

**EMPLOYMENT RELATIONS TRIBUNAL**

**RULING**

**ERT/ RN 153/17**

**Before**

<b>Indiren Sivaramen</b>	<b>Vice-President</b>
<b>Abdool Kader Lotun</b>	<b>Member</b>
<b>Eddy Appasamy</b>	<b>Member</b>
<b>Arassen Kallee</b>	<b>Member</b>

**In the matter of:-**

**Mr Abdool Reshad Lalloo (Disputant)**

**And**

**Mauritius Ports Authority (Respondent)**

The present matter has been referred to the Tribunal by the Commission for Conciliation and Mediation (hereinafter referred to as “the CCM”) under Section 69(7) of the Employment Relations Act (hereinafter referred to as “the Act”). Both parties were assisted by counsel. The terms of reference of the dispute read as follows:

*“Whether the Mauritius Ports Authority could unilaterally discontinue the allowance of 10% of basic salary payable to the workers of the Operational & Marine Department and the Workshop Department for loss of overtime, which allowance had been paid to me previously on a personal basis.”*

Respondent raised a preliminary objection which reads as follows:

*“The point in dispute does not tantamount to a labour dispute as defined in Section 2 of the Employment Relations Act since it arose as far back as in December 2010.”*

The Tribunal heard arguments from counsel for both parties on the preliminary point raised. For the purposes of the arguments, a copy of the report of the dispute made to the President of the CCM in the said matter was produced (Doc A). The Tribunal has examined the arguments of both counsel.

At the outset, it should be clear that the Tribunal has proceeded for the purposes of the preliminary objection on the basis that all averments in the Statement of Case of Disputant are being admitted by the Respondent. The objection is based on the definition of “labour dispute” at section 2 of the Act which reads as follows:

*“labour dispute” –*

*(a) means a dispute between a worker, or a recognised trade union of workers, or a joint negotiating panel, and an employer which relates wholly or mainly to wages, terms and conditions of employment, promotion, allocation of work between workers and groups of workers, reinstatement or suspension of employment of a worker;*

*(b) does not, notwithstanding any other enactment, include a dispute by a worker made as a result of the exercise by him of an option to be governed by the recommendations made in a report of the Pay Research Bureau or a salary commission, by whatever name called, in relation to remuneration or allowances of any kind;*

*(c) does not include a dispute that is reported more than 3 years after the act or omission that gave rise to the dispute.*

The relevant parts of the Statement of Case of Disputant read as follows:

3. *Between about 1988 to about 2010, the Respondent paid the Disputant, as part of his monthly remuneration and on a personal basis, a monthly allowance amounting to a fixed percentage of the Disputant’s basic salary.*

- (i) From about 1988 to April 1997, the Disputant was paid an allowance amounting to 8% of his basic salary.*
- (ii) In May 1997, the allowance was increased to 10% of basic salary in line with the recommendations of the SRC of 1997.*
- (iii) The subsequent SRCs, namely SRCs 2000, 2005, 2010 and 2013 did not discontinue the said allowance.*

....

5. *In or about 2010, the Respondent unilaterally decided to discontinue payment of the said allowance to the Disputant and other holders of the post of Superintendent Operation, although no SRCs had made any such recommendation.*

6. *The Maritime Transport and Port Employees Union (“the Disputant’s Union”) acting on behalf of the Disputant, first raised this matter with the Respondent in a Staff Negotiating Council (“SNC”) Meeting on 13 December 2011, but the Management decided to take the matter up at the next SNC meeting.*
7. *The matter was subsequently raised by the Union in the SNC Meetings of 15 February 2013, 27 June 2013, 8 July 2014 and 1 October 2014, but the Respondent continued to defer its decision on the Disputant’s claim.*
8. *It was only at the SNC Meeting of 17 March 2015 that the Union was informed categorically that its request for the Disputant and others in the post of Superintendent Operation to be paid the said allowance could not be acceded to.*  
 ....
10. *The Disputant further avers that given that the said allowance had been paid to him on a personal basis and consistently, without interruption and at a fixed rate for years, it must be considered as an acquired right.*
11. *The Disputant avers that the Respondent was not entitled to interfere unilaterally with his acquired right.*
12. *The Disputant therefore prays for an Award from the Tribunal holding that the allowance is an acquired right and that the Respondent was consequently wrong to have unilaterally discontinued payment thereof.*

It is unchallenged in this particular case that the payment of the allowance to Disputant had been discontinued in or about 2010. The issue is whether the present dispute will fall under the proviso at paragraph (c) of the definition of labour dispute and would thus be excluded as a labour dispute. It is apposite to note that paragraph (c) of the definition of labour dispute was added following an amendment brought to the Act by Act No 5 of 2013 which came into operation (as far as the amendment to include paragraph (c) to the definition of labour dispute is concerned) on 11 June 2013.

From Doc A, the dispute was reported to the President of the CCM on 17 August 2017. Counsel for Disputant referred to section 64 (more particularly subsections (2) and (3)) of the Act which reads as follows:

**64. Reporting of labour disputes**

*(1) Subject to section 63 and subsections (2) and (3), any labour dispute, whether existing or apprehended, may be reported to the President of the Commission —*

*(a) by any party to the dispute; or*

*(b) by a recognised trade union on behalf of any party to the dispute.*

*(2) No dispute referred to in subsection (1) shall be reported, except after meaningful negotiations have taken place between the parties and a stage of deadlock has been reached.*

*(3) The period of negotiations shall not exceed 90 days from the start of negotiations or such longer period agreed in writing between the parties.*

...

Counsel for Disputant suggested that since the matter was raised in a Staff Negotiating Council meeting on 13 December 2011, the Disputant became after the delay of 90 days for negotiations, that is around February/ March 2012 (according to him), entitled to report his labour dispute to the CCM. Counsel submitted that there was crystallisation of this “droit d’action” and that Disputant had thus an acquired right to report his dispute which could not be taken away by the amendment of the law in 2013.

The Tribunal does not agree with this argument and will refer extensively to the case of **Mr Rama Valaydon and Cargo Handling Corporation Ltd, ERT/RN 49/13** where the disputant had already (underlining is ours) reported a dispute to the President of the CCM before the coming into force of Act No 5 of 2013. The Tribunal stated the following:

*The Tribunal has examined the arguments offered by both Counsel. It is apposite to note that both Counsel in their arguments referred to the Disputant having reported the labour dispute in December 2012. The referral letter from the CCM refers to the Disputant having reported the existence of the labour dispute to the President of the CCM on 8 January 2013. Be that as it may, what really matters is that the labour dispute had already been reported prior to the coming into force of The Employment Relations (Amendment) Act 2013 on 11 June 2013. The labour dispute was finally referred to the Tribunal on 15 July 2013. The answer to the preliminary objection taken lies in section 17(3)(b) and (c) of the Interpretation and General Clauses Act (I.G.C.A) which reads as follows:*

*“(3) ....., the repeal of an enactment shall not-*

*....*

*(b) affect the previous operation of the repealed enactment or anything duly done or suffered under the repealed enactment;*

*(c) affect any right, privilege, obligation or liability acquired, accrued or incurred under the repealed enactment; ....”*

*We will also refer to the case of **The Director of Public Prosecutions v Sewprasad Ramrachheya 2009 SCJ 434** upon which Counsel for Disputant has relied heavily and which we find is very relevant to the present matter.*

*In cases where there have been changes in the law, the Courts have made a distinction, where applicable, between substantive law and procedural law (vide **Société Bahemia & Co v Commissioner of Income Tax 2003 MR 87, Suresh Hurhangee v Commissioner of Income Tax 2005 SCJ 209** and **Succession Paul de Maroussem v Director-General, Mauritius Revenue Authority 2009 SCJ 377**). In the case of **Sewprasad Ramrachheya (above)**, the Supreme Court went further and addressed the issue of “acquired right” in cases where there have been amendments to the law more particularly in relation to limitation periods. The Supreme Court referred to a judgment of their Lordships of the Privy Council in the case of **Yew Bon Tew and anor v Kenderaan Bas Mara ([1982] 3WLR 1026, [1983] 1 AC 553)** (cited again in the recent Supreme Court judgment of **R.D’Unienville & Anor. v Mauritius Commercial Bank 2013 SCJ 404**) which was an appeal from the Federal Court of Malaysia in relation to an enactment having a similar wording to section 17(3)(b) and (c) of our I.G.C.A. We will refer quite extensively to extracts of that judgment delivered by Lord Brightman as reproduced by the Supreme Court in **Sewprasad Ramrachheya (above)**,*

*“Section 13 of the Interpretation and General Clauses Ordinance 1948 provided that:*

*<<Where a written law repeals in whole or in part any other written law, then, unless the contrary intention appears, the repeal shall not ... (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any written law so repealed; ...>>*

*This provision was replaced by section 30(1)(b) of the Interpretation Act 1967, which says the same thing in different words.*

*[...]*

*A statute of limitations may be described either as procedural or substantive.*

*[...]*

*Apart from the provisions of the interpretation statutes, there is at common law a prima facie rule of construction that a statute should not be interpreted retrospectively so as to impair an existing right or obligation unless that result is unavoidable on the language used. A statute is retrospective if it takes away or impairs a vested right acquired under existing laws ... There is, however, said to be an exception in the case of a statute which is purely procedural, because no person has a vested right in any particular course of procedure, but only a right to prosecute or defend a suit according to the rules for the conduct of an action for the time being prescribed.*

*But these expressions “retrospective” and “procedural”, though useful in a particular context, are equivocal and therefore misleading.*

*[...]*

The plaintiff's claim succeeded in the High Court. The Judge decided it upon the "procedural" test. He said <<[...] From the authority laid down in **The Ydun (1899)** p. 236 I am of the view that the amending Act deals only in procedure. In the absence of any express provision to the contrary, the amending Act should, therefore, apply retrospectively.>>

[...] The defendants appealed. The Federal Court adopted a more flexible approach to the "procedural" test:

"The pertinent question for determination is the nature of [the Act of 1974] - does it affect rights or procedure? [...] The distinction between procedural matters and substantive rights must often be of great fineness. Each case therefore must be looked at subjectively; there will inevitably be some matters that are classified as being concerned with substantive rights which at first sight must be considered procedural and vice versa"

The Federal Court developed the line of reasoning by referring to part of the judgment of Williams J. in *Maxwell v Murphy* [1957 96 C.L.R. 261]. The passage in the judgment of Williams J. at p. 277, which the Federal Court found of great assistance, as also have their Lordships, reads:

"Statutes of limitation are often classed as procedural statutes. But it would be unwise to attribute a prima facie retrospective effect to all statutes of limitation. Two classes of case can be considered. An existing statute of limitation may be altered by enlarging or abridging the time within which proceedings may be instituted. If the time is enlarged whilst a person is still within time under the existing law to institute a cause of action the statute might well be classed as procedural. Similarly, if the time is abridged whilst such person is still left with time within which to institute a cause of action, the abridgment might again be classed as procedural. But if the time is enlarged when a person is out of time to institute a cause of action so as to enable the action to be brought within the new time, or is abridged so as to deprive him of time within which to institute it whilst he still has time to do so, very different considerations could arise. A cause of action which can be enforced is a very different thing to a cause of action the remedy for which is barred by lapse of time. Statutes which enable a person to enforce a cause of action which was then barred or provide a bar to an existing cause of action by abridging the time for its institution could hardly be described as merely procedural. They would affect substantive rights."

[...]

In their Lordships' view, an accrued right to plead a time bar, which is acquired after the lapse of the statutory period, is in every sense a right, even though it arises under an

*act which is procedural. It is a right which is not to be taken away by conferring on the statute a retrospective operation, unless such a construction is unavoidable.*

[...]

*When a period of limitation has expired, a potential defendant should be able to assume that he is no longer at risk from a stale claim. He should be able to part with his papers if they exist and discard any proofs of witnesses which have been taken; discharge his solicitor if he has been retained; and order his affairs on the basis that his potential liability has gone. That is the whole purpose of the limitation defence”.*

*Applying this reasoning, we find that the amendment brought to the definition of “labour dispute” under section 2 of the Employment Relations Act (by Act No. 5 of 2013) with the new part (c) would, by providing a bar to an existing cause of action by abridging the time for its institution, affect substantive rights. In this particular case, the Disputant had already reported the labour dispute to the President of the CCM (as he was perfectly entitled to do) before the amendment came into force and to hold that he cannot now proceed with the dispute before the Tribunal (to whom the matter has been duly referred to by the CCM) in view of the new part (c) of the definition of “labour dispute” would impair the vested right of the Disputant under the then existing law.*

In the case of **Mr Yousouf Ibne Abdulla Cheddy and Ministry of Labour, Industrial Relations, Employment & Training, ERT/RN 120/15**, the Tribunal quoting from a previous case of **Mrs Dineshwaree Ramyeed-Banymandhub and Air Mauritius Ltd, ERT/RN 15/15** stated the following:

*At this stage, the issue is whether the amendment brought to the definition of “labour dispute” in the Act by Act No. 5 of 2013 can indeed apply in the present matter. Counsel for Disputant has argued that the amendment brought to the law cannot be applied in the present case since it will affect directly the right of the Disputant. Counsel argued that at the material time, the cause of action existed for Disputant and that the 2013 amendment Act cannot take away that right of the Disputant with retrospective effect. The Tribunal will here quote extensively from the Supreme Court case of **R. D’Unienville & Anor. v Mauritius Commercial Bank 2013 SCJ 404** where the Court stated:*

**17.19** *It is still helpful however to refer to the French doctrine which does not depart in essence from what obtains in other jurisdictions to which reference has been made above.*

*The following passages from **Aubry & Rau, Droit Civil Français, Vol. 1 para. 30 p. 101** explains the application of the principles relating to “retroactivité des lois” and*

explains in particular the distinction to be made in that connection between “droits acquis” and “simples expectatives”:

*“En principe, toute loi nouvelle s’applique même aux situations et rapports juridiques établis ou formés dès avant sa promulgation. Ce principe est une conséquence de la souveraineté de la loi et de la prédominance de l’intérêt public sur les intérêts privés.”*

*“Les avantages concédés par la loi seule ne forment, à moins qu’ils ne se rattachent comme accessoires legaux a un droit principal irrévocablement acquis, que de simples expectatives tant que l’évènement ou le fait auquel (elle) en subordonne l’acquisition ne s’est point réalisé, et sont jusque-là susceptible d’être enlevés par une loi postérieure. Après l’accomplissement de cet évènement ou de ce fait, ils revêtent le caractère de droits acquis”*

The following note from **Dalloz Repertoire Pratique Vo Lois et Decrets** also explain the difference to be drawn between “simples expectatives” and “droits acquis”.

*“167. on admet généralement en doctrine et en jurisprudence que la loi nouvelle peut modifier les **simples expectatives** résultant d’actes ou de faits **anterieurs**, mais ne peut pas porter atteinte aux **droits acquis**,.... ..”*

The concept is not different from what had been formulated by the Privy Council in **Director of Public Works v Ho Po Sang [1961] AC (901)** with regard to the determination of an acquired right: “It must be a right which is acquired and/or has accrued and not a “mere hope” that the right will be acquired at some future time if certain events occur”. The right must have become vested by the date of repeal i.e it must not have been a mere right to take advantage of the enactment now repealed.

## **18. When is there an “acquired right”?**

The whole basis of the plaintiffs’ claim rest upon the fact that they had already acquired, under the provisions of the Income Tax Act 1995, a right to tax-free interest which had accrued to them prior to its repeal by the Finance Act 2006, with effect from 1 July 2006. It was submitted that the plaintiffs had availed themselves of the right to tax-free interest since they had made all the deposits in compliance with all the conditions laid down under the Income Tax Act prior to its repeal in 2006 and they had thus acquired a right under the repealed legislation, in respect of the whole of the term of the deposits, which had not in any way been taken away by the amending legislation.

**18.1** The legal basis of the plaintiffs’ claim for their “acquired right” is founded on **section 17(3)(c) of the Interpretation and General Clauses Act** which was enacted in 1974 and which was first introduced in our law by Section 11 of **the Interpretation and Common Form Ordinance 1898**. This section was borrowed from English legislation,



more precisely Section 38 of the Interpretation Act 1889 which provided that where an Act is repealed “The repeal shall not affect any right, privilege, obligation or liability acquired, accrued, or incurred under any enactment so repealed”. It is abundantly clear that the legal principles governing the operation of retrospective tax legislation in the various comparable jurisdictions, to which we have referred earlier, rejoin substantially the principles enunciated under English Law. The protection against interference with “acquired” or “vested” rights by the operation of retrospective legislation in these jurisdictions formulate in essence what are contained in the provisions of **Section 17(3)(c) of our Interpretation and General Clauses Act** which, as it has been seen, has been borrowed from the English legislation on the subject.

**18.2** A right however does not automatically accrue or is vested in any person merely because of the existence of a legal right under the repealed legislation. In **Hamilton Gell v White 1922 2K.B. 422** the Court (Atkin L.J) explained that **section 38 of the English Interpretation Act 1889** “only applies to the specific rights given to an individual upon the happening of one or other of the events specified in the statute”. The Court referred to the following extract from **Abbott v Minister of Lands [1895 AC 425] at p 431**:

“The mere right (assuming it to be properly so called) existing in the members of the community or any class of them to take advantage of an enactment without any act done by an individual towards availing himself of that right, cannot properly be deemed to be a “right accrued” within the meaning of the enactment”.

**18.3** What would constitute in law an “acquired right” or “vested” right was also extensively examined by the Supreme Court of Canada in the case of **Dikranian v Quebec (Attorney-General) 2005 SCC 73**. The Canadian Interpretation Act spells out in its Section 12, in terms which are comparable to section 17(3)(c) of our Interpretation and General Clauses Act, that “The repeal of an act shall not affect rights acquired .... And the acquired rights may be exercised .... notwithstanding such repeal”. The Court re-affirmed that the principle against interference with vested rights has long been accepted in Canadian law [Para. 32, 33]. It added that these presumptions against interference with vested rights and the presumption against retroactive legislation “were designed as protection against interference by the state with the liberty or property of the subject. Hence, it was “presumed”, in the absence of a clear indication in the statute to the contrary that Parliament did not intend prejudicially to affect the liberty or property of the subject.”

**18.4** The Court however went on to state that in order to determine the existence of a vested right with respect to the duration of the exemption period, the following conditions must exist:

1. The right must be vested in a specific individual whose legal situation must be “tangible, concrete and distinctive” rather than general and abstract. The mere possibility of availing oneself of a specific statute is not a basis for arguing that a vested right exists;

2. Vested rights result from the crystallisation of the party’s rights and obligations. This legal situation must have been sufficiently constituted and materialized at the time of commencement of the new statute; and

3. If retroactivity is not specified it cannot be imposed. It is presumed, in the absence of a clear indication in a statute to the contrary in the light of the entire context that the legislature did not intend to violate the principle against interference with vested rights.

The present matter can be distinguished from the case of **Mr Rama Valaydon And Cargo Handling Corporation Ltd, RN 49/13** where the disputant had already reported a dispute to the President of the Commission before the 2013 amendment to the definition of “labour dispute” came into force. In that case, the Tribunal referred extensively to relevant case law on the matter including the Supreme Court cases of **The Director of Public Prosecutions v Sewprasad Ramrachheya 2009 SCJ 434** and **R. D`Unienville & Anor (above)** and the judgment of their Lordships of the Privy Council in the case of **Yew Bon Tew and anor v Kenderaan Bas Mara ([1982] 3WLR 1026, [1983] 1 AC 553)**. The Tribunal came to the conclusion that the subsequent amendment to the law could not impair the vested right or legitimate expectation of the disputant to have his already duly reported labour dispute dealt with in accordance with the previously existing law, that is, proceed to arbitration, after same was referred to the Tribunal by the Commission. There was already crystallisation of the disputant’s rights and obligations. By reporting his dispute before the amendment to the law, Mr Valaydon could not be deprived of a “legal situation which was sufficiently constituted and materialized” (**vide R. D`Unienville & Anor (above)**), at the time of the commencement of the amended provision.

In the present case, *ex facie* the terms of reference (under point 4 of the dispute) and Docs B and B1, the act that gave rise to the dispute under point 4 occurred on or around 19 March 2009 or at latest on 1 October 2010, that is, the date of appointment of Disputant. There is no evidence that Disputant reported any dispute at or around those dates. The amendment brought to the Act on 11 June 2013 excluded from the ambit of ‘labour dispute’ a dispute that is reported more than three years after the act that gave rise to the dispute. As per the letters of referral, the Disputant reported the dispute to the Commission only on 29 December 2014. Though Disputant had the possibility of reporting a dispute under point 4 before the amendment to the law, yet he did not crystallise this right. He sat on his rights all this time and had a “mere possibility of availing himself of a specific statute”. This is not a case where he had a vested right to

*report his dispute. There was no crystallisation of Disputant's rights and obligations. By reporting the dispute only in December 2014, the Disputant was reporting a dispute more than three years after the act that gave rise to the dispute. Point 4 of the present dispute is thus not a 'labour dispute' and does not fall within the jurisdiction of the Tribunal.*

In the present case, be it as from February/March 2012 (as Counsel for Disputant would suggest), the Disputant had the possibility to avail himself of the Act and more particularly section 64 to report his dispute to the President of the CCM. Disputant still had the possibility to report his dispute and yet he did not do so and did not crystallise this right. He only had a "mere possibility of availing himself of a specific statute". The Tribunal is thus not satisfied that the right of Disputant to have his dispute considered by the CCM and eventually referred for arbitration, if applicable, "had been sufficiently constituted and materialized" at the time the amendment brought to the definition of 'labour dispute' came into force.

The actual "reporting of the dispute" would in fact in the present matter amount to crystallisation of the right of Disputant to have his dispute considered by the CCM and eventually referred to the Tribunal, if need be, for arbitration. In any event, even if we were to accept the submissions of Counsel for Disputant, we are unable to agree that an employee has no right to report a labour dispute before the delay of 90 days as provided for in section 64(3) of the Act (see above) has elapsed. In fact, there can be a deadlock after meaningful negotiations even before a delay of 90 days has elapsed. The same section 64(3) of the Act also provides for negotiations for longer periods agreed in writing between the parties. Ex facie paragraph 7 (see above) of the Statement of Case of Disputant, the union continued raising the matter in the Staff Negotiating Council (SNC) meetings even on 27 June 2013 (that is after the amendment to the definition of 'labour dispute' came into force on 11 June 2013) and at subsequent SNC meetings when finally a decision was communicated to the union at the SNC meeting of 17 March 2015. Ex facie the Statement of Case of Disputant, there is no suggestion that a stage of deadlock (as per section 64(2) of the Act) had been reached before the coming into force of the amendment brought by Act No 5 of 2013.

Also, the mere right to have a dispute entertained by the CCM (not yet crystallised) falls short of being a property right. The Tribunal will here refer to the case of **Federation of Civil Service and Other Unions & Ors v State of Mauritius & Anor 2009 SCJ 214**, where the Supreme Court stated the following:

*"The fifth complaint of the plaintiffs is that their right to have their grievances ventilated and adjudicated upon and to have an award enforced is a property right and that the new provisions have deprived them of that right without compensation in breach of sections 3 and 8 of the Constitution. Learned counsel for the plaintiffs have prayed in aid the decision of the Judicial Committee of the Privy Council in the Marine Workers Union case, referred to above. The latter decision cannot avail the plaintiffs. In that case, the employees of the Mauritius Marine Authority had already obtained an arbitral*

*award and were prevented by the intervening amending legislation from enforcing that award, thereby depriving the employees of the increase in salary and allowances payable to them pursuant to the award as well as of a chose in action, namely the right to sue for and recover damages for breach by the Mauritius Marine Authority of its contract of employment.”*

Also, this is not a case where there is a limitation period (“prescription”) in relation to a right of action, as for example, in the case of Article 2279 of the Code Civil which provides for a limitation period of three years for “généralement tout ce qui est payable par année, ou à des termes périodiques plus courts” (which will include “les salaires”). We are here concerned with the reporting of a labour dispute which may lead to conciliation and/or mediation and eventually arbitration (in an appropriate case) whereby an award or other decision of the Tribunal may be challenged by way of a judicial review. The facts of the present case, ex facie the Statement of Case of Disputant, will fall within such cases which the legislator (with the amendment brought to the law in 2013) intended to exclude coming before the CCM for consideration within the short time limits provided by law. Lastly and for the sake of clarity, it is apposite to note that Section 64 of the Act caters for the “Reporting of labour disputes” and as per this section, reporting of labour disputes would be reporting of labour disputes to the President of the CCM. Section 64(6) of the Act thus provides as follows: “*Every report of a labour dispute shall be made in such form as the Commission may approve.*”

For the reasons given above, the Tribunal finds that the present dispute is not a labour dispute since the dispute has been reported only on 17 August 2017, that is, more than three years after the act or omission that gave rise to the dispute. The present dispute is thus not a labour dispute and is not within the jurisdiction of this Tribunal. For the reasons given above, the case is set aside.

**SD Indiren Sivaramen**

**Vice-President**

**SD Eddy Appasamy**

**Member**

**12 February 2018**

**SD Abdool Kader Lotun**

**Member**

**SD Arassen Kallee**

**Member**