

EMPLOYMENT RELATIONS TRIBUNAL

AWARD

ERT/RN 126/17

ERT/RN 127/17

ERT/RN 128/17

ERT/RN 129/17

ERT/RN 130/17

Before

Rashid Hossen	-	President
Francis Supparayen	-	Member
Rabin Gungoo	-	Member
Christian Fanchette	-	Member

In the matter of:-

CONSOLIDATED CASES

ERT/RN/ 126/17 - Mr Veejaye Callychurn (Disputant No 1)
And
National Transport Corporation (Respondent)

ERT/RN/ 127/17 - Mr Anilrao Ittoo (Disputant No 2)
And
National Transport Corporation (Respondent)

ERT/RN/128/17 - Mr Parmessur Haulkhory (Disputant No 3)
And
National Transport Corporation (Respondent)

ERT/RN/ 129/17 - Mr Sureshsing Kimcurran (Disputant No 4)
And
National Transport Corporation (Respondent)

ERT/RN/130/17 - Mr Toolsy Bhobooty (Disputant No 5)

**And
National Transport Corporation (Respondent)**

On 20th September 2016, the five Disputants reported to the President of the Commission for Conciliation and Mediation the existence of a labour dispute between themselves and the Respondent as per Section 64 (1) of the Employment Relations Act 2008, as amended. As no settlement could be reached, the Commission referred their dispute singularly to the Tribunal for arbitration *“in terms of Section 69 (7) of the Employment Relations Act 2008 as per enclosed amended Terms of Reference”*.

We vainly sought for enlightenment from the parties as to the reason the Commission used the word ‘amended’ in its referral when such word is not inclusive of that particular section. We stand puzzled by such referral.

The common point in dispute is as follows:-

“Whether my salary as Changehand be reviewed and aligned as to the salary scale of Workshop Supervisor taking into consideration all the duties and responsibilities attached to the post of Changehand at the National Transport Corporation or otherwise”.

The word “Changehand” does not exist in the dictionary and we believe the President of the Commission for Conciliation and Mediation meant it to read “Chargehand” as referred to in the various Statements of Case submitted.

Given the common dispute referred with a common employer, the cases have been consolidated.

Save and except for the different dates the Disputants joined the service of the Respondent and variation in their salaries, the averments in their Statements of Case are common to all. The averments are:-

- The post of Chargehand was introduced in 1989 at the Respondent only when the then Management introduced the post of: -
 - i. Chief Cleaner
 - ii. Chief Gateman
 - iii. Chief Fuel Issuer

- The fact that the post of Chargehand does not exist elsewhere except at the Respondent, the category of Chargehand does not figure in the Public Transport Remuneration Order.

- The proposed salary scale of a Chargehand when same was introduced was not less to that of a Workshop Supervisor. The close relation between the wages of a Chargehand and a Workshop Supervisor has been maintained in 2008 when the Public Transport Remuneration Order was amended as follows : -

Chargehand as per N.T.C

Year 1	Rs 12,438
Year 2	Rs 12,543
Year 3	Rs 12,629
Year 4	Rs 12,722
Year 5	Rs 12,827
Year 6	Rs 12,932
Year 7	Rs 13,018

Workshop Supervisor as per R.0 2008

Year 1	Rs 11,903
Year 2	Rs 12,006
Year 3	Rs 12,110
Year 4	Rs 12,213
Year 5	Rs 12,317
And thereafter	

- In 2014, the Public Transport Remuneration Order was again amended. The prescribed wages for 2014 for Workshop Supervisor were again not more than the wages the Chargehand in post were earning as the disputants had over 5 years of service and their wages were over the prescribed top point.
- In July 2015, the second increases as per Public Transport Remuneration Order were again prescribed over and above what the disputants were earning.
- In July 2016, the Wage Structure in the Public Transport Remuneration Order was subjected to a major change in that almost all categories in that Structure were extended to 10 points with attractive wage increases for all.

The Disputants further aver that:-

- In August 2016, the new management at the Respondent decided to downgrade the wages of Chargehand as follows: -
 - (i) Wage scales for all categories were extended to 10 points except for the category of Chargehand.
 - (ii) The starting wage of Chargehand has always been superior to that of a Workshop Supervisor.

In August 2016, Management decided to reduce the starting wage of a Chargehand to Rs 15,210.00 whereas the prescribed wage of a Workshop Supervisor was Rs 19,710 in the Public Transport Remuneration Order 2014.

In 2016, Management advertised a vacancy for the post of Chargehand which is a glaring evidence for the downgrading of the post.

- (iii) In both notice of vacancy of 2008 and 2016, it is very important to note in clause 3 of both notices “CONDITION OF WORK: Governed by N.R.B Regulations”.

When in August 2016 almost all employees of the Public Transport Sector Wage Structure were extended to 10 points, Management decided to freeze the Wage Structure of the Chargehand to 7 points.

- (iv) When the post of Chargehand was introduced, the wage scale was up to 7 points when at the same time the Wage Structure for Workshop Supervisor was up to 5 points only. Surprisingly when the Wage Structure of Workshop Supervisor has been extended to 10 points in 2016, the post of Chargehand instead of having a longer Wage Structure has been frozen to 7 points.

- Management has decided to downgrade the Wage Structure for the post of Chargehand by not aligning same in accordance to the prescription of the Public Transport Remuneration Order.
- In doing so, it has not only caused financial prejudice to the disputants, but has also downgraded the post of Chargehand which was at the top in the wage hierarchy in the Maintenance and Workshop Section until 30th July 2016 to the third position in the hierarchy.
- The above decision of Management is having a direct negative impact on the mental well-being of the disputant.

In reply, the Respondent filed a Statement of Case averring that:-

- The five aforesaid cases raise similar legal and factual issues. For this reason, a single statement of case is being filed in respect of all those cases.
- The Disputants were employed as gatemen or cleaners on different dates and later employed as chargehand. They were no longer employed as gatemen or cleaners because the posts of gatemen and cleaners were eventually and gradually outsourced to independent private contractors.
- Although the post of chargehand is not regulated by the Remunerations Regulations, the Respondent has consistently increased the salary payable

to the Disputants by an equivalent percentage received by other regulated posts in the same schedule.

- Contrary to what is stated in the Disputants' statements of case, the salary structure of a chargehand and Workshop Supervisor in 2008 were as follows:-

	Chargehand	Workshop Supervisor
Year 1	Rs 8,930/-	Rs 11,903/-
Year 2	Rs 9,015/-	Rs 11,400/-
Year 3	Rs 9,085/-	Rs 11,500/-
Year 4	Rs 9,160/-	Rs 11,600/-
Year 5	Rs 9,245/-	Rs 11,700/-
Year 6	Rs 9,330/-	
Year 7	Rs 9,400/-	(as per annexure 3 (a & b) and pay slips)

- As can be seen, the salary structure set out in the Disputants' statements of case is incorrect. The chargehand was not earning more than a workshop supervisor in 2008. In fact the chargehand was earning around Rs 3,000/- less than the workshop supervisor in 2008. The factual basis of the Disputants' case is therefore wrong and misleading.
- It is true that in year August 2016, the wage structure of almost all the categories of workshop were extended to 10 points. However, the salary and wage structure of a chargehand has remained at 7 points and there is nothing abnormal or irregular because:
 - there are other categories of workers whose wage structure has remained at 7 points, such as lorry helper, data input clerk, tyreman supervisor (5 points);

- the Respondent is not compelled to apply a new wage structure of 10 points on the one recommended by the National Remuneration Board and promulgated in the Remuneration order 2016;
 - there is a difference between the scheme of duties of a chargehand and that of a workshop supervisor; the latter must always keep himself up to date with regard to new buses mechanical/microelectronic systems and new technology, whilst the former does not have to. Furthermore, the responsibility of workshop supervisors is much heavier than that of chargehand : he must supervise the engine, the brakes and the equipment for the safety of passengers. The workshop supervisor is in charge of the workshop and leads a team of tradesmen (mechanic, electrician, coachbuilder, painter, blacksmith, welder); Supervises the efficient maintenance and repairs of vehicles and components; Ensures that workers under his responsibility work in a safe environment and comply with safety regulations; and is responsible for training workers on the job, job costing and keeping of records. On the other hand, a chargehand reports to the Regional Manager/STMO for cleaning and security services, receipt and issue of fuel, disposing of waste and scrap metal. He has no supervisory function.
 - The workshop employees are skilled workers with IVTB NTC3 qualifications whilst the Disputants were appointed without such qualifications.
- It is false to say that in August 2016, the starting wage of a chargehand was reduced to Rs 15,210/-. In fact, the salary has always been increased since 2008.

- Finally, the Union representative of Respondent's workers, including chargehand, made representations to the National Remuneration Board in respect of their demands. However, the National Remuneration Board did not deem it fit and necessary to include chargehand in the National Remuneration Board report as the grade of chargehand exists only at the Respondent.

Disputant No.5, Mr Toolsy Bhobooty, who was called first, stated that the chargehand is responsible to liaise directly with the Senior Technical and Mechanical Engineer and the warehouse Manager. The chargehand supervisors do all the work done by cleaners, watchmen and gatemen as well as fuel attendant. Fuel attendants take orders and deliveries and keep accounts. They are also responsible for the cleanliness of the warehouse. Eventually, the post of Chief gateman, Chief fuel attendant and Cleaner Supervisor were merged into the post of Chargehand. The witness concedes that the post of Chargehand has never been included in any Remuneration Order. A proposal was made to a high powered committee for readjustment of salaries given that the Chargehand is not included in any Remuneration Order. Nothing was implemented to that effect. While Workshop Supervisors who were on a 5 year scale were leveled to 10 years, Chargehands remained at point 7. The witness added that inspite of stating in the advertised post that the conditions of work would be governed by the National Remuneration Board Regulations, there has actually been no change in their conditions of work save and except for a salary review. Given that a Chargehand does the same work as a Workshop Supervisor, he claims that the conditions of work ought to be the same.

Mr Veejaye Callychurn (Disputant No. 1), deponed to the effect that his work as Chargehand is as important as that of a Workshop Supervisor.

Mr Anilrao Ittoo (Disputant No. 2), added that the work of a Chargehand carries a huge responsibility and that includes cleaning and security services.

Mr Parmessur Haulkhory (Disputant No.3) pointed out that a Chargehand deserves better considerations. According to him, in 2008 Management proposed to increase the salary of Chargehands to a higher level than that of Workshop Supervisors. There has been no implementation of the proposal.

Disputant No.4, Mr Sureshsing Kimcurran, stated that the post of Chargehand exists only at the Respondent and carries responsibilities that are equal to a Workshop Supervisor.

The Respondent's representative, Mr Satyam Bolah, Industrial Relations Officer, testified to the effect that a Chargehand has always earned less than a Workshop Supervisor and its post is not listed in any remuneration order given that such post exists only at Respondent's Company. The witness is aware that Chargehands had been making various representations to the National Remuneration Board. The Respondent had no objection to such course. Currently, Chargehands remain at 7 points. Workshop employees, as opposed to Chargehands require an NTC 3 qualification issued by the Industrial and Vocational Training Board and Workshop Supervisors have a greater responsibility than that of a Chargehand. The Supervisor is in charge of a team that attends to breakdown of vehicles and provides spare parts for damaged ones. Therefore, Workshop Supervisors bear the responsibility if anything goes wrong regarding the good running of the buses. They also look into health and safety and housekeeping issues. The witness added that as regard the Chargehands, they have over the years received pay increases. A newcomer Chargehand will now earn more than Rs 15,000 as starting salary. The witness

does not agree to the contents of Annex 1 and the figures put in by the Disputants showing that Chargehands were earning more than a Workshop Supervisor in 2008.

The facts of this case speak for themselves. There is really no evidence supporting the contention that a close relation between the wages of a Chargehand and a Workshop Supervisor has been maintained in 2008. Indeed, the document (Annex 1) put in by the Disputants appears most misleading as its contents have never been recommended or approved or even promulgated. It is unacceptable that the Disputants could invite the Tribunal to surmise that Chargehands and Workshop Supervisors had that “*close relation*” regarding their respective wages. Everything points towards showing that the contents of the document were actually mere proposals which the Disputants wanted to bring forward at some point in time. We note from the evidence adduced that there has always been a difference between the Chargehand’s salary and that of a Workshop Supervisor and that the Chargehand has always been earning some Rs 2 to 3,000 less than a Workshop Supervisor and the basis upon which the Disputants are now trying to ground their case is to our mind erroneous.

There is also the contention that the Disputants’ work is to be of high importance. There is no doubt that the work of every single employee at the Respondent is to be considered important as each has duties and responsibilities to carry out. When we look at the hierarchy of posts in the relevant remuneration order, we find that the post of Workshop Supervisor to be at the top and he is the one who earns more and undoubtedly because his job is more important than that of the welder, the painter and the other 15 categories of workers which are described in the schedule. We should bear in mind that those who now work as Mechanics are required to furnish a certificate from the Industrial and Vocational Training Board (currently Mauritius Institute of

Training and Development) while Chargehands are not required to do so and yet both Mechanics and Chargehands earn more or less the same salary.

Finally, we have not been convinced by the testimonies of the Disputants that they are doing similar type of work to that of the Workshop Supervisor that would justify our intervention to accede to their demand.

The five consolidated disputes are accordingly set aside.

SD Rashid Hossen
President

SD Francis Supparayen
Member

SD Rabin Gungoo
Member

SD Christian Fanchette
Member

19th February 2018