

**EMPLOYMENT RELATIONS TRIBUNAL**

**AWARD**

**ERT/ RN 131/17**

**Before**

<b>Indiren Sivaramen</b>	<b>Vice-President</b>
<b>Raffick Hossenbaccus</b>	<b>Member</b>
<b>Andy R. Hau Kee Hee</b>	<b>Member</b>
<b>Teenah Jutton-Seeburrin</b>	<b>Member</b>

**In the matter of:-**

**Mr Madhosing Thecka (Disputant)**

**And**

**Mauritius Revenue Authority (Respondent)**

The present matter has been referred to the Tribunal by the Commission for Conciliation and Mediation 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 MRA should waive the sanction taken against me, namely stoppage of annual increment for a period of one year as from 1<sup>st</sup> January 2018 to 31 December 2018.”*

The disputant deponed before the Tribunal and he stated that he is a Technical Officer posted in the Internal Affairs Department at the Respondent. He deals with cases of malpractices by Mauritius Revenue Authority (MRA) officers and processes and verifies declaration of assets made by MRA officials. There was a complaint that MRA officers

were asking for bribes in a particular case and he had to investigate into the matter. His investigation did not reveal any such malpractice and he filed a preliminary report. He however recommended that the matter be referred to the Internal Audit division whilst being satisfied that the Medium and Small Taxpayers Department was already investigating into the tax affairs of the taxpayer/s. He received instructions to gather information on the taxpayer (who was not a MRA officer) concerned in the alleged case of corruption. He was of the opinion that he was not allowed to investigate on third parties (as opposed to MRA officers) but his supervisor was not agreeable to same. He sought legal advice on the issue from the legal services department. He received legal advice that the instruction to gather information on the taxpayer was outside the remit of the Internal Affairs Division. He averred that he provided the legal adviser with the facts of the case. He suggested that there was no directive which prevented him from asking for a legal advice.

Disputant then submitted on 16 August 2016 another report to his supervisor with the legal advice he had received. The latter then sought written explanations from him as to why he had requested for a legal advice without going through the proper channel instead of abiding to formal instructions given to him. He averred that he never refused to carry out the instructions to gather information on the taxpayer but that he requested for a disclaimer in the light of the legal advice in case the taxpayer sues him. Disputant also stated that in 2013, he investigated into a case of corruption against the Director of HR who was allegedly sanctioned eventually. In May 2016, he reported a case of malpractice against the Director of HR and also lodged official complaints against the Director of HR and the Director of Internal Affairs in May 2016.

In cross-examination, Disputant confirmed that Mr Gobin was his immediate superior. The anonymous complaint was that a taxpayer was allegedly evading tax liability by bribing MRA officers. He could not recall if the work plan in that case initially included instructions to retrieve information on the taxpayer concerned. He however conceded that on 25 February 2016, he was given formal instructions by Mr Gobin to retrieve such information. He did not agree that if the information showed abnormal investments and yet MRA officers had not carried out an audit, this would have indicated some form of malpractice on behalf of MRA officers. He averred that this would show a problem in the 'system' of the MRA, that is, the procedure through which tax files of individuals are retrieved. He thus recommended that the case be referred to the Internal Audit division of the MRA. He wrote a minute to give his views and did not execute the formal instruction. There was then a meeting among Mr Gobin, Mr Narainen who was the Director of his department and himself on 1 March 2016.

Disputant averred that he asked Mr Narainen to ask for legal advice on the purport of section 3 of the MRA Act. He stated that he never agreed to the interpretation given by Mr Narainen. He then personally sought a legal advice. He did not seek the prior

approval of his team leader and averred that there was no such requirement as per the standard operating procedures at the Respondent.

Disputant agreed that he was called before a disciplinary committee to answer a charge of failing to comply with formal instructions of his immediate supervisor and director without any justification. He was assisted by two counsel and two union's representatives. The charge against him was found proved at the disciplinary committee. He did not agree however that he had no valid reasons not to execute the formal instructions given to him.

Mr Mannikum, Assistant Director, Human Resource and Training then deponed and he stated that the Disputant was charged with a serious misconduct. He stated that it was a memo which they received from the Director of Internal Affairs on 26 August 2016 which triggered the initiation of disciplinary actions against Disputant. The Director of HR carried out an inquiry and there were meetings, phone calls, mails and different types of exchanges between the parties with a last reply to a query being received on 3 October 2016. Mr Mannikum maintained that the letter dated 18 August 2016 from Mr Gobin seeking for written explanations from Disputant related to the affairs of an internal department and did not involve the HR department. There was a letter of charge and Disputant appeared before a disciplinary committee which was chaired by someone external to the MRA. The charges were found proved before the disciplinary committee.

In cross-examination, Mr Mannikum stated that the letter of 18 August 2016 was a letter whereby a supervisor was asking for written explanations from an employee. Since the Director, HR was in copy, HR became aware of the "issues" between the parties. Mr Mannikum however stated that they cannot take an action when a supervisor is asking an officer why the latter has not done his work. He denied that there was no need for HR to carry out an investigation in this particular case. Mr Mannikum stated that the matter could well have stopped there and that it is only when the matter is reported to HR that HR will gather all information. HR cannot blindly take what is averred and issue a charge against an employee. Mr Mannikum stated that an "issue" is different from a misconduct and that it is only on the 3 October 2016 when they completed the enquiry that they became aware of the misconduct.

Mr Mannikum did not agree that he should have laid the charges instead of the HR Director. He stated that it is not because the HR Director received a complaint from Disputant that the latter could not issue the charge. He agreed that there was a letter of explanation dated 26 August 2016 emanating from the Disputant. In re-examination, he stated that the HR department viewed this situation as very serious since there were discussions and instructions which had been given on several occasions and not executed.

Mr Gobin, Team Leader, then deponed and he stated that he was the supervisor of Disputant. He allocated an enquiry to Disputant in October 2015 and the purpose of the enquiry was to gauge whether there could have been an act of malpractice by MRA officers. He stated that the investigation plan was already approved by the Director, Internal Affairs and that he informed Disputant about same. According to him, the plan included a request to retrieve information on the taxpayer involved. On 22 February 2016 when Disputant submitted his preliminary investigation he had not carried out these instructions. Mr Gobin explained that it was important to verify if the taxpayer indeed owned properties to gauge if someone at the Respondent was protecting the latter by not choosing his file. He renewed his instruction to the Disputant on 25 February 2016 to retrieve the said information but the latter returned the file shortly after with a minute to the effect that gathering such information would be outside the remit of the Internal Affairs division.

A meeting was held among Disputant, the Director of Internal Affairs and himself and Disputant was explained the rationale for looking for such information. He suggested that Disputant was agreeable when the Director explained to him the rationale for looking for such information. He added that the Disputant never requested for legal advice to be sought on the matter. However, Disputant still did not execute the instructions and re-submitted the case without following instructions but supported by a legal advice. Mr Gobin stated that if an officer wants to seek legal advice from the legal department, the case has to be discussed with the supervisor and the Director, Internal Affairs. The request for advice is sanctioned by the Director, Internal Affairs. He averred that the request which Disputant sent to the legal department did not provide the rationale as to why the information on the taxpayer was being sought.

In cross-examination, Mr Gobin stated that he did not report anything from February to August 2016 as he was not aware that Disputant would not abide to the instructions. He stated that it was only when the legal advice was laid on his table that he knew that Disputant would not carry out his instruction. He agreed that the HR department was copied relevant letters but he could not say if that department had a “connaissance complète” of all the facts then. He stated that the Internal Affairs division did not carry out any investigation in the matter in lite since they were themselves involved in the case. He added that it may happen that there was an explanation sought by the HR department as part of their investigation. When it was put to Mr Gobin that Disputant was not empowered to get information that was not in the public domain on a taxpayer, the latter maintained that during an investigation at the Internal Affairs division they are empowered to gather information on any person. He explained that information is not sought based on a mere hunch and/or caprices of Internal Affairs. The information sought is required to confirm any act of malpractice by a senior officer of the tax department since it is a senior officer who is responsible to distribute cases. ‘Internal

Affairs' can then gauge whether a particular case had to be investigated and the relevant officer did not do so.

Mr Gobin conceded that in the relevant standard operating procedure (SOP) there was nothing written that an officer should or must have the consent of his superior before seeking legal advice. He however stated that it will be administratively wrong if this is not done. He accepted that as per the letter dated 26 August 2016 from the Disputant, the latter was still willing to follow the instructions but this was subject to conditions. The letter was not replied to since the letter reached their office after the case had already been sent to the HR department. Disputant was given a deadline up to 24 August 2016 (as per Annex A to the Statement of Case of Disputant) to provide his written explanations. Mr Gobin accepted that Disputant had reported a case against the HR Director in June 2016. In re-examination, Mr Gobin produced a copy of minute "14" dated 16 August 2016 (Doc C). He maintained that it was HR which carried out the investigation in the matter and that he only provided clarifications when asked for.

Mr Narainen, Director, Internal Affairs at the Respondent then deposed and he stated that there was an anonymous complaint that a taxpayer had not been audited because the taxpayer managed to bribe tax officers in charge of audit. It was the duty of the Internal Affairs division to investigate into the matter and he allocated the case to Mr Gobin. The file was then given to Disputant. Mr Narainen approved the Preliminary Investigation Plan (PIP). Disputant submitted a preliminary report and stated therein that the taxpayer had not been audited, and that there was no need to pursue the matter. He recommended that the case be set aside. Mr Narainen stated that normally in such cases, they had to ensure that the case really did not deserve to be audited. He stated that they should ensure that there was indeed no information which should have triggered an audit. According to Disputant, the Internal Affairs was not empowered to investigate on a taxpayer who is not an officer/employee of the Respondent.

There was quite a long meeting among Disputant, Mr Gobin and himself and he explained to Disputant that the law gave them the power to seek information on a taxpayer. Disputant did not make any request to seek legal advice and stated that he understood. Later, he received the file from Mr Gobin with a legal advice. He is of the opinion that there was no need for a legal advice in this case. He averred that if there is a need to seek for legal advice, the matter is discussed with the Director-General of Respondent and the latter has to be convinced of the need for the legal advice. He stated that the Internal Affairs division cross-verifies the work of the tax auditor and thus has to have access to the same information that the tax auditor has access. He suggested that the legal advice obtained cannot be relied upon being given the manner in which the request for advice had been drafted.

In cross-examination, Mr Narainen conceded that he is not a lawyer. He however suggested that he did not view the legal advice obtained to be a proper legal advice since the request had not been properly drafted. Mr Narainen was then cross-examined about Disputant reporting him in May 2016 for allegedly not taking action in relation to a complaint he made against the HR Director. Mr Narainen averred that the complaint related to the selection process for a recruitment exercise but that he could not remember if the complaint was specifically directed against the Director of HR. No enquiry was carried out but Disputant was allegedly explained that there was already a provision in the HR manual to address the issue on which he had a grievance. He stated that Disputant is not competent to seek legal advice on which he would act to bind the Internal Affairs department.

The Tribunal has examined all the evidence on record and the submissions of both Counsel. The Tribunal is empowered to determine only the dispute referred to it as per the terms of reference. For ease of reference, we will quote once more the terms of reference which read as follows:

*“Whether the MRA should waive the sanction taken against me, namely stoppage of annual increment for a period of one year as from 1<sup>st</sup> January 2018 to 31 December 2018.”*

It is trite law that Courts of law have extensive powers of supervision and control over disciplinary measures imposed by employers as highlighted in the Supreme Court cases of **Raman Ismael v UBS 1986 MR 182** and **Société de Gerance de Mon Loisir v R. Appadoo 1994 SCJ 290**. The Tribunal may also refer to various cases where workers aggrieved by disciplinary sanctions taken against them have sought redress before the Industrial Court (**vide Christian Patrick Veerapin v Maritim (Mauritius) Ltd CN 8/07, Giandeo Peeharry v CEB CN 211/08 and Taleb Nabeebokus v Air Mauritius Ltd CN 210/08**). On the other hand, the Tribunal shall enquire into a labour dispute which has been referred to the Tribunal under section 69(7) of the Act. ‘Labour dispute’ is defined at section 2 of the Act 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) ...*

*(c) ...*

This is a borderline case where the Tribunal may exercise jurisdiction to hear the matter since *ex facie* the terms of reference there is a “dispute” between a worker, the Disputant and his employer which relates ‘mainly’ to wages (even if the dispute is more in relation to a disciplinary sanction). The matter before us thus relates to a labour dispute into which the Tribunal has to enquire (under section 70 of the Act which bears the heading “Arbitration”). Both parties have regretfully submitted only extracts of the Human Resource Manual and there is no conclusive evidence before us that a procedure for appeals against disciplinary measures taken by Respondent has been laid down in the said HR manual or elsewhere. Be that as it may, the Tribunal is not agreeable with the submissions of learned counsel for Disputant that “*the case has been brought before this forum subsequent to an appeal by the Disputant to the CCM*” or that “*...if the matter had been before the disciplinary committee and there has been a decision as I said earlier on this is an appeal against the decision and this is why we are before the forum ....*”. It is apposite for instance to refer to section 64 of the Act more particularly subsections (1), (2) and (3) which read 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.*

*(4) ...*

Disputant agreed in cross-examination that the charge against him was found proved at the disciplinary committee. The Tribunal does not have further evidence in relation to the proceedings before the said disciplinary committee except that Disputant was assisted by two counsel and two union’s representatives. The Tribunal is certainly not going to make any assumptions in relation to the disciplinary committee or venture to find that the committee, based on the evidence which was before it, came to the right or wrong decision.

Moreover, and very importantly, such an approach might be *ultra petita* the terms of reference which refers exclusively to waiving of the sanction taken against Disputant,

that is, the stoppage of his annual increment for a period of one year. The Tribunal will refer to the case of **S. Baccus & Ors vs. The Permanent Arbitration 1986 MR 272** where the Supreme Court stated the following in relation to the jurisdiction of the Permanent Arbitration Tribunal (renamed under the Act as the Employment Relations Act) under the then (and now repealed) Industrial Relations Act:

*Notwithstanding the provisions of section 85(1)(b) relied upon by learned Counsel for the respondent one must in order to decide whether the order complained of was ultra petita or not look at the terms of reference of the dispute.*

*Proceedings before the Permanent Arbitration Tribunal in respect of a dispute voluntarily referred to the Tribunal under section 78 of the Industrial Relations Act do not differ materially from proceedings before a Tribunal set up under the provisions of the Code de Procédure Civile and the rules concerning the “compétence” of the Tribunal must be the same.*

*An award of the Permanent Arbitration Tribunal which goes outside the terms of reference will be ultra petita and may be quashed just as any other award.*

However, in the light of the wide powers of the Tribunal including the various principles which the Tribunal may have regard to under section 97 of the Act in the exercise of its functions, the Tribunal will consider whether the disciplinary procedures laid down in the HR Manual have been duly complied with in this particular case.

Section 5 of the HR Manual bears the heading “*Procedure to be followed where an officer commits an act of misconduct*”. Section 5(1), (2), (5) and (6) of the HR Manual read as follows:

**5. Procedure to be followed where an officer commits an act of misconduct**

*(1) Where an act of misconduct is reported against any officer, the responsible officer shall, after obtaining all the facts of the case and after conducting such inquiries as may be required, submit the case to the HR & Training Department for the drafting of charges to be preferred against the officer.*

*(2) The Director of the HR & Training Department (HRTD) shall, within 10 days of the day on which he becomes aware of an act of misconduct against an employee, notify the employee of the charges made against the employee.*

...

*(5) The responsible officer shall, where the facts of the case require an investigation to be carried out, refer the matter to the:*

*Internal Audit Division, where infringements in systems, processes and/or procedures are suspected; or*



*Human Resources & Training Department, for work performance issues and/or inappropriate behaviour at the workplace; or*

*Internal Affairs Division in case of allegations regarding fraud, corruption, poor integrity, conflict of interest, etc. for the purposes of inquiry.*

*(6) After completing the inquiry, the Division/Department concerned its findings to the Director General & responsible officer, indicating whether an act of misconduct has been committed and whether the act of misconduct constitutes a minor, serious or gross misconduct.*

...

The Tribunal finds that section 5(2) of the HR Manual is not incompatible with the Director of HR & Training Department conducting an enquiry before he becomes aware of an act of misconduct. In fact, this would be in line with sections 5(5), 5(6) and 7 (procedure for serious or gross misconduct) of the HR Manual. The delay would start to run only after the Director of HR & Training Department has “*une connaissance exacte et complète*” of the alleged act of misconduct (see **Mazhar Hanzaree v Maritim Mauritius Ltd 2015 IND 44**). The Tribunal will quote extensively from the case of **Manzhar Hanzaree (above)**, where the Industrial Court stated the following:

*The evidence adduced before this Court is to the effect that the plaintiff had supposedly placed a tract of a defamatory in the pigeonhole of the Human Resource Department on 25 November 2009. An enquiry was started by Mr. Seenundun, the then Chief Security Officer who viewed the recordings of a camera installed in the pigeonholes area. The plaintiff was interviewed on 11 December 2009 and finally his conclusions that it was the plaintiff who placed the impugned document were submitted to Management on or about 26/27 December 2009. It was submitted that the defendant has failed to notify the plaintiff of the charge against him within 10 days of the day on which he becomes aware of the misconduct since the letter of charges and the notice to attend a disciplinary committee was issued on 7 January 2010 (Doc. E). It is trite law that the time starts to run when the employer becomes aware of the misconduct, that is when he has “*une connaissance exacte et complète*” (see **Soc. 17 févr. 1993, Bull. civ. V, no . 55**) and not on the day the tract was received. Defendant has established that it became aware only as from 26-27 December 2009. It is significant that it took the decision to interdict the plaintiff on 30 December 2009 after the latter had completed or nearly completed his shift duty and hence was to take effect as from 31 December 2009. Mr. Rajcoomar indicated that the plaintiff was both suspended and informed of the reasons for his suspension verbally and that a confirmation in writing would follow. There is no requirement that the notification has to be in writing and that the charge should be the exactly the one which the worker would have to answer before the disciplinary*

*committee. The fact that the defendant took the decision to interdict the plaintiff and informed him verbally of the reasons for his suspension is tantamount to having notified the worker of the charge against him and this had been done within 10 days of it becoming aware of the misconduct.*

In the case of **Alain Li Hi Shing v J & P Coats Ltd 2016 IND 3**, the Industrial Court had the following to say:

*S 38 (2) of the Employment Rights Act provides that ‘No employer shall terminate a worker’s agreement for reasons related to the worker’s misconduct unless he has within 10 days of the day on which he becomes aware of the misconduct, notified the worker of the charge made against the worker.’ There is a time limit imposed on the employer to take necessary action against the employee once he ‘becomes aware of the misconduct’. The issue is when can it be said that the employer ‘becomes aware of the misconduct.’ Guidance has been sought from **Bata Shoes ( Mauritius) Ltd v Mohassee [1975 MR 146]** which quoted s 6 (2) of the repealed Labour Act containing an expression similar to that found under s 38 (2) of the Employment Rights Act as follows: “ The issue raised depends upon the proper construction of the expression ‘becomes aware of such misconduct’ occurring in section 6 (2) of the Ordinance ...Their meaning is, in our view, fairly plain. What the employer must be aware of is the employee’s misconduct, that is to say, not merely of acts or omissions and circumstances that may constitute misconduct but of acts or omissions and circumstances that would allow an employer, upon a reasonable view, to reach the conclusion that the employee has been guilty of that type of misconduct which alone entitles him under the law to dismiss his employee summarily.” In **Chellen v Mon Loisir [ 1971 MR 1801]**, it was observed that “It is, consequently, a question for the Court in every action brought under the Ordinance to determine at what point of time the employer becomes cognizant of the facts constituting the misconduct complained of.”*

A worker cannot have charges notified to him without an adequate enquiry where so required. Mere copying of correspondences to the Director, HR and the facts of the present case did not make the Director, HR “aware of an act of misconduct” before the enquiry conducted by the HR department. The Tribunal is satisfied from the evidence on record that the Director of HR & Training Department did notify the Disputant of the charge made against him within 10 days of the day on which he became aware of the alleged act of misconduct, that is, on 3 October 2016 when the enquiry was completed.

The Tribunal is also satisfied from the evidence on record and more particularly from the evidence of Mr Gobin who stated so in clear terms that the Internal Affairs did not participate in the enquiry since they were themselves involved in the case and that they were merely requested to provide information during the enquiry.

The Tribunal also finds nothing sinister that Mr Gobin did ask Disputant to provide written explanations by way of the letter dated 18 August 2016. This related to explanations sought from an employee by his immediate supervisor.

There was also an issue which Disputant raised both in his statement of case and in evidence in relation to an official complaint which Disputant allegedly made at the Internal Affairs Department against the Director, HR and the Director, Internal Affairs in relation to an alleged malpractice (paragraph 1(c) of Disputant's Statement of Case). Disputant was already aware of this fact, be it, before or during the holding of the proceedings of the disciplinary committee and there is no single evidence before us that the Disputant raised this issue or complained about the participation (if any) of the Director, HR in the proceedings at the material time. The letter emanating from Disputant dated 28 October 2016 (Doc A) in reply to the charges does not give any indication either that Disputant was challenging or raised the issue about the involvement of the Director of HR in the process leading to the notification of charges against Disputant. The Tribunal has not been favoured with a copy of the proceedings of the disciplinary committee and is left in the dark again as to whether this issue was raised at all. It has also not been suggested before us that the signing of the letter of charges by the Director of HR and Training was fatal to the disciplinary proceedings held or sanction meted out to Disputant. There is insufficient evidence on record on this issue to justify our intervention as per the terms of reference before us. However, at the same time, it is the considered opinion of the Tribunal that Respondent could have ensured that the inquiry and notification of the charge to Disputant be carried out in a more commendable manner.

The Tribunal will hasten to add that it is crucial for the Respondent, which is set up by statute to perform key functions, to ensure that any enquiry on an employee of the Respondent be conducted and be seen to be conducted in a most impartial and unbiased manner. This is the more so that the Respondent is an institution whereby by law, there must be an Internal Affairs division which shall be responsible to deal with allegations of malpractice or other complaints against officers or employees of Respondent. The Tribunal will not hesitate in an appropriate case to intervene based on this ground alone, if need be.

On the other hand, there is absolutely no evidence that the relevant disciplinary committee was not properly constituted or acted impartially or with bias in any manner whatsoever. Though the Tribunal was not provided with the proceedings before the disciplinary committee, yet it was not challenged that the charge against Disputant was found proved. Evidence has been led by the Respondent about the repeated instructions given to Disputant who had not complied with same. Before us, Disputant relied mainly on a legal advice sought behind the back of his supervisor to justify his reluctance to comply and eventually his failure to comply with the instructions.

However, it will be inappropriate for this Tribunal to find that the Respondent was not justified, based on the material available before it (including the findings of the disciplinary committee) at the relevant material time, to take the sanction it has taken. The charge having been found proved before the disciplinary committee, the Tribunal finds nothing wrong with the sanction taken which is limited in time and which falls within the punishments which may be inflicted on an officer as a result of disciplinary proceedings as per section 9 of the HR Manual (Annex C to the Statement of Case of Disputant).

The Disputant eventually had the burden to satisfy the Tribunal that there was “justification” for the failure to comply with the relevant instruction and that the Respondent should “waive” the sanction taken, that is, the stoppage of annual increment for a period of one year. It is apposite at this stage to refer to the dictionary meaning of “waive”. As per the Concise Oxford English Dictionary, “waive” is defined as “refrain from insisting on or applying (a right or claim)”. The legal definition of “waiver” as per TheLaw.com Law Dictionary & Black’s Law Dictionary, 2<sup>nd</sup> ed. is “*The relinquishment or refusal to accept of a right. (...)*” “Waive” thus connotes the idea of voluntariness or the relinquishing of a right intentionally. This constitutes an added difficulty for the Tribunal in that the Tribunal cannot in the present matter award (underlining is ours) that Respondent should “waive” a sanction taken following disciplinary proceedings.

For all the reasons given above, the case is thus set aside.

**SD Indiren Sivaramen**

**Vice-President**

**SD Raffick Hossenbaccus**

**Member**

**SD Andy R. Hau Kee Hee**

**Member**

**SD Teenah Jutton-Seeburrin**

**Member**

**23 January 2018**