

# EMPLOYMENT RELATIONS TRIBUNAL

ERT/RN 123/2017

## AWARD

Before: -

Shameer Janhangeer	Vice-President
Francis Supparayan	Member
Eddy Appasamy	Member
Yves Christian Fanchette	Member

In the matter of: -

**Mr Vishwanath SOOPAL**

*Disputant*

and

**THE STATE OF MAURITIUS  
as represented by the  
Ministry of Health and Quality of Life**

*Respondent*

The present matter has been referred to the Tribunal for arbitration by the Commission for Conciliation and Mediation pursuant to *section 69 (7)* of the *Employment Relations Act 2008*. The Terms of Reference of the dispute read as follows:

- 1. Whether I should refund the amount of Rs 218,290.11 as mileage allowance for periods August 2008 to October 2010 and July 2014 to July 2015 to the Ministry of Health and Quality of Life.*
- 2. Whether the Ministry of Health and Quality of Life should have refused to grant me mileage allowance for period November 2010 to June 2014 despite having been duly authorized to claim for same.*

Both parties were assisted by Counsel in the matter. The Disputant was assisted by Mr G. Bhanji Soni, of Counsel. The Respondent was assisted by Mrs P. Ramjeawon Varma, Principal State Counsel instructed by the Principal State Attorney. The parties have each submitted their respective Statement of Case in relation to the dispute.

The Disputant has averred in his Statement of Case that he was appointed Community Health Rehabilitation Officer (“CHRO”) on 28 April 1999 being posted at Flacq Hospital. As such he effects site visits to residences of disabled persons to facilitate their rehabilitation. In 2008, in enquiring about mileage allowance, he was informed by the Finance Section to quote as authority (FH/E/1/4) as per Circular 19477/13/2 (T) dated 21 September 2005 from the Senior Chief Executive of the Ministry of Health (“MoH”) for approval of grant of mileage allowance to officers in the grade of CHRO. Disputant thus started to make use of his private car to effect site visits and submitted his claims for mileage accordingly. However, his claims as from January 2011 remained outstanding as the Supervisor Community Health Rehabilitation failed to process same.

It has also been averred that in or about August 2015, the Human Resources Section informed Disputant to apply for fresh authority for mileage claim. Upon application, fresh authority was issued by the MoH on 30 October 2015 with effect from 3 August 2015 to the Disputant. On 20 October 2015, the MoH requested explanations from the Disputant on alleged discrepancies in unpaid claims submitted since 2010. The Disputant tried his best to forward his explanations in relation to the claims. However, on 16 December 2016, the MoH by letter informed the Disputant that (1) an enquiry had been carried out by the Internal Control Unit on mileage claims submitted by him; (2) no authority was issued to the Disputant to claim mileage allowance from August 2008 to July 2015; (3) mileage paid during that period amounting to Rs 218,290.11 representing overpayment should be refunded by the Disputant; and (4) all outstanding mileage claims before 3 August 2015 have been discarded. The Disputant has been requested to start refunding the amount of Rs 218,290.11 at latest as from June 2017.

The Respondent, in its Statement of Defence, has in essence averred that the Disputant should have obtained appropriate authority by making an application to use his private car to perform official travelling and to claim mileage allowance thereon; and that the Disputant never applied for such authority before 3 August 2015. Discrepancies were noted in the mileage claims submitted by the Disputant and by letter dated 20 October 2015, he was requested to

submit explanations in respect of same. A team was set up at the level of the Ministry to verify all mileage claims for the period November 2010 to July 2014 and submitted a report dated 8 August 2015. The Internal Control Unit then carried out an enquiry into the Disputant's mileage claims and recommended, in its report dated 25 April 2016, that all outstanding mileage allowance claims before 3 August 2015 be discarded; and the overpaid amount of Rs 218,290.11 be recovered from the officer concerned. The Disputant was requested to make arrangements for the refund.

It has also been averred that the mileage claims have remained unsettled due to the irregularities highlighted by the Supervisor CHRO as confirmed by the two reports dated 8 August 2015 and 25 April 2016. It has also been averred that the Circular dated 21 September 2005 is a general authority in relation to the ceiling of mileage applicable to the post of CHRO and not a specific authority issued to the Disputant authorizing him to claim mileage allowance. The payment effected for the period August 2008 to July 2015 has thus been considered as overpayment since no appropriate authority was issued for the Disputant to claim mileage allowance.

On 15 January 2018, the matter was called before the Tribunal and both parties stated that there has been an amicable settlement to the dispute. It has been agreed that the Disputant Mr V. Soopal will no longer insist on the claim for mileage allowance for the period November 2010 to June 2014 as per the second point in dispute of the Terms of Reference. On the other hand, it has been agreed that the Respondent, without acknowledging or admitting any liability, will not proceed with the claim for refund of the amount of Rs 218,290.11 as mileage allowance from the Disputant as per the first point in dispute of the Terms of Reference. The Disputant has further agreed to waive his right to any future claims regarding the mileage allowance not paid prior to the present agreement between the parties. The Disputant acknowledged the agreement before the Tribunal.

Both parties moved for an award in terms of the agreement reached. The Tribunal wishes to thank the parties for their efforts in reaching an amicable settlement in the present matter and in upholding and maintaining good and harmonious employment relations.

The Tribunal therefore awards accordingly.

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

**SD Francis Supparayen  
(Member)**

**SD Eddy Appasamy  
(Member)**

**SD Yves Christian Fanchette  
(Member)**

**Date: 19<sup>th</sup> January 2018**