

PERMANENT ARBITRATION TRIBUNAL

AWARD

RN 896

BEFORE

Rashid Hossen	-	Acting President
M. Goinden	-	Member
B. Ramburn	-	Member

In the matter of:

Mrs Danielle Bertrand

And

Cargo Handling Corporation Ltd

Section 82 (1) (f) of the Industrial Relations Act 1973, as amended allows the Minister of Labour, Industrial Relations and Employment to refer a dispute to the Permanent Arbitration Tribunal for its settlement.

The Terms of Reference read:

"Whether Mrs Danielle Bertrand should have been appointed as Accounts Officer with effect from 01 May 2005, or otherwise"

Mrs Danielle Bertrand, the Applicant avers in her Statement of Case that she joined the company on 1987 and was employed as Typist. She has been promoted as Accounts Clerk on 01 June 1990. With the commissioning of the Salary Restructuring Committee in 1997 and the recommendations, which emanated there from, the post was further restyled to Senior Executive Assistant. Sometime in 2002, it came to the knowledge of the applicant that her juniors in the grade were earning more than what she perceived and that her terms and conditions of employment were not being adhered to. The dispute arose regarding salary bracket and seniority position.

The applicant reported the case to the Minister and the matter was sent to the Labour Relations Branch for mediation and conciliation. After different meetings between parties, a mutual agreement was reached between parties whereby the applicant was paid arrears and reinstated in her seniority position. The respondent has promoted another junior clerk as Accounts Officer in lieu and place of the applicant with a back dating effect as from September 2003. The applicant avers that as of right she should have been offered promotion in the first instance. The applicant also argues that all promotions in the company are based on seniority and merit. The principles directing promotion are governed by the contents of the Scheme of service stipulating that such exercise is made by promotion and not by selection.

There is no agreement on sectorial promotion in the corporate services. The billing of vessels was formerly done manually and the utilisation of the NAVIS system is merely a shifting from one tool to another. There has been a marked discrimination in the offer of NAVIS courses to employees. The principle of segregation of duties cannot tantamount to disregarding the promotional avenue and the seniority position of any employee.

On the basis of the above, the applicant prays the Tribunal to award that

- Applicant should be promoted as Accounts Officer with effect from August 2003 or otherwise.
- Applicant should be reinstated in her seniority position.

Whereas the Respondent, Cargo Handling Corporation Ltd avers that Mrs D. Bertrand's salary was adjusted in line with her other colleagues as per paragraph 11 of the general conditions of the SRC which stipulates that an employee joining a grade should not earn more than his counterpart already in the grade.

With the implementation of the Salary Restructuring Committee in July 2003, the new organizational structure of the Finance Department was divided into 4 main sections, namely: Stores, Procurement, Payroll and Cash Management and Billing.

Furthermore, the job description of every Account Officer is well defined as per Section of the Finance Department. The post of Accounts Officer in the Billing Section was vacant and consequently the Accounts Assistant in that Section was promoted on the basis of merit and experience as per SRC recommendation. Furthermore, the Accounts Assistant in the Billing Section has followed a training in Navis System and she is more qualified and experienced to fill in the post of Accounts Officer in the Billing Section.

Management avers that Mrs D. Bertrand does not have any claim for the post of Accounts Officer in the Billing Section since she is posted in the Stores/Procurement Section.

Management further avers that in the event of vacancy of Accounts Officer in the Stores/Procurement Section, Mrs D. Bertrand could be considered for promotion in that Section of the Finance Department. Mrs. D. Bertrand does not have any justification to her claim.

When the matter was called for hearing on 26 April 2006, both parties informed the Tribunal that they moved for an Award in terms of the following agreement:

- "1. Mrs D. Bertrand would be granted a responsibility allowance representing 3 increments pending the creation of the post of Accounts Officer in the Purchasing Procurement Section; and
2. the responsibility allowance will be granted to Mrs D. Bertrand to perform additional duties as per recommendations of the Finance Manager."

The Tribunal awards as per the agreement.

R. Hossen

Ag. President

B. Ramburn

Member

M. Goinden

Member

Date: 22 May, 2006