

PERMANENT ARBITRATION TRIBUNAL
AWARD

Before Mr R Hossen, Acting President

Member: Mr B Ramburn

Member: Mrs V Lingachetti

RN 884

In the matter of :-

Mauritius Examinations Syndicate Staff Union

And

Mauritius Examinations Syndicate

The present disputes have been referred by the Minister of Labour, Industrial Relations and Employment to the Permanent Arbitration Tribunal for arbitration by virtue of section 82(1)(f) of the IRA 1973, as amended.

The Applicant is the Mauritius Examinations Syndicate Staff Union and the Respondent, the Mauritius Examinations Syndicate.

The Terms of References are:-

1. "Whether vacancies in the grade of Senior Examinations Assistant should be filled by the seniormost officers in the Grade of Examinations Assistants or otherwise.

2. In the affirmative, whether Messrs. Sagadeven Safhala Naik and Beenaswar Gobin, Examination Assistants, who are the seniormost Examinations Assistants at the Mauritius Examinations Syndicate should be promoted to the post of Senior Examinations Assistants with effect from 13 August 2004”.

The Union avers in its Statement of Case :-

1. It exists five level in the Clerical/administrative cadre at the MES:-

Administrative Officer (AO)
Examinations Superintendent (ES)
Senior Examinations Assistant (SEA)
Examinations Assistant (EA)
Examinations Clerk (EC)

2. As per the scheme of service, the requirements for the post of Senior Examinations Assistant regarding qualifications are as follows:-

“By promotion from the grade of Examinations Assistant on the basis of experience and merit, with at least four years’ satisfactory experience in the grade of Examinations Assistant”.

1. For the past years, while filling vacancies in the grade of Senior Examinations Assistant, the senior most Examinations Assistant were promoted.

2. As at August 2003, the seniority list in the grade of Examinations Assistant was as follows:-

NAME	DATE JOINED MES	DATE APPOINTED EXAMINATIONS ASSISTANT
R Guiness	27.4.1987	01.9.1993
S Sashala Naik	27.4.1987	01.9.1993
B Gobin	27.4.1987	01.9.1993
S Baummy	01.8.1988	01.5.1994
L Samoisy	14.7.1989	01.10.1995

3. On 22 August 2003, Management advertised vacancies in the grade of Senior Examinations Assistant.
4. In November 2003, interviews for the post of Senior Examinations Assistant were held.
5. On 8 March 2004, Mr Guiness who was the senior most Examinations Assistant was promoted as of Senior Examinations Assistant
6. In July 2004, vacancies occurred in the grade of Senior Examinations Assistant, Messrs Naik and Gobin who were the senior most in the grade of Examinations Assistant were expecting to be promoted.
7. On 20 August 2004, management issued a circular informing that Mr S Baummy and Mrs L Samoisy have been promoted as Senior Examinations Assistant with effect from 13 August 2004. See Annex B
8. The Union made representations to management concerning this appointment. The then Chairman of the MES Board, Me R Pursem was

consulted and agreed to look into the matter for a settlement. However sometimes later, he resigned as Chairman of the MES Board .

9. On 21 January 2005, the union declared a trade dispute. The reasons were as follows:-

Whether vacancies in the grade of Senior Examinations Assistant should be filled by the senior most officers in the grade of Examinations Assistant or otherwise

In the affirmative, whether Examinations Assistants Mr Sagadeven Sashala Naik and Mr Beenaswar Gobin who are the senior most Examinations Assistant at the MES should be promoted to the post of Senior Examinations Assistant with back date effect as from 13 August 2004.

10. The arguments on which the union based itself are as follows:-

- (a) As per to the scheme of service for the post of Senior Examinations Assistant, appointment is made by **promotion** from the grade of Examinations Assistant

Whereas for other grades in the MES, for example, for the grade of Examinations Assistant, Confidential Secretary, etc, appointment is made by selection from the grade of Examinations Clerk, Clerk/Processing Operator, etc.

- (b) Again, as per the scheme of service of Senior Examinations Assistant, it is mentioned that promotion is made on the basis of **experience and merit** whereas for other grades, for example, Examinations Clerk, it is mentioned that selection is made on the basis of **qualifications, experience and merit**. Qualifications is not mentioned as criteria to

determine the choice of the candidate for the grade of Senior Examinations Assistant

- (c) Messrs Naik and Gobin were positively recommended by their superiors, i.e, they had no adverse report and had the necessary experience and merit as their attention had never been drawn by their superiors to any shortcoming in the performance of their duties and their conduct.
- (d) It is to be noted that during period 1993 to 1995, Mrs L Samoisy (Exams Clerk) worked under the supervision of Mr B Gobin (Exams Assistant)
- (e) Mr S Baummy proceeded on leave without pay for a period of 3 years to take employment in another organization. Thus reducing his working experience as Examinations Assistant by 3 years.

The Respondent did not file any Statement of Case.

When the matter was called to be heard on the merit, the Respondent informed the Tribunal that a restructuring exercise is being carried out by the Respondent at present and the representations of the Applicant, including the issues before the Tribunal will be looked into in the course of the exercise.

The Applicant agreed to that stand.

Both parties moved for an award in terms of that agreement.

The Tribunal awards accordingly.

R. Hossen
Acting President

B Ramburn
Member

V Lingachetti
Member

24th October 2005