

EMPLOYMENT RELATIONS TRIBUNAL

AWARD

Before: -

Shameer Janhangeer	-	Vice-President
Alain Hardy	-	Member
Dr Sunita Ballah-Bheeka	-	Member
Ghianeswar Gokhool	-	Member

In the matters of: -

ERT/RN 147/2023

Mr Soundaraja PALANEE

Disputant

and

**THE STATE OF MAURITIUS as represented by the Ministry of Labour, Human
Resource Development and Training**

Respondent

ERT/RN 148/2023

Mrs Ganga Devi IMRIT

Disputant

and

**THE STATE OF MAURITIUS as represented by the Ministry of Labour, Human
Resource Development and Training**

Respondent

ERT/RN 149/2023

Mrs Shehnaz MUNGRAH

Disputant

and

**THE STATE OF MAURITIUS as represented by the Ministry of Labour, Human
Resource Development and Training**

Respondent

ERT/RN 150/2023

Mrs Priya Anjoo GOKHOOL-GOPALL

Disputant

and

**THE STATE OF MAURITIUS as represented by the Ministry of Labour, Human
Resource Development and Training**

Respondent

ERT/RN 151/2023

Mr Mohammad Shakeel KHODABOCUS

Disputant

and

**THE STATE OF MAURITIUS as represented by the Ministry of Labour, Human
Resource Development and Training**

Respondent

The present matters have been referred to the Tribunal for arbitration pursuant to *section 69 (9)(b)* of the *Employment Relations Act* (the “*Act*”) by the Commission for Conciliation and Mediation (“*CCM*”). The five disputes have been consolidated. The identical Terms of Reference of the disputes read as follows:

In addition to performing prosecution duties as per my scheme of service:

- i. Should I conduct civil cases at the Industrial Court;*
- ii. Should I answer to demand of particulars filed at the Industrial Court.*

Both parties were assisted by Counsel. Mr G. Bhanji Soni appeared for the Disputants, whereas Mrs P. Ramjeeawon-Varma, Assistant Solicitor General appeared together with Ms Y. Peerthum, State Counsel for the Respondent instructed by Mrs D. Dabeesing Ramlugan, Deputy Chief State Attorney. Both parties have put in their respective Statement of Case in the matters.

THE DISPUTANTS' STATEMENT OF CASE

The first Disputant holds the post of either Senior Labour and Industrial Officer ("SLIRO") and the remaining Disputants are at the level of Principal Labour and Industrial Officer ("PLIRO"). It has notably been averred that the Respondent is responsible for maintaining a labour administration service which includes labour inspection to ensure the protection of workers through law enforcement and related activities. Civil and criminal complaints are registered at the level of the Labour Office and when the matter is not disposed, the Respondent institutes civil or criminal matters at the Industrial Court (the "Court") through the Prosecution Unit of the Ministry of Labour & Industrial Relations (the "Ministry"). The Disputants are posted at the Prosecution Unit and as per their scheme of duties, they are only required to perform prosecution duties.

However, the Disputants are also required to perform the duties of Attorney and Counsel before the Court in civil matters. They have to analyse the legal aspects of the cases referred to their Unit and, if there is a *bona fide* case, prepare a plaint to be lodged before the Court. Thereafter, the Disputants are called to act as Attorney at Law, appear in formal matters and make relevant motions to get the case in shape. They have to prepare the Answer to Particulars, Answer to Further and Better Particulars and depending on the defence, the demand on the Plea. They have to ensure all pleadings are correctly filed in court. When the case is in shape, they perform the duties of a Barrister and conduct the case on behalf of the Permanent Secretary at the request of the complainant.

It has also been averred that as per their scheme of service, the Disputants only have to perform prosecution duties. When the Disputants find that there has been a breach of relevant legislation, they advise prosecution against the employer. They need to have a sound knowledge of other legislations besides labour laws. The Disputants consider that their actual duties, as a SLIRO or a PLIRO is bound to carry out, is beyond the scope of the duties/tasks set in their scheme of service. The Disputants' typical day extends beyond normal working hours and given the nature of their duties, it is averred that their conditions of service are being flouted. The Disputants object to having to perform duties which are best left to legally trained professionals. Otherwise, the Disputants should be remunerated for this type of work.

THE RESPONDENT'S STATEMENT OF REPLY

The Respondent has raised a Preliminary Objection in Law *ex facie* its Statement of Reply:

The Tribunal has no jurisdiction to hear the present matter as the terms of reference, as couched, do not constitute a "Labour Dispute" as defined in section 2 of the Employment Relations Act 2008, inasmuch as, the dispute has been reported outside the delay of 3 years and is therefore excluded from the definition of labour dispute under paragraph (c) of the said definition. Respondent therefore moves that the matter be set aside.

The Respondent, on the merits, has notably averred that one of the duties specified in the Disputants' scheme of service is to perform prosecution duties; also to provide assistance to other Labour Industrial Officers and the Assistant Director, Labour and Industrial Relations (the "Assistant Director") in the discharge of his duties, irrespective of whether such assistance is in relation to civil or criminal matters. One of the main duties of the Assistant Director is to decide whether a case is *bona fide* and in case of any doubt or complexity, the case is referred to the Director, Labour and Industrial Relations for advice; if a case raises any point in law or requires legal advice, it is referred to the State Law Office for legal assistance.

It has further been averred that the institution and conduct of civil cases by Labour Inspectors are a practice which existed even prior to the enactment of the *Industrial Court Act 1973* and the establishment of the Court, when Labour Inspectors of the regional Labour Offices were conducting the cases at regional District courts. With the establishment of the Court, the Unit was set up under the aegis of the Ministry and the conduct of both civil and criminal cases was handled by two Labour Officers. The Unit was set up to enable smooth implementation of *section 15 (1)* of the *Industrial Court Act*. The Disputants, as Labour Officers, have been designated by the Supervising Officer of the Ministry to carry out the aforesaid duties, which they have agreed to, since they joined the Unit and confirmed in their Performance Appraisal Forms for the years 2020 to 2023.

The Disputants neither perform the duties of an Attorney-at-Law nor of a Barrister-at-Law in relation to civil matters but only represent the Permanent Secretary of the Ministry in

instituting and conducting civil proceedings before the Court. Since their posting at the Unit, they have at no point disputed the fact that their duties included the conduct of civil cases and/or that such duties were outside the scope of duties as per their scheme of service. As per records, for the years 2010 to 2023, 86% of all cases handled by the Unit are civil cases and the rest are criminal cases. The conduct of both civil and criminal cases has been included in the Disputant's Performance Appraisal Forms as key tasks. The Disputants have not questioned this important and substantial aspect of their work as forming part of the scheme of service. The Disputants have since being posted at the Unit been routinely involved in the conduct of civil cases before the Court.

It has also been averred that the Officers posted at the Unit have been performing such duties since its creation and it has always been an unquestioned practice for such Officers to perform all duties, whether civil or criminal, which are within the ambit of the scheme of service. No objection has been raised regarding their involvement in civil matters they are required to perform on behalf of the Permanent Secretary of the Ministry. The prayers sought by the Disputants are misconceived and devoid of any merit.

THE EVIDENCE OF WITNESSES

Mr Mohammad Shakeel Khodabocus, Principal Labour and Industrial Officer, was called to depose on behalf of the Disputants. He swore as to the correctness of his Statement of Case. He could not answer to the Respondent's averment that the conduct of civil cases was established prior to the enactment of the Court as he does not have the information. Conducting civil cases is outside his scheme of service although he does agree that he conducts civil cases. He explained how he proceeds in relation to civil cases and for criminal matters and emphasised that civil matters are different from criminal cases. The issue has been raised now as in the past, whenever there was an issue, they could contact the State Law Office to conduct the case from them; however, in around 2020, there was a letter from the Solicitor General stating that they will have to conduct the cases and that the State Law Office will only appear when there is a plea *in limine*. When doing civil cases, they have to summon witnesses. Based on his scheme of service, he is doing 86% of cases which do not form part of his duties and his scheme of service. He maintains his claim as per the Terms of Reference of the dispute.

The Disputant was questioned by Counsel for the Respondent. He notably stated that he agreed to do civil cases but has to be remunerated for work which falls outside his scheme of service. As per his reading, prosecution concerns only criminal cases, not civil cases. When he joined the Prosecution Unit on 1 October 2012, he had to familiarise himself with the work of the Unit. After a while, he started doing vetting and redrafting of complaints, handling of formal matters before the Court and answering to demand of particulars. He agreed that a few months after he was fully engaged in civil work lodged before the Court. He never disputed the fact that doing civil work forms part of his duties. After years of experience, they move onto more complex cases. He started conducting trial cases after three years and despite there being no rule, this is internal. Chamber cases are in relation to civil cases. Disputant Mrs Imrit, when she joined, joined to do Chamber cases. He agreed that drafting and vetting of complaints, answering to demand of particulars and appearing in Chamber cases are civil work. These civil cases do not form part of prosecution cases. As per the scheme of service, he has to assist the Assistant Director in the discharge of his duties.

The Disputant also agreed that the Prosecution Unit forms part of the Inspection and Enforcement Section, which forms part of the Labour and Industrial Division of the Ministry of Labour headed by a Director. He is aware that the Labour and Industrial Division has the responsibility to institute and conduct both civil and criminal proceedings in the name of a worker. They assist the Director in the drafting of the complaint, not in the conducting. Conducting is outside their scheme of service. They objected to prosecution duties to include civil work in 2020. In 2020, they started to look at the scheme of service and noticed that it does not form part of their duties. He may have come across his scheme of service before, but it did not come to mind. He agreed that he has included the answering of demand of particulars, the conducting of civil cases and carrying out legal research as key tasks in his Performance Appraisal Form. He agreed that training was identified on the conduct of cases before the Court as he wanted to be trained for a job he was performing. He was not aware of the situation before 1975.

He agreed that Officers posted in the Prosecution Unit are designated to carry out the duty entrusted in law to the Permanent Secretary of the Ministry. He did not agree that this includes the conduct of civil and criminal cases before the Court. Prosecution should be limited to criminal to the exclusion of civil. He agreed that he started to conduct civil cases in 2015 and that his date of joining the Unit was 1 October 2012. His dispute has been lodged on 8 February 2022, that this is more than three years from when the dispute first arose and that it is an ongoing process that they were doing. Regarding demand of particulars, it started as from when he joined in October 2012.

When re-examined by his Counsel, the Disputant notably stated that in stating that he had not made any complaint from 2015 to 2022 saying that this was an ongoing process, in the beginning they were doing only small cases and it is only when they had complex cases that the problem arose. They were instructed to conduct the case themselves and came to the conclusion that the conducting of civil cases is outside their duties. When the cases became complex, they needed to have proper assistance and guidance. He also stated that he wished to be trained for the job which was not part of his duties as it will help him in the future and it is not necessary for the training to be only for prosecution and will help him in cases in other divisions as well.

The first Disputant, Mr Soundaraja Palanee, was also called to depose by his Counsel. He solemnly affirmed as to the correctness of his Statement of Case. He joined the Ministry on 6 August 2008 and was posted at the Prosecution Unit as from 24 July 2017. On 1 November 2018, he was promoted to SLIRO. He was posted at the Unit and the Pamplémousses Labour Office as they were short of staff and did both jobs for about five months. He had to verify civil complaints and then appear in Court but did not conduct trial cases. His first trial case started on 18 August 2020 and was completed on 6 August 2021. Conducting trial cases stated on 18 August 2020. It is not specified in his scheme of service to conduct civil cases. When he joined the Unit, he was made to understand that the State Law Office would conduct complex cases, but there were complex cases which they did not conduct. He did not accept that the Prosecution Unit was set up to enable the implementation of *section 15 (1)* of the *Industrial Court Act* and does not accept this is part of his job. He disagrees that he does not perform the job of an Attorney or a Barrister in relation to civil matters and only represents the Permanent Secretary of the Ministry. They do everything as Counsel except for points of law raised. These duties should be removed from his everyday job or he be remunerated for it.

Mr Palanee was questioned by Counsel for the Respondent. He notably stated that since he has been posted at the Prosecution Unit since 24 July 2017, he has been conducting Chamber cases which are of a civil nature. He started doing civil formal matter cases before the Court on 1 November 2018. He has been answering to demand of particulars as from end of 2018. He has been vetting complaints since 2018. He conducted a civil case on 18 August 2020. He agreed that the bulk of work of the Prosecution Unit is related to civil work. He confirmed that his key tasks in his Performance Appraisal Form, from June 2020 to June 2021, included checking, verifying and redrafting of complaints; answering to demand of particulars, conducting civil trials and carrying out

legal research. The key tasks for 2017 was the same as from August 2020. His key tasks related to the core duties he is carrying out.

Mr Palanee also stated that he appeared, end of 2018, in civil cases which were disposed and settled. He has not refused to do work of a civil nature. The Disputants wrote a letter to the Ministry on 19 October 2021 to inform that the job they do is outside their scheme of service. His dispute is limited solely to conducting civil cases and answering to demand of particulars. In 2017, he was lodging complaints. He has no issue doing the work if he is paid for it. He is not exactly aware how the Prosecution Unit was set up. *Section 15* of the *Industrial Court Act* only specifies that the Permanent Secretary may institute such civil or criminal proceedings. The section does not exactly mention that it is for the Prosecution Unit to conduct civil cases. He does not agree that civil work falls under prosecution duties.

Mr Chandradeo Manohur, Manager Human Resources, was called to depose on behalf of the Respondent. He affirmed as to the correctness of the contents of the Respondent's Statement of Reply. He notably stated that the Prosecution Unit was set up after the enactment of the *Industrial Court Act* to centralise the work which was being carried out before the District Courts. The work is both civil and criminal cases, instituting same on behalf of the Ministry. The practice of instituting and conducting civil and criminal cases in the name of a worker existed prior to the setting up of the Court and continued post its setting up. According to *section 15* of the *Industrial Court Act*, the Permanent Secretary deposes Officers of the Prosecution Unit to conduct civil and criminal cases in court. The Prosecution Unit enables the smooth implementation of *section 15* of the *Industrial Court Act*. There has been no objection on the part of the Disputants to carry out civil work. He does not agree that civil work does not fall as part of their scheme of service as Labour Inspectors were doing the work before the enactment of the *Industrial Court Act* and are continuing to do the work.

Mr Manohur also stated that the Performance Appraisal Form is used to record the performance of Officers and used for the grant of increment. In relation to the Disputants' Performance Appraisal Forms, their key tasks include checking, verifying and redrafting of complaints, answering demand of particulars and conducting of civil trials. The Performance Appraisal Forms of Mr Palanee for the years 2020/21, 2021/22 and 2022/23 were produced (Document A). The Performance Appraisal Forms of Mrs G. D. Imrit for the same years were produced (Document B). The Performance Appraisal Forms of Mrs S. Mungrah for the same years were produced (Document C). The Performance Appraisal Forms of Mrs P. A. Gokhool-Gopall for the same years

were produced (Document D). The Performance Appraisal Forms of Mr Khodabocus for the same years were produced (Document E). On the basis of these documents, the Disputants were carrying out civil work on a routine basis. Mrs Imrit joined the Prosecution Unit on 10 March 2015 and conducted a civil case on 3 February 2016.

The Respondent's representative was questioned by Counsel for the Disputants. He notably stated that he could prepare a plaint if he is in the Unit and knows the procedure. There are 4 to 5 people in the Unit. Out of 737 cases in year, maybe only 50% are being finalised. The Disputants are getting training, in-house training and on the job training. The Disputants do not go to court every day. They have been doing the job before the enactment of the *Industrial Court Act* and after they continue to do the job. He does not agree that the Disputants have full reason to claim what they are claiming.

THE PRELIMINARY OBJECTION IN LAW

The Tribunal shall first determine the preliminary objection in law raised by the Respondent. This is worded as follows:

The Tribunal has no jurisdiction to hear the present matter as the terms of reference, as couched, do not constitute a "Labour Dispute" as defined in section 2 of the Employment Relations Act 2008, inasmuch as, the dispute has been reported outside the delay of 3 years and is therefore excluded from the definition of labour dispute under paragraph (c) of the said definition. Respondent therefore moves that this matter be set aside.

Learned Assistant Solicitor General has offered written submissions on behalf of the Respondent. Reference has notably been made to the definition of a labour dispute under *section 2* of the *Act* and to the decision in *Ramyead-Banymandhub v Employment Relations Tribunal [2018 SCJ 252]*, whereby the Tribunal would have no jurisdiction to hear a dispute reported more than three years after the act that gave rise to the dispute. Disputant Mr Khodabocus, in his evidence, notably stated that Officers of the Prosecution Unit are fully engaged in civil work a few months after joining the Unit and that he himself started conducting civil cases in October 2015. Disputant Mrs Imrit had appeared in and conducted civil cases within a year of having joined the Prosecution Unit. It was also stated that Officers could conduct civil cases without having to wait three years. Disputant Mr Palanee has, since being promoted to SLIRO in

November 2018, been involved in answering of demand of particulars, doing Chamber cases of civil nature and involved in the drafting of plaints. Although he conducted his first case on 18 August 2020, Mr Palanee has appeared in easier civil cases end 2018. The evidence of the two Disputants who deposed regarding their Performance Appraisal Forms was also allured to.

It was submitted that it is clear that the act which gave rise to the present dispute arose back in time when the Disputants first started doing civil work, constituting answering of demand of particulars and conducting civil cases. The Disputants, save for Mr Palanee, were engaged in the conduct of such civil work as from the time they were posted at the Prosecution Unit. Mr Palanee only started doing civil cases when he was promoted to SLIRO in November 2018. The time of the act that gave rise to the present dispute would be over three years to the date the matter was referred to the CCM on 8 February 2022 for each Disputant.

It was further submitted that the wordings of the definition of labour dispute is similar to *section 4 (1) of the Public Officers Protection Act* citing the case of *Ramphul v The Accountant-General & Ors [2021 SCJ 335]*. It was also submitted that a cause of action cannot be continuous, *Article 2271 of the Code Civil Mauricien* providing: '*Le délai de prescription court à compter du jour ou le droit d'action a pris naissance*'.

Learned Counsel for the Disputants has also put in written submissions in relation to preliminary issue of delay. It has notably been submitted that one cannot ignore the reality that the Disputants are performing duties outside their scheme of service; in any event, Mr Palanee joined the Prosecution Unit in 2017 but was assigned the conduct of civil cases as from end of 2018, starting to conduct as from 18 August. It was submitted that the issue of delay cannot bar the Disputants from proceeding with the case as conducting civil cases is an ongoing process; Mr Palanee had already reported a grievance since 19 October 2021; and the present case has arisen because of ever increasing workload. The Disputants cannot be prevented from claiming that the Respondent has been acting in breach of the conditions of the scheme of service referring to *Agathe & Ors and State of Mauritius & Ors (ERT/RN 107/20 – 135/20)*. It was also submitted that Disputant Mr Palanee's complaint is well within delay.

As per the preliminary objection raised by the Respondent, it has been averred that the Tribunal has no jurisdiction to hear the present matter as the Terms of Reference, as couched, do not constitute a labour dispute as defined under *section 2 of the Act* as the dispute has been

reported outside the delay of three years and is therefore excluded from the definition of a labour dispute. It is clear that the Respondent is relying on *subparagraph (c)* of the definition of a labour dispute under *section 2* of the *Act*. This provides as follows:

2. Interpretation

...

“labour dispute” –

...

(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 following can be noted from what the Supreme Court stated in the relation to this particular provision in the matter of *Ramyead-Banymandhub (supra)*:

Whilst considering the nature of the objections raised by the co-respondent, the Tribunal was therefore first called upon to spell out the act or omission which triggered the applicant’s labour dispute and to then determine at what point in time such act or omission took place. This is in line with the provisions of article 2271 of the Code Civil which provides as follows:

“Le délai de prescription court à compter du jour ou le droit d’action a pris naissance.”

It would therefore be incumbent on the Tribunal to identify the act or omission which has given rise to the labour dispute; and to ascertain at what point in time the act or omission took place. The Tribunal is also aware that it is bound to enquire into the substance of the objection within the limits of its Terms of Reference as may be noted from the decision in *Ramyead-Banymandhub (supra)*:

The Tribunal therefore had the duty to enquire into the “substance” of the arguments put forward by the parties with regard to the objections raised by the co-respondent, and it could only adjudicate on these objections within the limits of its terms of reference.

As per the Terms of the Reference of the dispute, the acts the Disputants are complaining of are the conducting of civil cases before the Court and answering to demand of particulars filed at the Court in addition to performing prosecution duties as per their scheme of service. Having

identified the acts in issue, the Tribunal now has to ascertain at what point in time did the Disputants start to conduct civil cases before the Court and answer to demand of particulars filed at the Court.

As per the evidence of Mr Khodabocus, he was fully engaged in civil work before the Court a few months after joining the Prosecution Unit on 1 October 2012. He also stated that he started to conduct civil cases in 2015. After a while after joining, he started to *inter alia* answer to demand of particulars. He agreed that his dispute has been lodged more than three years from when the dispute first arose. He also stated that what they were doing is an ongoing process. By ongoing process, he clarified, at the beginning, they were doing only small cases and only when they had complex cases did the problem arise; they were told to conduct the cases themselves and then realised that conducting civil cases is outside their duties.

As per the tenor of Mr Khodabocus's evidence, it is clear that he performed the task of answering to demand of particulars shortly after he joined the Prosecution Unit in October 2012. Regarding the conducting of civil trials, although he did state he was fully engaged in civil work lodged before the Court a few months after joining, he first conducted a civil trial in 2015. Although the Disputant has stated that this is an ongoing process, by this he meant that when they were given more complex cases, the issue arose. Bearing in mind that the dispute was reported on 8 February 2022 to the CCM, it is clear that same has been reported more than three years from the date of the two acts that have given rise to the dispute. The said Disputant has moreover admitted to same.

Regarding the evidence of Mr Palanee, he joined the Prosecution Unit on 24 July 2017 and was promoted to SLIRO on 1 November 2018. Initially, he was posted at the Unit and at the Pamplémousses Labour Office for about five months. Since being posted to the Unit, he has been conducting Chamber cases of a civil nature. He has also answered to demand of particulars as from the end of 2018. Although he conducted a civil case on 18 August 2020, he also appeared in civil cases, at the end of 2018, which were disposed and settled. It can also be noted that the evidence of the Respondent's representative to the effect that Disputant Mrs Imrith conducted a civil case on 3 February 2016 after having joined the Unit on 10 March 2015 has gone un rebutted. She too had reported her dispute on 8 February 2022 to the CCM.

Thus, it is clear that Mr Palanee was answering to demand of particulars as from the end of 2018 and has also appeared in civil cases, which were either disposed or settled, during the same period; although he did also conduct a civil trial as from 18 August 2020. It is therefore reasonable to say that he did conduct simpler civil trials at the end of 2018. Thus, bearing in mind that the dispute was reported on 8 February 2022 to the CCM, it is clear that same was reported more than three years after the two acts that have given rise to the dispute. Likewise, same is also true for Mrs Imrit regarding conduct of civil trials.

Counsel for the Disputants also submitted that Mr Palanee had reported a grievance since 19 October 2021. Although it has not been disputed that the said Disputant did state that the Disputants wrote a letter to the Ministry on 19 October 2021 regarding the work being outside their scheme of service, this is not the date on which the matter was reported as a labour dispute to the CCM. As per the referrals made by the CCM to the Tribunal on 28 November 2023 in each case, the disputes were reported to the CCM on 8 February 2022.

In submissions, Counsel for the Disputants has also cited the Tribunal's ruling in *Agathe & Ors (supra)* regarding schemes of service in the Pay Research Bureau Report. In the aforesaid ruling, the objection regarding whether the matter was a labour dispute was in relation to whether the dispute related to promotion under the definition of a labour dispute and was not in relation to the delay of three years. Thus, the ruling cannot be said to apply to the present preliminary objection raised which concerns the time taken for the dispute to be reported.

The Disputants, in their submissions, have also contended that the conducting of civil cases is an ongoing process. As previously noted, Mr Khodabocus did so state in his evidence and did clearly explain what he meant by ongoing. Although, in the case of *Ramyead-Banymandhub (supra)*, it was held that the Tribunal had failed to consider the possibility that the employer's alleged omission could be continuous, the Supreme Court notably had the following to say:

The Tribunal therefore appears to have been inexplicably selective when it considered the purport of its terms of reference, especially with regard to the words "or otherwise", since the ruling does not indicate why the Tribunal chose to favour 2001 as the point at which time would have started running whilst clearly ignoring the words "or otherwise". In the absence of the Tribunal's line of reasoning on that issue, we must conclude that it incorrectly equated the year on which the applicant was assigned to her current post with the year on which the dispute would have arisen.

It should be noted that in abovementioned decision, the Terms of Reference mentioned the words '*or otherwise*' in relation to the date 2001. However, it can clearly be noted from the common Terms of Reference of the present disputes that these particular words have not been used. The Tribunal also notes that the context in which the Supreme Court found that the dispute was found to be continuous in *Ramyead-Banymandhub (supra)* cannot be automatically imported to the distinct facts of the present matter.

The Tribunal has also noted from the Statement of Case of the remaining Disputants that Mrs S. Mungrah was posted at the Prosecution Unit since January 2019 and Mrs P. A. Gokhool-Gopall since 5 October 2015. Both these Disputants have also reported their disputes on 8 February 2022 to the CCM. Although the Tribunal has not had the benefit of their evidence, the matters were consolidated as one and heard as a single dispute whereby Mr Khodabocus and Mr Palanee were called to depose on behalf of all the Disputants. Moreover, Counsel of the Disputants did confirm that evidence called in one case would apply to all the cases when moving to consolidate the matters prior to the hearing of the dispute.

In view of the above, the Tribunal can only therefore find that the preliminary objection raised by the Respondent must succeed and that present matter cannot amount to a labour dispute pursuant to *subparagraph (c)* of the definition of a labour dispute under *section 2* of the *Act*. Thus, the Tribunal need not consider the merits of the dispute.

The dispute, in each of the five cases, is therefore set aside.

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(SD) Shameer Janhangeer
(Vice-President)

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(SD) Alain Hardy
(Member)

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(SD) Dr Sunita Ballah-Bheeka
(Member)

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(SD) Ghianeswar Gokhool
(Member)

Date: 18th September 2024