

# PERMANENT ARBITRATION TRIBUNAL

## AWARD

RN 917

BEFORE

Rashid Hossen	-	Acting President
Masseelamane Goinden	-	Member
Binnodh Ramburn	-	Member

In the matter of:

Mr Shyam Teeluck

And

Grand Port/Savanne District Council

In Presence of

The Ministry of Civil Service & Administrative Reforms &  
Ministry of Local Government

This dispute has been referred by the Minister in charge of Labour, Industrial Relations and Employment for arbitration by virtue of Section 82(1) of the Industrial Relations Act 1973 as amended.

The Terms of Reference read:-

*"Whether Mr Shyam Teeluck is entitled to the refund of the annual subscription fee paid to the Institute of Chartered Secretaries & Administration (ICSA) as per paragraph 13.20 of the Pay Research Bureau Report 2003."*

The applicant avers in his Statement of Case:

1. He joined the Grand Port Savanne District Council in 1994 as Assistant Secretary on the basis of his holding the Institute of Chartered Secretaries and Administration (ICSA) professional qualification. Since 09 July 2003 he has been promoted as Deputy Secretary of the Council.
2. He is a member of the ICSA since 01 August 1993. The ICSA is a professional body regrouping Chartered Secretaries working in the private and public sectors. It is a body corporate established under the Royal charter in the United Kingdom and is recognized by the National Equivalence Council and other provisions of the law e.g Section 111 of the Companies Act. As an associate member of the institute he is bound to abide by its rules of professional conduct and in the event of non compliance, his name could be written off from the roll of membership as a disciplinary measure.
3. His registration with the ICSA allows him to receive periodicals issued by it so as to keep abreast of latest development/information in the field of law and management.
4. He opted to be regulated by the recommendation of the P.R.B. Report 2003. One of its recommendations at Para 13.20 reads "that the payment of the annual subscription be extend to professionals who though not required to be members as per their schemes of service".
5. On the basis of the above recommendations, he applied to benefit the above entitlement.
6. On 17 August 2005, i.e after more than one year, he was informed that his request could not be acceded to in accordance with paragraph 13.19 of the report.

7. On 14 September 2005, he informed his employer that he applied for payment of annual subscription fee as per para 13.20 of the PRB Report and not Paragraph 13.19.
8. On 16 September 2005, he was flatly requested to read para 13.20 instead of 13.19 appearing in the second line of the letter under reference.
9. On 20 September 2005, he informed the Ministry of Labour and Industrial Relations of the existence of an industrial dispute.
10. He attended meetings of the Conciliation and Mediation division of the Ministry on 13 October 2005, 15 November 2005 and 17 January 2006 without success.
11. In the meantime i.e, on 27 October 2005, a final appeal was made by him to his employer to review its decision. He has been given to understand that his employer despite its willingness to pay the subscription fees is bound by the recommendation made by the Ministry of Civil Service Affairs (MCSA) in this matter.
12. He admitted that the approval of the MCSA is required in this case. However, any decision of the MCSA should be made according to law, sound administrative practice and reasonableness and not on irrelevant considerations.
13. A copy of the letter dated 12 January 2006 addressed to his employer by the Ministry of Local Government was handed to him on 17 January 2006 during the final meeting at the Conciliation and Mediation Division. Going through the content of the letter and a reading of the phrase "he is not employed as a professional in his capacity" may imply that the MCSA has not interpreted correctly or given due consideration to paragraphs 13.18 and 13.20 of the PRB Report. Professionals to which the MCSA is referring to are already covered by Para 13.19 of the Report. If the payment of annual subscription depends upon his employment as, a professional in his capacity of Deputy Secretary, it would defeat the purpose of paragraph 13:20 in the Report. Para 13:19 caters for those whose appointments are made on the basis of professional qualifications whereas Para 13:20

caters for those whose appointments are not made on the basis of professional qualifications but who are professionals in the service.

14. He prayed the Tribunal so that the Ministry of Local Government and Ministry of Civil Service Affairs and Administrative Reforms could be joined as parties to the present proceedings in order they can be bound by the award of the Tribunal and to produce relevant records and letters exchanged between them so as to shed light on the way the MCSA has been interpreting paragraph 13:20 of the report and dealing with the matter.
15. Moreover, Para 4 of the letter of 12 January 2006 from the Ministry of Local Government is irrelevant since the refusal to pay subscription fees of PAS and AS in the Civil Service could have been made on the same erroneous grounds.
16. He averred that in his case, though the scheme of service for the posts of Assistant Secretary and Deputy Secretary do not require the holding of a professional qualification (though that of Chief Executive, which is his next promotional grade, makes such provision), the payment of the annual subscription fee ought to be extended to him in his capacity as a professional in the service. It would be totally absurd to say that a member of a professional body is not a professional.  
In line with para 13:18 of the report, it is the policy to promote professionalism in the public sector and not vice versa. "We are providing an incentive as a compensation to those people who are registered members of recognized Institutes/Bodies".
17. He therefore prayed the Tribunal to make an award so as to allow him to benefit the entitlement as prescribed by Paragraph 13:20 of the P.R.B. Report 2003.

At the sitting held on 5 th July 2006, the representative of the Ministry of Civil Service and Administrative Reforms informed the Tribunal that the Ministry is agreeable to Applicant's demand.

The Tribunal awards as per the Terms of Reference.

**Rashid Hossen**

**Ag President**

**Masseelamanee Goinden**

**Member**

**Binnodh Ramburn**

**Member**

**Date: 25 July, 2006**