as the Respondent, as per Section 64(1) of the Employment Relations Act 2008.

In her Statement of Case, the Disputant averred that while she was previously holding appointment as Officer at the Ministry of Environment and Sustainable Reforms, she was offered the post of Executive Officer on a temporary basis on the permanent and pensionable establishment following a selection exercise at the Respondent on 18 October 2010. One Mr Ahmed Saleem Khadaroo, a Clerical Officer/Higher Clerical Officer at the Respondent lodged an objection to the Supreme Court regarding the Disputant's nomination. The Disputant was confirmed to the post of Executive Officer on 22 December 2011 and as a result of which she submitted an application for a permanent transfer to the Respondent which was eventually agreeable to the Public Service Commission. In a judgement dated 9 September 2013, the Supreme Court quashed the Disputant's appointment on a permanent basis as Executive Officer on the ground that the Respondent had faulted. On 18 November 2013, the Respondent offered the Disputant appointment as Executive Officer on a contractual basis with retrospective effect from the period 18 October 2010 to 18 October 2014. Disputant considers this to be an injustice. She further averred that the Respondent had faulted in its application of its procedures and that it is not for her to bear the consequences. She was offered the post of Assistant Secretary at the Respondent on a permanent and pensionable establishment on 28 September 2016 after an open selection exercise.

On 12 September 2017, Mr R Pursem, Senior Counsel, who appeared for the Respondent informed the Tribunal that the Respondent is agreeable to make good the request of the Disputant and that her contractual years of service for the period

22nd February 2012 to 28th September 2016 be considered pensionable. Disputant has ratified this agreement.

The Tribunal awards in terms of the agreement.

(SD) Rashid Hossen
President

(SD) Vijay Kumar Mohit
Member

(SD) Eddy Appasamy
Member

(SD) Kevin C.Lukeeram
Member

21st September 2017