

**EMPLOYMENT RELATIONS TRIBUNAL**

**AWARD**

**Consolidated cases ERT/ RN 21/24 to ERT/RN 31/24**

**Before**

<b>Indiren Sivaramen</b>	<b>Acting President</b>
<b>Greetanand Beelatoo</b>	<b>Member</b>
<b>Christelle Perrin D'Avrincourt</b>	<b>Member</b>
<b>Muhammad Nayid Simrick</b>	<b>Member</b>

**In the matter of:-**

**Mr Rahim Aras Tally (Disputant No. 1)**  
**Mr Nand Ramdoss (Disputant No. 2)**  
**Mr Khilesh Kumar Poorustom (Disputant No. 3)**  
**Mr Mohammed Nirshad Mofeejuddy (Disputant No. 4)**  
**Mr Yash Dev Jogoo (Disputant No. 5)**  
**Mr Navin Jaynat (Disputant No. 6)**  
**Mr Ramchand Kisto (Disputant No. 7)**  
**Mr Dinesh Ghoorah (Disputant No. 8)**  
**Mr Ravindranathsing Caussy (Disputant No. 9)**  
**Mr Sandip Kumar Baurhoo (Disputant No. 10)**  
**Mr M.Aadil Ameraully (Disputant No. 11)**

**And**

**The State of Mauritius as represented by the Prime Minister's Office, Ministry of Defence, Home Affairs and External Communications, Ministry for Rodrigues, Outer Islands and Territorial Integrity – (External Communications – Department of Civil Aviation)  
(Respondent)**

**I.P.O: 1. Ministry of Public Service, Administrative and Institutional Reforms (Co-Respondent No. 1)**

**2. Pay Research Bureau (Co-Respondent No. 2)**

The above cases have been referred to the Tribunal by the Commission for Conciliation and Mediation under Section 69(9)(b) of the Employment Relations Act, as amended (hereinafter referred to as "the Act"). All the cases were consolidated following a motion made by Counsel who appeared for all the disputants and to which there was no objection on the part of Counsel appearing for Respondent. Co-Respondents Nos. 1 and 2 were joined as parties to the present matter following a motion made by Counsel for the disputants and to which there was no objection on the part of Counsel for the Respondent. The disputants, Respondent and the Co-Respondents were all assisted by counsel. The terms of reference in all the cases are identical and read as follows:

*"Whether, as per the recommendation of the PRB Report 2021, the previous on call-Allowance for attending faults and repairs of Communication Navigation & Surveillance (CNS) equipment after normal working hours should be reinstated and maintained, with the necessary adjustments made to the payments of allowance since February 2022 or otherwise?"*

Disputant No 2 deponed before the Tribunal and he solemnly affirmed as to the correctness of the contents of the Statement of Case of the disputants and the Reply to the Amended Statement of Reply of the Respondent. He conceded that none of the disputants occupy the post of Principal Technician and that this averment is a mistake in their Statement of Case. He then deponed in relation to on-call allowance and in-attendance allowance and he stated that Co-Respondent No. 2 in its relevant report refers to both allowances. He added that on-call allowance is paid regardless of technical

interventions. He suggested that it was impossible for him and the other disputants to work on all the equipment used in the Communication, Navigation Surveillance (CNS) section. He averred that they had each received training for only some equipment in the CNS section and that they were each responsible for a number of equipment and not for all the equipment used in the CNS section. He produced a copy of a document purporting to be an allocation of responsibilities among Senior Maintenance Officers (Doc A).

Disputant No. 2 stated that before February 2022, all the disputants were on call during the whole month whereas after February 2022, a roster was imposed upon the disputants. With this roster, he stated that the disputants were no longer on call during the whole month but only for a few days such as four days in a month in his own case. He stated that he is thus paid the on-call allowance only for four days though management expects them, even then, to remain 'available' at all times. Disputant No. 2 was referred to section 6.6 of a Draft Internal Audit Report for the Department of Civil Aviation (copy produced as Doc B) and to the Recommendation made in the said draft report at section 6.6.1. Disputant No. 2 stated that the disputants are not high ranked officers as mentioned in the Recommendation at section 6.6.1. He did not agree that the said Draft Internal Audit Report can be used to justify the introduction of a roster for the disputants. Disputant No. 2 stated that the roster was imposed upon them in February 2022 without any consultation, contrary to what Co-Respondent No. 2 had recommended in its 2021 PRB Report. He stressed on the fact that the on-call allowance had changed for them and that any change had to be carried out in accordance with the prescribed procedure and not in an arbitrary manner. He did not agree that the process, which had to be followed before the change was brought about, had been completed. He added that the advice of the Office of Public Sector Governance was sought only after the new roster had already been implemented. He prayed that the on-call system as it existed before the roster was put in place be maintained. He also stated that since Respondent did not follow the relevant procedures in February 2022, the latter had to pay arrears to them as from February 2022.

In cross-examination, Disputant No. 2 stated that he earned on-call allowance from 2015 until January 2022. He stated that after their working hours, they are on stand-by from 16 00 hours up to 08 00 hours the following day. This was on a permanent basis according to him. He then suggested that in 2021 he may have come from his place of residence some 15 times per month to physically attend to issues at the department. He suggested that there must be records in the finance department for these interventions since they claim in-attendance allowance for these interventions. He was referred to anomalies which were flagged out in relation to payments of in-attendance allowance. He agreed that the Respondent has a maintenance support contract for most equipment and which the latter can avail of either on-site or remotely, as and when required. When questioned in relation to the relevant provisions of the PRB Report 2021, Disputant No. 2

insisted that, according to him, the Respondent 'may seek' the collaboration of the Office of Public Sector Governance (OPSG) but in relation to the Ministry of Public Service, Administrative and Institutional Reforms, he suggested that the approval of the Ministry was required. He was questioned in relation to one Mr Jaynat (Disputant No. 6) who attended two meetings, and he confirmed that the disputants had no issue to work on a roster but he stated that the procedures as laid down in the PRB Report 2021 had to be complied with before the roster was implemented. He did not agree when it was put to him that as per a letter dated 25 October 2023 from the Secretary for Public Service, Co-Respondent No. 2 had already resolved the issue when it recommended the quantum/rate to be paid as On-Call allowance and when the Secretary for Public Service wrote the following: "*It is understood that the reviewed quantum/rate payable would be effective as from the date on which the roster system has been put in place, i.e 01 February 2022*". Disputant No. 2 did not agree that the Respondent did all that it could to implement what the Internal Audit Report was stating, to put in place what Co-Respondent No. 2 had recommended and at the same time to accommodate the employees.

Disputant No. 2 maintained that he was responsible for only a few pieces of equipment and not all the equipment in the CNS section. He stated that his substantive post is that of Senior Maintenance Officer. When he was referred to his duties as per the scheme of service, he agreed that the scheme of service does not refer to responsibilities only in relation to a specific set of equipment. He, however, added that the situation is different in practice and that he is responsible for only a set of equipment. He agreed that the OPSG has recommended that the application of the roster will allow CNS officers to enjoy a better work-life balance. He agreed that the OPSG came with a mechanism which was approved by Co-Respondent No. 1 and that Co-Respondent No. 2 had also determined the quantum which was payable. He however maintained that he was not against the roster but that same had not been done according to the required procedure. In re-examination, he stated that he does not have training on all equipment used at the CNS section and that he is responsible for 5 to 7 pieces of equipment.

Disputant No. 6 then deponed and he stated that he attended a meeting on 10 March 2022 as the President of the Civil Aviation Employees Union. He stated that many issues were discussed including the issue of 'on-call'. He suggested that Co-Respondent No. 2 was well aware that the officers, including Engineers, were earning an on-call allowance over the whole month. According to him, this is why Co-Respondent No. 2 recommended that if management wishes to put in place a reviewed system, then it will have to follow certain steps. He stated that the officers were earning on-call allowance the whole year since 2013. He averred that he had stated that they do not have any problem working on a roster but that the roster must be workable. He suggested that the Department of Civil Aviation operates on a 24-hour seven-day basis and that their services ensure the safety

of air passengers. He stated that the on-call allowance was being paid every day since it is not possible to predict which equipment may have an issue at any particular time.

Disputant No. 6 stated that he attended another meeting on 10 August 2023, and he suggested that the meeting was convened at the request of the trade union. He stated that management did not want to give them a copy of the recommendations made by the OPSG as referred to in a letter dated 14 July 2023 (emanating from the Secretary for Public Service). The trade union then sought a meeting with the relevant institutions to have clarifications on the recommendations which were made. Disputant No. 6 was referred to a recommendation mentioned in the letter of 14 July 2023 and he stated that there was no consultation with the staff union at the Department of Civil Aviation nor with Co-Respondent No. 2. He stated that the roster which was put in place is not workable since it may happen with such a roster, that the officers who are on call may not be able to intervene on an equipment which has an issue. He suggested that the Respondent has however imposed upon them that even if they are not on roster, they must be available at all times,

In cross-examination, Disputant No. 6 did not agree that the Department of Civil Aviation and Co-Respondents Nos. 1 and 2 had all found that the roster was workable and had been implemented according to required parameters and with their approvals. He again stated that they are agreeable with a roster system provided that it is workable. He stated that his concern remains the security of air passengers. He suggested that in February 2022, a roster was imposed without any consultation. In re-examination, Disputant No. 6 stated that he did not receive any copy of the minutes of the meeting of 10 August 2023.

The HR Executive of Respondent deposed before the Tribunal and she confirmed as to the correctness of the contents of the Amended Statement of Reply of the Respondent. She stated that the on-call system was reviewed since the Draft Internal Audit Report dated 10 December 2021 flagged out that the amount of on-call allowance paid in relation to in-attendance allowance was very excessive. Management was requested to take remedial action. Management then decided to implement a roster system since previously the officers were being paid on-call allowance every day of the year. In-attendance was paid only when officers (physically) attend to a particular technical fault or other issue. The final Internal Audit Report was received on 11 July 2022 and the roster was put in place on 1 February 2022. Management decided not to wait for the final report to implement the roster, and the problem of on-call allowance was also flagged out in the final report. She prayed that the present matter be set aside.

In cross-examination, the HR Executive agreed that though the relevant officers were previously earning on-call allowance every day, they are now earning on-call allowance for only three days if they are put on roster three times in a month. She also suggested that the officers, however, have to be available on the other days if their scheme of service

provides that they have to be available. She agreed that since 2013 the PRB report has provided for the payment of an on-call allowance and the payment of an in-attendance allowance. She agreed that all the relevant officers opted for the 2021 PRB Report. She also agreed that the 2021 PRB Report does not recommend to review the on-call system and to implement a new system. She agreed that the 2021 PRB Report provides that the input of the OPSG may be sought and that the approval of the Ministry must be sought. She also agreed when it was put to her that after approval by the Ministry, the matter should be referred to Co-Respondent No. 2 and until that process was completed, the existing provision was being maintained. She agreed that the documents which were mentioned in the Amended Statement of Reply of the Respondent and which were dated in 2023 came only after the roster was implemented. The roster was implemented first and then approval was sought. She stated that they did not have time to seek the prior approval of the Ministry since they had to implement the roster as per the (Draft) Internal Control Report. She agreed that the Draft Internal Control Report referred to the need to review the decision to grant on-call allowance to all high ranked officers. She conceded that this relevant part of the draft report did not concern the disputants but she stated that management, nevertheless, decided to apply the roster system to all officers concerned with the payment of on-call allowance.

The HR Executive agreed that representations were made in 2013 to the effect that CNS officers must be available at all times and Co-Respondent No. 2 recommended that they must be paid an on-call allowance. She agreed that the roster was already implemented in February 2022, and in March 2022 the disputants were reassured that management would liaise with the Ministry. She also agreed that as of 10 August 2022 management was not clear about the exact interpretation of the 2021 PRB Report. She also agreed that the recommendations of the OPSG came only on 7 July 2023, and she was further questioned on these recommendations. She agreed that after the meeting held in March 2022, there was no further meeting with the trade union to discuss the impact which the roster would have on the disputants. She, however, stated that management had a meeting with Co-Respondent No. 1 and the trade union was also present at that meeting. She agreed that as of 14 September 2023, the approval of Co-Respondent No. 1 had not yet been obtained. She did not agree however when it was put to him that the roster should not have been implemented in February 2022. She stated that it was a decision of management. She stated that they have received the report from the OPSG and the approval of Co-Respondent No. 1, and that both entities have concluded that the system is in order and that the work is getting done. She agreed that there was a distinction between an officer who may be required to be on call as per the scheme of service and an officer who is required to be on call. In re-examination, the HR Executive stated that only one disputant (among the eleven disputants) is a Station Officer.

The Acting Divisional Head of the CNS section then deponed and he stated that he is the Head of the Engineering and Technical Section and the supervisor of all the disputants. He stated that previously all eligible officers, that is Senior Maintenance Officers and above, were on call 365 days in a year. He stated that this had a huge financial impact and at the same time affected the social lives of those officers. He stated that the Department decided to implement a recommendation made in the Draft Internal Audit Report. The then Divisional Head was tasked to implement a roster system, and this was implemented as from February 2022. He stated that with the roster system put in place, three to four persons are on roster daily. He stated that every (relevant) officer is on call between six to eight days (monthly). As the current Divisional Head, he confirmed that there has been no degradation in the service availability with the roster system. He suggested that from January to November of this year there had been very few technical interventions or on-site interventions. He added that when the roster system was prepared, they ensured that an officer from the Engineer cadre would be there. He averred that an Engineer is supposed to know the whole system. The Engineer is reachable by phone and the latter needs to follow the issue until the problem is solved. The problem may be solved by phone or through physical intervention.

The Ag. Divisional Head stated that it is not true that the disputants do not have “knowledge” of all equipment used. He stated that the officers, who are eligible officers, were previously Trainee Technicians, Technicians and Maintenance Officers, and were intervening on all equipment. He stated that this is in line with the scheme of service of the Maintenance Officer, where there is, for example, no mention that the latter has to repair specific equipment. He stated that they have maintenance support contracts on a 24-hour seven-day basis for most of the big systems that they have, except for the navigation system. He explained that they can have support from contractors by phone or through physical interventions depending on the nature of the problem and terms of the maintenance support contract. In cross-examination, he agreed that the on-call allowance was paid in 2013 and following the 2016 PRB Report, all the eligible officers were on-call for 365 days (yearly). He maintained that all the disputants have “knowledge” of all the equipment at the CNS section. He stated that he believes that the Department of Civil Aviation has done the necessary co-ordination before implementation of the new roster system.

A HR Manager deponed on behalf of Co-Respondent No. 1 and he solemnly affirmed the correctness of the contents of the Statement of Reply filed on behalf of the Co-Respondent No. 1. He stated that the Department of Civil Aviation had informed his Ministry that there were excessive payments of on-call allowance. The Department of Civil Aviation consulted his Ministry, and the OPSG drew a report whereby it recommended that a roster system be put in place. In cross-examination, the HR Manager confirmed that all communications received from the Department of Civil

Aviation were after the roster had already been implemented. He agreed that as of 14 September 2023, the Department of Civil Aviation had not yet sought approval from Co-Respondent No. 1 for the implementation of the roster as from 1 February 2022. He stated that there was no obligation on the Department of Civil Aviation to seek the collaboration of the OPSG. He stated that since the roster had already been implemented since 1 February 2022, his Ministry found it necessary to give its approval as from that date.

A Principal Job Analyst then deponed on behalf of Co-Respondent No. 2 and she solemnly affirmed the correctness of the contents and annexes to the Statement of Defence of Co-Respondent No. 2. She stated that Co-Respondent No. 2 only recommended that officers as listed in the report who are required to be on call are paid the on-call allowance and the in-attendance allowance (if any). The 2016 PRB Report maintained the on-call allowance and in-attendance allowance for officers who are on call. She stated that Co-Respondent No. 2 received a request from Co-Respondent No. 1 to review the quantum and it is then that Co-Respondent No. 2 replied in relation to same. She stated that Co-Respondent No. 2 did ask Co-Respondent No. 1 if the Department of Civil Aviation had sought their approval before implementing the roster and Co-Respondent No. 1 informed that the latter had not sought their approval for implementation of the roster as from 1 February 2022. She stated that for the implementation of the roster, the burden rests on the management of the Department of Civil Aviation.

In cross-examination, when the Principal Job Analyst was asked if the Department of Civil Aviation had taken it upon itself to pay everyone the on-call allowance, the latter stated that the onus is on that Department. Co-Respondent No. 2 only recommended the quantum to be paid for officers who are required to be on call. She stated that Co-Respondent No. 2 in its report stated that management may seek the collaboration of the OPSG but however it must obtain the approval of Co-Respondent No. 1. She confirmed that as per the letter received from Co-Respondent No. 1, the Department of Civil Aviation did not obtain the latter's approval for implementation of the roster in February 2022. Co-Respondent No. 1 had to revert to Co-Respondent No. 2 for the determination of the quantum to be paid to the relevant officers.

The Tribunal has examined all the evidence on record including the written submissions of counsel for disputants and Respondent. The disputants are relying on paragraph 16.1.48 of the 2021 PRB Report to suggest that the procedure provided in the 2021 PRB Report had not been followed so that the then existing provision should have been maintained. Paragraphs 16.1.46 to 16.1.50 of the 2021 PRB Report read as follows:



## **On-Call and In-Attendance Allowances**

- 16.1.46 At present, officers of the CNS Section who are required to be on-call and attend duty while being on-call to cater for problems relating to Communication, Navigation and Surveillance equipment are being paid an On-Call Allowance for remaining on-call from 16 00 hours to 08 00 hours the following day and an In-Attendance Allowance per hour.
- 16.1.47 During consultations, Management informed that staff of the CNS Section are being paid an On-Call Allowance every month despite that no officer is being placed on-call. This practice has in turn, led to the disbursement of huge sums by the Department every month, when in fact on-call may not occur at all during a month or on an average two to three times per month. Besides, the present recommendation covers only grades of CNS Section whereas other categories of officers in other sections are also called upon to attend duty after normal working hours or tender their advice on phone from home. Management has, therefore, requested that the On-Call Allowance be replaced by a fixed monthly allowance to compensate officers for being available outside normal working hours and payable to all grades that falls (sic) under that category.
- 16.1.48 After carefully examining the proposal, the Bureau holds that it is up to Management to come up with a reviewed system in connection with requiring officers to provide their services after normal working hours. For the purpose of this exercise, Management may seek the collaboration of the Office of Public Sector Governance with a view to establishing a most economical system, with the approval of the Ministry of Public Service, Administrative and Institutional Reforms. The latter should revert to the Bureau upon completion of the exercise for the determination of the quantum/rate to be paid to the officers.
- 16.1.49 Pending the completion of the above-mentioned exercise, we are retaining the existing provision.

### **Recommendation 9**

- 16.1.50 We recommend that the allowances payable to officers in the CNS Section who are required to be On-Call and attend duty while being On-Call be maintained as per the table below:**

<b>On-Call Allowance/In-Attendance Allowance</b>
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<b>Grade</b>	<b>On-Call Allowance from 1600 hours to 0800 hours the following day (Rs)</b>	<b>In-Attendance per hour (inclusive of travelling time) (Rs)</b>
<b>Divisional Head</b>	<b>600</b>	<b>250</b>
<b>Senior Engineer (CNS)</b>	<b>520</b>	<b>210</b>
<b>Engineer (CNS)</b>	<b>490</b>	<b>200</b>
<b>Maintenance Superintendent</b>	<b>490</b>	<b>180</b>
<b>Station Officer</b>	<b>450</b>	<b>180</b>
<b>Maintenance Supervisor</b>	<b>425</b>	<b>170</b>
<b>Senior Maintenance Officer</b>	<b>375</b>	<b>150</b>
<b>Principal Technician (Electrical)</b>	<b>375</b>	<b>150</b>

The on-call allowance and in-attendance allowance were introduced for the CNS section of the Department of Civil Aviation by the Errors, Omissions and Anomalies Committee (EOAC) Report following the 2013 PRB Report. The EOAC Report 2013 thus provided the following:

#### **On-Call and In-Attendance Allowances**

15.126B Representations have been received to the effect that Communications, Navigation and Surveillance officers have to attend to faults on CNS equipment at any time outside normal working hours and during weekends. The Department of Civil Aviation being an essential and a 24-hour service provider, engineers and technicians are called upon to attend duty at any time to ensure a quick restoration of service. In addition, continuous coordination is carried out by the Divisional Head, Senior Engineers and Engineers for repairs after working hours and during weekends. The officers have requested that they be compensated for technical interventions carried out after their normal working hours. The Committee is recommending accordingly.

15.126C The Committee recommends that on-call allowances from 1600 hours to 0800 hours the following day at the rates specified in the table below be paid to the officers in the following grades that are required to be on-call:

<b>Grade</b>	<b>On-call Rs</b>
Divisional Head	600
Chief Officer	520
Communication, Navigation and Surveillance Officer	490
Maintenance Superintendent	490
Station Officer	450
Maintenance Supervisor	425
Senior Maintenance Officer	375
Principal Technician (Electrical)	375

15.126D The Committee recommends that, when attending work while on-call, officers of the CNS Section should be paid allowances per hour, inclusive of travelling time, as follows:

<b>Grades</b>	<b>Amount (Rs)</b>
<b>Divisional Head</b>	<b>250</b>
<b>Chief Officer</b>	<b>210</b>
<b>Communication, Navigation and Surveillance Officer</b>	<b>200</b>
<b>Maintenance Superintendent</b>	<b>180</b>
<b>Station Officer</b>	<b>180</b>
<b>Maintenance Supervisor</b>	<b>170</b>
<b>Senior Maintenance Officer</b>	<b>150</b>
<b>Principal Technician (Electrical)</b>	<b>150</b>

The 2016 PRB Report provided the following at paragraphs 15.56 and 15.57 (Volume 2 Part I):

**On Call and In-Attendance Allowances**

15.56 The Department of Civil Aviation operates on a 24-hour basis and officers in the CNS Section have to attend to faults on communication, navigation and surveillance equipment at any time to restore service. They are paid On-Call and In-Attendance allowances. We are maintaining the existing allowance.

**Recommendation 11**

**15.57 We recommend that the allowances paid to officers in the CNS Section who are required to be On-Call and attend duty while being On-Call be maintained as per existing provision:**

<b>On-Call Allowance/In-Attendance Allowance</b>		
<b>Grade</b>	<b>On-Call Allowance from 1600 hours to 0800 hours the following day (Rs)</b>	<b>In-Attendance per hour (inclusive of travelling time) (Rs)</b>
<b>Divisional Head</b>	<b>600</b>	<b>250</b>
<b>Chief Officer</b>	<b>520</b>	<b>210</b>
<b>Engineer (CNS)</b>	<b>490</b>	<b>200</b>
<b>Maintenance Superintendent</b>	<b>490</b>	<b>180</b>
<b>Station Officer</b>	<b>450</b>	<b>180</b>
<b>Maintenance Supervisor</b>	<b>425</b>	<b>170</b>
<b>Senior Maintenance Officer</b>	<b>375</b>	<b>150</b>
<b>Principal Technician (Electrical)</b>	<b>375</b>	<b>150</b>

The Tribunal bears in mind that the EOAC Report 2013 and the 2016 PRB Report do not mention that the disputants would be on-call for 365 days. These reports recommend that on-call allowances from 1600 hours to 0800 hours the following day be paid to relevant officers that are required to be on-call (underlining is ours). However, Co-

Respondent No. 2 in its 2021 PRB Report stated the following at paragraph 16.1.47 (Volume 2, Part 1):

*During consultations, Management informed that staff of the CNS Section are being paid an On-Call Allowance every month despite that no officer is being placed on-call. This practice has in turn, led to the disbursement of huge sums by the Department every month, when in fact on-call may not occur at all during a month or on an average two to three times per month. (...)*

The Tribunal takes note of paragraph 15.126B of the EOAC Report 2013 (see above) and finds that the above extract of paragraph 16.1.47 of the 2021 PRB Report is not clear. As per the EOAC Report 2013, the Civil Aviation Department is an essential and a 24-hour service provider and there is nothing before us to suggest the contrary. The Tribunal fails to understand how, in relation to the CNS Section of the Department of Civil Aviation, “on-call” may not occur at all during a month or on average two to three times per month. On call is different from having to physically attend a facility to effect a repair or other relevant intervention. The latter will give rise to in-attendance allowance. Management thus got it wrong in making their representations to Co-Respondent No. 2. Even, before the Tribunal and in the Amended Statement of Reply of the Respondent, the Respondent made a confusion between an officer who was on-call and an officer who physically had to carry out an intervention when on-call. Thus, the last part of paragraph 7 of the Amended Statement of Reply of the Respondent is not in line with the recommendations of the EOAC Report 2013.

The main concern of management, from the above, appears to be that no system was put in place to determine who exactly would be on call and when. It was clearly not that no officer was placed on call. Management informed Co-Respondent No. 2 that the staff of the CNS Section were being paid on-call allowance every month. The Tribunal bears in mind the word used by Co-Respondent No. 2 at paragraph 16.1.47 (see above) in its 2021 PRB Report (Volume 2, Part 1) where it refers to this “practice”. The Co-Respondent No. 2 then stated what it did at paragraphs 16.1.48 and 16.1.49 of its 2021 PRB Report (see above).

In the light of the evidence of the representative of Co-Respondent No. 2, and in the manner in which paragraph 16.1.48 (see above) has been drafted, the Tribunal finds that the approval of Co-Respondent No. 1 was indeed required. It is clear that the approval of Co-Respondent No. 1 was not obtained prior to the roster being put in place in February 2021. The issue for the Tribunal is whether this is fatal to the roster put in place and that necessary adjustments should be made to the payments of the allowance since February 2022 or otherwise. After careful consideration, the Tribunal finds that in the light of the particular circumstances of the present matter and the evidence on record, this shortcoming on the part of the management of the Department of Civil Aviation is not fatal

to the roster put in place. Very importantly, the Tribunal notes that Co-Respondent No. 2 never recommended that on-call allowance be paid to relevant staff of the CNS Section all year round. In its PRB Report 2021, the Co-Respondent No. 2 merely stated that it was retaining the existing provision. The existing provision as highlighted immediately after in paragraph 16.1.50 (Recommendation 9) insisted again that the allowances be paid to officers in the CNS Section who are required to be On-Call (underlining is ours). The Co-Respondent No. 2 though aware of an alleged “practice” did not recommend that the existing practice (as opposed to the existing provision) should be maintained. In fact, once the roster was implemented, it would simply be wrong to award that on-call allowances should be paid indiscriminately to all disputants irrespective of whether they were required to be On-Call. This would go against the recommendation of Co-Respondent No. 2.

Also, as regards the roster worked out or the version put forward by the disputants that there was a need for all the disputants to be available at all times because they did not have knowledge in relation to all equipment at the CNS Section, the Tribunal finds that the Acting Divisional Head of the CNS Section has deponed in a straightforward and convincing manner and has maintained that the roster put in place is working normally and very importantly without any degradation in the service provided. He explained that the eligible officers for on-call allowance were previously Trainee Technicians, Technicians, Maintenance Officers and as such they had to look after all the equipment and not part of the equipment. He also stressed on the fact that the roster was prepared in such a manner that there was always an officer from the Engineer cadre who was on call and an officer from such a cadre is supposed to be conversant with the whole system. His evidence that the roster would also allow officers to enjoy a better work-life balance has not been seriously challenged.

The Tribunal also notes the unchallenged evidence on record that the relevant CNS officers were not against the implementation of a roster system or had no problem to work on roster except that they aver that the current roster system had been wrongly imposed upon them and was allegedly not workable. Clearly, if the disputants had knowledge only in relation to a few equipment at the CNS Section as they are suggesting, we would be back to square one where practically every officer would be on call at all times. Bearing in mind the schemes of service of the grades of Senior Maintenance Officer, Maintenance Supervisor (CNS) and Station Officer (Annexes 1A to 1C to the Statement of Case of disputants) and the convincing testimony of the Acting Divisional Head of the CNS Section who deponed before us, the Tribunal has no reason not to believe the Acting Divisional Head of the CNS Section that the disputants as ‘eligible’ officers for on-call and in-attendance allowances as well as the Engineer who is on call and who needs to follow any problem until it is resolved have the required knowledge in relation to the equipment at the CNS Section. Also, the Tribunal finds that any allocation of responsibilities does

not mean that the relevant officers do not have knowledge of equipment or systems to which they may not have been allocated any responsibility on any particular day.

More importantly, is the letter dated 14 July 2023 (Annex 1 to the Reply to Amended Statement of Reply of the Respondent) from the Secretary for Public Service whereby the recommendations of the Office of the Public Sector Governance were listed. These include:

- Maintain the roster system implemented since February 2022 as it is a practical and workable option. (...)
- The advice of the PRB needs also to be sought on the rates of on-call allowances for Saturdays, Sundays and Public Holidays to align with the relevant provisions in other Ministries/Departments;
- The application of the roster system shall cut costs by more than 75%, and guarantee the availability of a minimum number of officers staying on call year-round to intervene at any time beyond normal working hours while at the same time allowing other officers to enjoy a better work-life balance;
- As the above option shall have a serious impact on the total remuneration of the concerned officers and could constitute a change in the recommendation of the previous PRB Reports, it is important that the matter is sorted out through consultation with the staff union at DCA and the PRB; and
- ....

As regards a possible change in the recommendations of the previous PRB reports, the Tribunal has already examined same above and has found that Co-Respondent No. 2 never recommended that the disputants should be on call 365 days. On the other hand, the Tribunal notes the beneficial impact of the roster which has been applied on the work-life balance of the disputants who are no longer required to be on call 365 days a year. It is apposite at this stage to make a distinction between the roster which has been put in place since February 2022 and the relevant note in the schemes of service of the relevant grades where the officers may be required to work outside normal working hours including at night, on Saturdays, Sundays, Public Holidays and officially declared cyclone days and during emergencies. There is no contradiction between the two and though the disputants may be on a roster, the above 'note' will always continue to apply. However, this should not be interpreted as meaning that because of this note, the disputants are still "on call" on days other than days on which they are formally on the roster to be on call.

It was optional for the Respondent to seek the collaboration of that OPSG with a view to establish a most economical system and the Tribunal finds nothing wrong that the Office was contacted after the roster was implemented. What matter are the recommendations which were eventually made by that Office. The Tribunal also notes that Co-Respondent No. 1 did revert to Co-Respondent No. 2 for the determination of the quantum/rate to be paid to the officers. Co-Respondent No. 2 made its recommendations in relation to quantum/rates to be paid to the officers and these were communicated to the disputants (among other officers) by way of a letter dated 15 November 2023 (Annex D2 to the Amended Statement of Reply of the Respondent). It is apposite to note that the Co-Respondent No. 1 whose approval was expressly required provided in a letter dated 25 October 2023 addressed to the parent ministry of the Respondent (Annex D1 to the Amended Statement of Reply of the Respondent) that:

*“It is understood that the reviewed quantum/rate payable would be effective as from the date on which the roster system has been put in place, i.e 01 February 2022.”*

The Tribunal thus finds no reason to intervene in the present matter based on the terms of reference which are before it. The Tribunal only reminds the Respondent that it has to follow strictly the procedures laid down in the relevant PRB Report to maintain good employment relations and to avoid such issues culminating in labour disputes. This is the more so that there was no specific recommendation in the Draft Internal Audit Report, relied upon in this case by management, in relation to the implementation of a roster system for officers in the grades of Maintenance Supervisors and Senior Maintenance Officers to be on call.

For all the reasons given above, the dispute is otherwise set aside.



**(SD) Indiren Sivaramen**

**Acting President**

**(SD) Greetanand Beelattoo**

**Member**

**(SD) Christelle Perrin D'Avrincourt**

**Member**

**(SD) Muhammad Nayid Simrick**

**Member**

**22 November 2024**