

EMPLOYMENT RELATIONS TRIBUNAL

ERT/RN 48/2017

AWARD

Before: -

Shameer Janhangeer	Vice-President
Raffick Hossenbaccus	Member
Rabin Gungoo	Member
Ghianeswar Gokhool	Member

In the matter of: -

Mr Sewsunkur RAMGUTTEE

Disputant

and

Mauritius Institute of Training and Development

Respondent

In presence of: -

The Union of Staff of the Mauritius Institute of Training and Development

Co-Respondent

The present matter has been referred to the Tribunal for arbitration by the Commission for Conciliation and Mediation (the "CCM") pursuant to *section 69 (7)* of the *Employment Relations Act*. The Terms of Reference of the dispute reads as follows:

Whether I, working as Teacher at the Mauritius Institute of Training and Development should be upgraded to the grade of Training Officer.

THE DISPUTANT'S STATEMENT OF CASE

It has been averred that the Respondent is a corporate body established under the *Mauritius Institute of Training and Development Act 2009* (the "MITD Act") and took over the activities of the Industrial and Vocational Training Board ("IVTB") and partly those of the Technical School Management Trust Fund ("TSMTF"). The Disputant joined the TSMTF as Teacher in 1996. Following the proclamation of the *MITD Act*, the Disputant was transferred to the Respondent as Teacher on a permanent and pensionable capacity and has since held the same post as per its Scheme of Service.

It has been averred that the Mauritius Institute of Training and Development (the "MITD") offers courses at various levels from National Certificate (NC) Level 2 to National Diploma/Diploma/Higher National Diploma. The Disputant, since joining the MITD, has been consistently delivering training at NC2, NC3, NC4 and NC6 (Diploma) Level. Training at this level is serviced by Training Officers whereas the Disputant is a Teacher. The Disputant possesses the necessary qualifications to offer training at the aforementioned levels. The salary of Teacher is considerably less than that of Training Officer. In 2012, the Disputant was paid an *ad hoc* allowance of three increments, which is still inferior to the salary and benefits that a Training Officer is entitled to for the same work. The Disputant, being paid only three increments, is performing work of equal value to Training Officers who have more favourable remuneration.

It has also been averred that the Disputant is undertaking the duties of a Training Officer, including training at Diploma Level, without the benefits attached to the later post. The Disputant is performing work on terms less favourable than that at the TSMTF. The Disputant should be upgraded to the post of Training Officer as he is and has been performing the duties of Training Officer although he is officially employed as Teacher.

Annexed to the Disputant's Statement of Case is the Scheme of Service of Teacher; the Scheme of Service of Training Officer; and the qualifications of the Disputant.

THE RESPONDENT'S STATEMENT OF CASE

The MITD has averred that the Disputant was transferred to its establishment on the same terms and conditions he previously held at the TSMTF. The Respondent denies that the Disputant has been giving training at NC2, NC3, NC4 and NC6 (Diploma) Level and avers that NC2 courses are given by Instructors; courses at NC3 and NC4 are delivered by both Instructors and Training Officers. Instructors servicing at his level are being paid an allowance equivalent to three increments. The Disputant draws an *ad hoc* allowance equivalent to three increments for delivering courses at higher level. The Disputant is moreover delivering courses at Diploma Level only one hour per week. There is no automatic promotion at the MITD; the Disputant has to apply as and when the post of Training Officer is advertised.

It has also been averred that the duties performed by the Disputant are as per the Scheme of Service for the post of Teacher. The Disputant only has one subject at Principal Level for the Higher School Certificate, whereas the requirements for Training Officer are Cambridge Higher School Certificate of GCE "A" Level in 2 subjects or equivalent; and a degree in the relevant field from a recognised institution or equivalent. The Respondent denies that the Disputant is performing work of equal value and avers that the Disputant enjoys the same benefits (in terms of school breaks) as Instructors; and Disputant is delivering courses at Diploma Level for only one hour per week.

The Respondent denies that the Disputant is undertaking the duties of Training Officer and that he should be upgraded to the post of Training Officer. The Respondent has averred that there is no automatic promotion at the MITD and posts are filled by way of selection; the post is, in the first instance, advertised internally and if there is no qualified candidate, it is advertised to the public at large; and all recruitments are approved by the Board of the Respondent. It has also been averred that the Schemes of Service for the posts of Instructor and Training Officer are different and their duties are different.

THE CO-RESPONDENT'S STATEMENT OF CASE

The Union of Staff of the Mauritius Institute of Training and Development has referred to the Tribunal's award in *Mustun v MITD (ERT/RN 64/16)* in relation to negotiations between the Respondent and the Co-Respondent about a new organisational structure. It has been averred that no significant progress has been made since the *Mustun* award in April 2017. The Co-Respondent wrote on 26 April 2017 to the Respondent's Board to request a meeting and on

19 May 2017, a meeting was convened whereby the Respondent proposed to advertise some posts on the basis of the existing Schemes of Service. The Co-Respondent expressed its disagreement to this proposition in a letter dated 24 May 2017. A report of dispute to the CCM was subsequently made by the Co-Respondent. A meeting was subsequently held with the Permanent Secretary of the Ministry of Education on 26 May 2017, who informed the Co-Respondent that the Respondent will not be proceeding with filling of posts based on existing Schemes of Service and that the latter would be worked out at the level of the Ministry itself.

It has been averred that the MITD has failed to implement an organisational structure and has been operating under the structure, and Schemes of Service, applicable to the IVTB, TSMTF and Lycée Polytechnique Sir Guy Forget. Since 2009, there have been numerous discussions, proposals and representations by the Co-Respondent in an unsuccessful attempt to finalise a new organisational structure. The Co-Respondent is of the view that the implementation of such a structure should not have an impact on the present dispute. The new structure would only bring the post of Teacher in line with the Scheme of Service proposed by the Respondent and salary scale as recommended by the Pay Research Bureau (“PRB”) taking into account the duties, experience and salary related to the post. It would not tackle the live issue of whether the Disputant should be upgraded from Teacher to the grade of Training Officer.

The Co-Respondent’s stand is that negotiations have been on-going since 2009 without any positive outcome; although the Respondent’s representative stated in *Mustun* that the new structure will be finalised within two months and the Tribunal has relied on this evidence, the Respondent has failed to show any true willingness to finalise the new structure; and the on-going negotiations should not be a bar to the determination of the real question before the Tribunal.

THE RESPONDENT’S STATEMENT OF REPLY TO THE CO-RESPONDENT’S STATEMENT OF CASE

The Respondent has averred that the organisational structure and Scheme of Service have been sent to the Ministry of Education and Human Resources, Tertiary Education and Scientific Research for finalisation. The Respondent has denied that it has ignored the recommendations on Schemes of Service in the *PRB Reports* of 2008, 2013 and 2016 and avers that as the finalisation of an organisational structure and Scheme of Service is long overdue

since 2009, Management proposed, as an interim measure and as not to penalise the staff of the Respondent, to advertise some positions internally based on the existing Scheme of Service. However, the unions were not agreeable to the proposal. The CCM decided that that it will follow up with the Ministry regarding the status of the Schemes of Service.

The Respondent admits that the Permanent Secretary of the Ministry informed the Co-Respondent that the Respondent would not be proceeding with the filling of posts based on the existing Schemes of Service and avers that the Ministry is working on the Schemes of Service of which around 75% have been completed. The exercise of implementing an organisational structure has been delayed due to divergent views of the unions. The Co-Respondent is not the only recognised union and the Respondent has to take into consideration the views of the other recognised unions as well.

The Respondent also avers that there is no automatic promotion at the Respondent from the grade of Instructor to Training Officer; Instructors satisfying the qualification requirements will have to apply as and when the post of Training Officer is advertised; and Instructors who are called upon to teach at National Certificate Level 4 and above are granted an *ad hoc* allowance equivalent to three increments. The Respondent has also averred that most of the proposals made by the unions have been retained by management; the unions have been consulted throughout the review exercise; and there is no automatic promotion at the Respondent, all posts are filled by way of selection.

THE EVIDENCE OF WITNESSES

The Disputant, Mr Sewsunkur Ramguttee, was called to depose. He is a Teacher in Design and Technical Drawing working at the MITD since 2010. He stated that he should be upgraded from Teacher to Training Officer as he is doing the job of a Training Officer and that the allowance he is granted does not compensate for the post. He stated that he is performing all the twelve duties of the Scheme of Service of Training Officer.

On the first duty of *“To provide relevant theoretical and practical training in his/her field of expertise”*, the Disputant stated that he is delivering lessons at various levels: National Certificate 3 (“NC3”), National Certificate 4 (“NC4”) and Diploma Level in Technical Drawing. He

produced his timetable (Document A) which shows that he is delivering lessons in Technical Drawing at NC3, NC4 and Diploma Level. He also produced a marking sheet for Diploma Level (Document B); a copy of a certificate showing he is a registered Trainer at the MQA holding NQ6 Level (Document C); and a document from the Mauritius Institute of Education (“MIE”) stipulating that he is qualified for training at Diploma Level (Document D). These four documents show that he is made to provide relevant theoretical and practical training in his field of expertise.

On the second duty, which is *“To advise on matters connected with commercial/vocational/technical training at all levels and promote relevant activities”*, the Disputant stated that he regularly helps the Head of Section and Coordinators in different activities at school level and produced a memorandum from the Training Centre Manager requesting him to help in the placement of Apprenticeship Trainees in industries (Document E).

On the third duty, which is *“To produce teaching aids for instructional purposes as required”*, the Disputant stated that as a Trainer he must produce his annual plan which he submits to the Manager and Head of Section of the school. He also produces handouts as they do not use textbooks at the MITD. He produced a handout for Diploma Level (Document F) and another for NC3 and NC4 Level (Document G).

Regarding the fourth duty, which is *“To counsel trainees as and when required”*, he stated that he counsel trainees during intake on which field is better for them according to their qualifications and also counsels parents. He also produced a copy of a certificate showing that he followed a course on HIV aids from the Ministry of Education in collaboration with the Ministry of Health (Document H). He has conducted a special class to trainees about HIV. He has also conducted a special class on drug abuse as he is an ex-Prison Officer.

On the fifth duty, which is *“To take charge of work areas as assigned and be responsible for the maintenance and upkeep of all tools and equipment as well as safety precautions”*, the Disputant stated that he is in charge of his class and produced an email from his Head of Section (Document J) requesting him to please record all his equipment and tools. He has also washed and painted his class with the help of employees.

On the sixth duty, which is *“To participate in Trade Advisory Committee and other committees and take appropriate action”*, the Disputant stated that he does sometime participate in special committees when his help is required. He produced a letter convening him to a disciplinary committee as a Trainer (Document K) as students had misbehaved. These committees are undertaken by Coordinators and Head of Section but they are convened when required.

On the seventh duty, which is *“To draw up programme for various types of institutions, training centres, firms and monitor as well as supervise the execution of such programmes and training projects”*, the Disputant stated that he participated in the setting up of syllabus for Engineering Drawing with CAD Application and also conducted class with trainees and supervised their project. He produced a letter from a trainee requesting him to supervise his project (Document L) and the syllabus of Engineering Drawing with CAD Application, which he participated in the setting up (Document M). For Diploma Level, he also prepares test papers, corrects them and submits the marks with other remarks. He also sends, as a Trainer, a pool of questions every year for NC3 and NC4 Level.

On the eighth duty, which is *“To provide, maintain and disseminate up to date and reliable information on current trends in training at all levels”*, the Disputant stated that he is constantly upgrading all his qualifications in order to keep with the current trends. He has followed two non-award courses in Certificate in Architectural & Building Drawing and a Certificate in Mastering Autocad 2D and 3D and produced two certificates (Documents N and N₁). He is using his knowledge to disseminate information to trainees.

On the ninth duty, which is *“To prepare and conduct examinations, trade and regulations concerning training in the commercial/vocational/technical fields”*, the Disputant stated that he is responsible for the preparation of test papers and marks them. He also fills the phase report for students with marks and remarks. He produced a letter from the Head of Section requesting him to submit test papers with marking sheet (Document O).

On the tenth duty, which is *“To assist in the drafting of rules and regulations concerning training in the commercial/vocational/technical fields”*, the Disputant stated that this duty is performed by Coordinators, the Head of Section together with the Acting Manager or Manager

and not by Trainers. They participate during induction and he produced a document (Document P).

On the eleventh duty, which is *“To supervise and advise on training curricula”*, the Disputant stated that he has participated in the setting up of the Diploma on Engineering Drawing with CAD Application. He produced a memorandum from the Training Centre Manager requesting him to participate in the setting up of the syllabus and also produced the syllabus of drawing in detail (Documents Q and Q₁).

On the twelfth and final duty, which is *“To perform other duties directly related to the main duties as listed above or related to the delivery of the output and results expected from incumbents in the roles ascribed to them according to their posting”*, the Disputant stated that he was the master of ceremony for the last Independence Day event and produced a document to this effect (Document R). He has also followed a course in essential first aid, provides first aid to trainees when they get hurt and produced a copy of a certificate (Document S). He was a jury and a marker for exam purpose at Goodlands and was paid an allowance.

The Disputant also stated that he has worked outside normal working hours during an Open Day at Ebene Hotel School working a full Saturday for which he was not paid but granted two days off. He teaches at NC3, NC4 and Diploma Level and this is not the level at which a Teacher should be delivering courses; a Teacher should normally teach at prevocational level as he was teaching before. He is delivering the courses of a Training Officer. He delivers courses for Diploma Level for only one hour but there are three batches: mechanical electrical engineering, civil engineering and building services engineering which he teaches during the whole year. The weightage is 20% and if the students fail in the module, they fail completely. Training Officers also teach at NC4 Level.

The Disputant contended that he is fully qualified to work as Training Officer. He has two A Levels and produced two certificates to show that he has two GCE A Levels (Documents T and T₁). He has a degree in Design and Technology and a Bachelor in Education from the MIE and University of Mauritius. He also produced an extract from the *PRB Report 2016 Volume 1* (Document U) where it is stipulated that the highest qualification should be taken into account. He has been performing the duties of Training Officer since 2010, when he joined the MITD. He has been performing duties at Diploma Level since last year. He was paid an *ad hoc* allowance

in 2012 which is equivalent to three increments. He produced a copy of his payslip for the month of November 2016 (Document V). There is a huge difference between his salary and that of the top of a Training Officer and more benefits are attached to the salary of a Training Officer. It also makes a difference regarding pension as the salary of Teacher stops at Rs 33,000. He holds 24 years of service and they are not agreeable to upgrade him, which is unfair. There has never been an advertisement for the post of Training Officer in Technical Drawing.

The Disputant was cross-examined by Counsel for the Respondent. He notably stated that he is the only Teacher at the MITD but teaching at a much higher level. His two GCE A Levels were obtained separately in 1988 and 1994. He did not agree that he does not satisfy the requirement of qualifications. He did not agree that at the MITD there is a selection exercise carried out for the filling of posts. He only teaches part of a module in Engineering Drawing and Computer Design. He did not agree that the duties he mentioned are part of the Scheme of Service of Teacher or of an Instructor. He is asking to be promoted directly to the post of Training Officer and not even hold the post of Instructor. He produced an email to the effect that he has to complete his syllabus before proceeding on a school break (Document W). There have been people who have been upgraded without selection exercise. He did not apply for the post of Instructor for technical drawing when advertised.

Mr Sayadaly Maudarbocus, Acting Deputy Director at the MITD, was called to depose on behalf of the Respondent. He stated that apart from the cases of Mr Waterstone and others, there has not been any instance of automatic promotion at the MITD. The promotion of Mr Waterstone was done on the basis of scarcity and specificity. Posts are advertised and a selection exercise is carried out. Mr Ramguttee has been performing the duties of a Teacher. The Disputant teaches Basic Drawing at NC3, NC4 and in the Diploma in Engineering Drawing and Computer Aided Design and he teaches only Basic Technical Drawing, which is at the level of a Teacher, in the latter. A Training Officer would have been preparing the Computer Aided Design and not teaching Basic Technical Drawing. The Disputant is given an *ad hoc* allowance of three increments which is the policy applicable to all officers who perform at higher level. In the Engineering Drawing and Computer Design course there is one module for Drawing of the sixteen modules for the complete course; a Training Officer would usually be doing all the modules. As regards qualifications, the Disputant should have two A Levels in the same sitting and he does not satisfy this requirement.

Mr Maudarbocus was questioned by Counsel for the Disputant. He notably stated that that on 18 November, there was a special Board meeting whereby the Schemes of Service and new organisational structure was approved and this now requires vetting from the Ministry of Education and Ministry of Civil Service. The finalisation of a new structure will have no impact on the present dispute as the post of Teacher and Instructor is personal and there is only one person in post as Teacher, which is the Disputant. According to the *PRB Report* extract produced as Document U, it is not automatic that it is highest qualification that will be taken into account. The qualifications ask for two A Levels on one certificate. There has been no advertisement for the post of Training Officer for technical grades as same is not needed. However, there is the post of Instructor for Technical Drawing. It is agreed that the Disputant does work at a higher level teaching at NC3 and NC4. Technical Drawing is not done by Instructors and Training Officers. For the level he is teaching, the Disputant receives an allowance, which is the policy of the MITD. The posts of Teacher and Training Officer are different. The three *ad hoc* increments are not the same as the salary and benefits of a Training Officer. Mr Ramguttee would not be paid the allowance if he were not doing higher duties. He does not agree that Mr Ramguttee should be upgraded to the post of Training Officer.

Mr Sailendra Makhan, Acting Training Manager at the MITD, was called on behalf of the Co-Respondent to depose. He is the President of the Union of Staff of the MITD. He stated that although the Schemes of Service and organisational structure have been completed and approved by the Board, it does not mean that it has been finalised. The organisational structure and Schemes of Service will have no impact on the present case. Under cross-examination, Mr Makhan notably stated that the post of Teacher was created at the TSMF with the post of Instructor Pre-Vocational Training being re-styled as same. There was a joint negotiating panel held on 5 December whereby he was informed of the new structure and the new Schemes of Service. He also stated that there are the posts of Teacher and Training Officer and that the post of Instructor has been scrapped.

THE MERITS OF THE DISPUTE

As per the Terms of Reference of the present dispute, the Tribunal has to enquire into whether the Disputant, who is currently working as a Teacher at the MITD, should to be upgraded to the grade of Training Officer.

The Disputant has lengthily testified as to the duties which he undertakes at the MITD. He contends that these duties are those of a Training Officer. From the Scheme of Service of Training Officer, as annexed to the Disputant's Statement of Case, it may be noted that the duties of the post of Training Officer are as follows:

1. *To provide relevant theoretical and practical training in his/her field of expertise.*
2. *To advise on matters connected with commercial/vocational/technical training at all levels and promote relevant activities.*
3. *To produce teaching aids for instructional purposes as required.*
4. *To counsel trainees as and when required.*
5. *To take charge of work areas as assigned and be responsible for the maintenance and upkeep of all tools and equipment as well as safety precautions.*
6. *To participate in Trade Advisory Committee and other committees and take appropriate action.*
7. *To draw up programme for various types of institutions, training centres, firms and monitor as well as supervise the execution of such programmes and training projects.*
8. *To provide, maintain and disseminate up to date and reliable information on current trends in training at all levels.*
9. *To prepare and conduct examinations, trade and regulations concerning training in the commercial/vocational/technical fields.*
10. *To assist in the drafting of rules and regulations concerning training in the commercial/vocational/technical fields.*
11. *To supervise and advise on training curricula.*
12. *To perform other duties directly related to the main duties as listed above or related to the delivery of the output and results expected from incumbents in the roles ascribed to them according to their posting.*

Although the Disputant has affirmed that he is performing all the duties of a Training Officer, the Tribunal has noted certain discrepancies with regard to certain specific duties of Training Officer which are apparently being performed by the Disputant.

With regard to the second duty of Training Officer, the Disputant is meant to "*advise on matters connected with commercial/vocational/technical training at all levels and promote relevant activities*". However, in his evidence he stated that he helps the Head of Section and Coordinators in different activities and did not state that he provides advice. It must also be noted that the memorandum he produced (Document E) shows that the Training Centre

Manager is asking for his help and not his advice. To help is not necessarily the same as advising.

As regards the third duty of Training Officer, the Disputant produced two handouts (Documents F and G) to show that he is performing this task. However, a perusal of these documents reveal that they are not titled as handouts for their respective course and are in a very draft form. The Tribunal thus cannot be certain as to whether they are handouts used as teaching aids for instructional purposes.

Regarding the sixth duty of Training Officer, the Disputant produced a letter (Document K) conveying him to a disciplinary committee to show that he participates in "*Trade Advisory Committee and other committees and take appropriate action.*" However, from the letter produced it is shown that he was only convened to the disciplinary committee to provide clarifications and was not a member of the committee as such. The Disputant did not further elaborate of any appropriate action he took. The Tribunal thus cannot conclude that the Disputant is performing this duty.

Concerning the seventh duty of Training Officer, it calls for the drawing up of "*programme for various types of institutions, training centres, firms and monitor as well as supervise the execution of such programmes and training projects*". The Disputant contends that he has supervised projects from trainees and produced a letter to this effect (Document L). However, a perusal of the letter reveals that the trainee is only asking for the help of the Disputant in the Technical Drawing part of his project and there is no mention of any supervision of same.

As regards the eighth duty of Training Officer, the Disputant has stated that he has upgraded his qualifications and produced two certificates to this effect (Documents N and N₁). However, he has not substantiated how he is using this to "*provide, maintain and disseminate up to date and reliable information on current trends in training at all levels*" as is required by this specific duty. The Tribunal cannot rely on his mere sayings to find that he performs this duty.

Regarding the tenth duty of Training Officer, the Disputant himself has stated that this duty is performed by Coordinators, the Head of Section together with the Manager. Trainers, according to the copy of the rules and regulations produced (Document P), only discuss remaining issues during induction. It is therefore clear that the Disputant is not performing this task.

The Disputant has also stated that he worked outside normal working hours during an Open Day in Ebene. However, it should be noted that he was granted two days off for having worked for the Open Day.

It has been contended by the Respondent that the Disputant is performing the duties of a Teacher. As per the Scheme of Service for Teacher, as annexed to the Disputant's Statement of Case, its duties are as follows:

1. *To prepare and conduct courses in their field/s of specialisation.*
2. *To supervise the students while on practical training and ensure the maintenance of security measures.*
3. *To participate in the preparation of curriculum and course design and advise on their implementation.*
4. *To prepare, conduct and evaluate course tests and examinations.*
5. *To prepare teaching aids and carry out extra curriculum activities.*
6. *To perform such other duties as may be assigned.*

It may be noted from the duties listed from the Scheme of Service of Teacher that some are related and/or are similar to the duties of the Scheme of Service of Training Officer. The first duty of Training Officer overlaps with the first duty of Teacher inasmuch as the Disputant delivers training at various levels as he himself has stated. The third duty of Training Officer involves the preparation of teaching aids which is similar to the fifth duty of Teacher. The fifth duty of Training Officer overlaps with the second duty of Teacher inasmuch as the incumbent has to be responsible for safety precautions in the former grade and ensure the maintenance of security measures in the latter. As regards the seventh duty, whereby the Disputant has stated that he participated in the setting up of the syllabus for Engineering Drawing with CAD Application and that he also prepares test papers and marks them, this is akin to the third and the fourth duties of Teacher, whereby the Disputant has to participate in the "*preparation of curriculum and course design*" and "*prepare, conduct and evaluate course tests and examinations*" respectively. The ninth duty of Training Officer is similar to the fourth duty of

Teacher as both comprise the preparation of examinations and their marking/evaluation. Regarding the eleventh duty of Training Officer, the Disputant has repeated that he has participated in the setting up of the Diploma on Engineering Drawing with CAD Application which is what he is also required to do under the third duty of Teacher. It cannot be overlooked that the Scheme of Service of Teacher also requires the Disputant to “*perform such other duties as may be assigned*”.

The Disputant has highlighted that he teaches at Diploma Level which is not the task of a Teacher. He has however admitted that he only teaches part of a module in Engineering Drawing and Computer Design. Moreover, as per the evidence of the Respondent, the Disputant teaches Basic Technical Drawing in the Engineering Drawing and Computer Aided Design course which is only one of the sixteen modules of the complete course. The Tribunal cannot thus find that the Disputant is teaching a whole Diploma course at the MITD.

It has moreover been recognised that the Disputant is teaching at a higher level in delivering courses at NC3, NC4 and Diploma Level. The Respondent has acknowledged this in paying an *ad hoc* allowance of three increments to the Disputant. Although the Disputant has contended that this allowance does not match the difference between the salary of the grades of Teacher and Training Officer, it cannot be said that it is a foregone conclusion that the Disputant is performing all the duties of a Training Officer. It must also be noted that nowhere in the Scheme of Service for Training Officer is it stipulated that incumbents of the post should deliver training at NC3, NC4 and Diploma Level.

There has also been much contention regarding the qualifications of the Disputant. The Disputant, during the course of the hearing, produced two A Level certificates (Documents T and T₁) which shows that he has obtained two A Levels in two separate sittings. The Respondent is contending that the Disputant should have two A Levels in the same sitting to be properly qualified for the grade of Training Officer.

Although it is not the duty of the Tribunal to evaluate the Disputant on his qualifications, the Tribunal would like to draw the attention of the parties to the Scheme of Service of Training Officer regarding the issue of qualifications. This provides as follows:

QUALIFICATIONS:

- *The Cambridge Higher School Certificate or the GCE "A" Level in 2 subjects or equivalent*
- *A degree in the relevant field from a recognised institution or equivalent*

The certificates produced by the Disputant show that he has a Higher School Certificate obtained in the examination of November 1988 with one A Level in Metalwork (Document T) and a General Certificate in Education with one A Level in Mathematics (Document T₁) obtained in June 1994.

The Disputant has furthermore relied on an extract of the *PRB Report 2016 Volume 1* (produced as Document U) asserting that the highest qualification must be taken into account. This unnumbered paragraph of the extract of the *PRB Report* produced titled "*Review of Qualifications for grades at Entry Level*" must be considered in its proper context and not in isolation. From the paragraph itself, it refers to "*qualifications' requirements in schemes of service for entry grades in the public service*". It must be however noted that there is no evidence to the effect that the grade of Training Officer is an entry level grade and in this vein, it cannot be disregarded that the Disputant is seeking to be upgraded to the grade of Training Officer from his post of Teacher.

The Disputant, in the present matter, is asking to be upgraded to the grade of Training Officer from the post of Teacher. In doing so, he recognises that he wishes to be promoted directly to the post of Training Officer thus bypassing the post of Instructor. It must however be noted that the post of Instructor comes next after the post of Teacher and then thereafter there is the grade of Training Officer.

In the circumstances, having considered the evidence on record as well as the Schemes of Service pertaining to the posts of Training Officer and Teacher, the Tribunal is not satisfied that the Disputant is wholly performing the duties of Training Officer. The Tribunal has not found that the Disputant is undertaking all the duties pertaining to the post of Training Officer and has even found that there is overlapping and similarities in the duties for the grades of Teacher and Training Officer. The Tribunal cannot thus find that the Disputant should be upgraded to the grade of Training Officer at the MITD.

The dispute is therefore set aside.

**SD Shameer Janhangeer
(Vice-President)**

**SD Raffick Hossenbaccus
(Member)**

**SD Rabin Gungoo
(Member)**

**SD Ghianeswar Gokhool
(Member)**

Date: 8th January 2018

