

PERMANENT ARBITRATION TRIBUNAL

Award

RN 840

Before:

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

In the matter of:-

Doorgapersad Mohit

And

Industrial and Vocational Training Board

This matter has been referred by the Minister of Labour, Industrial Relations and Employment for Compulsory Arbitration by virtue of **Section 82 (1) (f) of the Industrial Relations Act 1973**, as amended.

The point in dispute is:-

“ Whether the salary of Mr D Mohit, vis à vis his colleagues Training Officers, should be adjusted Pre-PRB 2003 and the relevant fringe benefits be granted to him, or otherwise”

In his Statement of Case, the Applicant avers that:-

1. Mr Doorgapersad Mohit joined the Civil Service in 1971. He was recruited by the IVTB as Senior Instructor in January 1993. He was promoted to the post of Curriculum Officer (C.O) on 6 April 1994 with the following salary scale:-

7500 x 250 – 9000 x 300 – 9600 x 400 – 11200 Q.B 11600 x 400 – 13600

He was first appointed as C.O on a temporary basis with a flat salary of Rs13,200. Then, as C.O in a substantive capacity he drew the top salary of Rs13600.

2. In September 1993, the IVTB converted the post of his juniors, known as **Instructors scale A**, to that of **Training Officers (T.O)**.
Later, Instructors scale B were upgraded to T.O
3. As per the then PRB Report the post of CO ranked above those of the Training Officer (T.O) and Senior Instructor (S.I).
4. Moreover, in the IVTB Organisational Chart, the post of CO was at the same level as that of Assistant Managers (A.M) .
5. Thus the posts of T.O and S.I were junior to that of C.O.
6. In 2002, before the Permanent Arbitration Tribunal, (PAT) the IVTB agreed to review the salary scales of T.O and A.M to bring them to the same level as that of Assistant Lecturer/Lecturer and A.M at the Technical School Management Trust Fund respectively with the following salary scales:-

T.O

12570 x 400 – 12970 x 500 – 15470 x 600 – 21470

A.M

20870 x 600 – 22070 x 700 – 24170

7. The IVTB gave no consideration to the fact that such a situation would adversely affect the rights of C.O to their detriment inasmuch as the latter would be downgraded vis à vis the T.O as the salary scale of the C.O was:-

10770 x 300 – 11370 x 400 – 12970 x 500 – 15470 x 600 – 16070 CB 16770 x 600 – 19670

8. The comparative table below illustrates the serious imbalance created following the PAT award:-

Post	Before PAT award	After PAT award
T.O	Rs 8 070 – 19 670	Rs12 570 – 21 470
A.M	Rs 12 570 – 21 470	Rs 20 870 – 24 170
C.O	Rs 10 770 – 19 670	Status Quo

9. Moreover, the award also affected the PRB ranking of C.O vis à vis T.O, i.e before the award C.O was at No. 17 and T.O at No. 16. After the award T.O is at No. 21 and C.O moves back to No. 20.
10. Moreover in the PRB 2003 Master Conversion Table, the present salary of Mr Mohit is at point 61 (Rs24550) whereas that of T.O is at point No. 64 (Rs26800).

11. After the PAT award of 7 March 2002 the A.Ms and some T.Os were entitled to 100% duty remission for the purchase of a car whereas the C.O was granted only 60% duty remission.
After the Independent Arbitrator Report of 3 February 2003 many T.Os were also entitled to 100% duty remission while this benefit was not afforded to the C.O who is more senior than the T.O.
12. However, the qualification requirements for the post of C.O are higher than for A.M and T.O inasmuch as the C.O need to have 5 years experience in curriculum design and training over and above the basic qualifications for A.M and T.O .
13. The requests of Mr Mohit to the IVTB were tersely rejected and he was simply advised to submit his grievance to the PRB.
14. In January 2003, the IVTB advertised for the post of C.O on contractual basis with the usual salary range : - Rs10770 – Rs19670. But the selected candidate is being paid a higher salary than the advertised top salary of Rs19670 and therefore became eligible for 100% duty remission for the purchase of a car.
15. More surprisingly, the IVTB has recently decided to upgrade Technical Instructors Scale B (junior to C.O) to the post of T.O.
16. In the same spirit the IVTB has increased the salary of Senior Instructors (S.I), a post occupied by Mr D Mohit before his promotion to C.O, beyond the recommended top salary, i.e from Rs17870 to Rs21470.

The Respondent on the other hand made the following averments in its Statement of Case:-

- IVTB decided to convert the post of Instructor "A" to that of Training Officer (being given the salary scale for the post of Instructor "A" was similar to the first segment of then salary scale of Training Officer (as at QB). The salaries were as follows:-

Instructor A : Rs6000 x 200 – 7000 x 250 – 9000 x 300 – 9600 x 400 – 11200

Training Officer: Rs6000 x 200 – 7000 x 250 – 9000 x 300 – 9600 x 450 x 11200 x
QB x 400 - 13600

(The salary point beyond QB in the scale of T.O is applicable to degree holders)

- IVTB's decision was to consider appointing Instructor "B" as T.O as and when they upgraded their qualifications.
- Both the grades of Training Officer and Curriculum Officer carried the same top salary point and were therefore at par. However the grade of Curriculum Officer was higher than that of Senior Instructor.

The relevant salary scales were as follows:-

Curriculum Officer:- Rs7500 x 250 – 9000 x 300 – 9600 x 400 – 11200 – 11600 x 400
– 13600

Training Officer:- Rs6000 x 200 – 7000 x 250 – 9000 x 300 – 9600 x 400 – 11200 x
400 – 13600

Senior Instructor:- Rs9000 x 300 – 9600 x 400 - 12000

- Hierarchy of post is determined by salary attached to the post. The post of AM carried a higher salary scale than that of C.O. The Organisational Chart referred to was an administrative tool indicating reporting lines within the division/section. It did not reflect the hierarchical level of posts.

- The post of T.O and C.O were at par. Whilst the post of S.I was junior to C.O.
- There was a dispute between the IVTBSU v/s IVTB which was referred to PAT. The dispute concerned the alignment of salary of T.O to that of similar grade of the Technical School Management Trust Fund. On 07 March 2002, the PAT issued its award which provided for the alignment of the salary of T.O to that of similar grade of the Technical School Management Trust Fund.
- It was a dispute which was referred to the PAT by the Ministry of Labour and Industrial Relations for consideration. The issue in dispute was as to whether the salary of T.O and A.M of IVTB should not be at the same level as that of similar grades at the Technical School Management Trust Fund. The PAT awarded accordingly.
- The salary relatively had been disturbed not only vis à vis all other grades on the establishment of the IVTB and PRB was consequently requested by IVTB to redress the situation.
- The relativity has already been addressed to by the PRB in its report of 2003. The salary scale for both pools as per the PRB Report 2003 are:-

Curriculum Officer:- Rs14200 x 400 – 15000 x 500 – 17000 x 600 – 20000 x 800–
21600 x 900 – 22400 x - 27200

Training Officer:- Rs14200 x 400 – 15000 x 500 – 1700 x 600 – 20000 x 800 – 21600 x
900 – 22400 X ... 27200
- The grade of A.M was already eligible for 100% duty remission as per the PRB Report 1998, T.Os who reached the salary point of Rs20270 were also eligible for 100% duty remission as per the provision of the PRB Report 1998.

- An Independent Arbitrator was appointed to recommend on the conversion methodology to be adopted for the implementation of the salary scale recommended by the PAT in its award of 07 March 2002. The arbitrator recommended for a point to point conversion following which many T.Os were converted to the top point of their scale (Rs21470) whereby they became eligible for 100% duty free car.
- The qualification required as per the Scheme for the 3 grades are a degree, though for C.O, relevant experience is asked for.
- Since issues relating to salary and conditions of service in public service and parastatal bodies were dealt with by the PRB, Mr Mohit was advised to submit his grievances to the PRB.
- The selected candidate was a Training Officer who was already drawing the top point of scale of T.O which was Rs21470. The top salary point for C.O is Rs19670. It would not be in order to lower his salary point upon his appointment as Curriculum Officer on contract basis. Furthermore, for appointments on contractual terms, salary can be negotiated upon and personal salary can be granted as per the PRB Report. However, were the selected candidate to be offered substantive appointment, then his salary would have been within the prescribed salary scale.
Mr Mohit was on establishment while the selected candidate is on contract.
Comparison was therefore not appropriate.
- Since 1993, there was a policy approved by the IVTB Council to the effect that Instructors who upgraded their qualifications would be considered for appointments as T.O.
- The 4 Senior Instructors in post had been appointed as T.O as a result of which they were paid salary in the salary scale of T.O.

- IVTB is not empowered to upgrade the status of any post. The PRB is responsible to review the salary and conditions of service for IVTB.
- Hierarchy of post is determined by salary attached to it. The post of A.M carried a higher scale than that of C.O. The Organisational Chart referred to was an administrative tool indicating reporting lines within the division/section. It did not reflect the hierarchical level of posts.
- Seniority within a grade is determined by reference to the date the employee joins the grade. Seniority between different grades is determined by reference to the top salary point of the grade.
- It is the PRB which is responsible for reviewing the salary scale and conditions of service for the IVTB. Mr Mohit is being paid salary as recommended by the PRB. He has already reached on top point of his scale.

Mrs Green-Jokhoo, Senior State Counsel who appeared for the Respondent, argued before any testimonial evidence was adduced that the Tribunal cannot entertain the present matter inasmuch as it does not fall within the purview of an “industrial dispute” as defined by the **Industrial Relations Act 1973**, as amended. Her stand is that the Applicant having signed an Option Form in favour of the conditions of work as provided by the PRB 2003, he is estopped from bringing a dispute.

Mr V Ramchurn for the Applicant readily conceded to that point and left the matter in the hands of the Tribunal.

The Tribunal considers that by virtue of **Section 3 of the Industrial Relations Act 1973** (reproduced below), it has no jurisdiction to entertain the present matter.

“3. Section 2 of the principal Act amended

Section 2 of the principal Act is amended –

(a) *in the definition of “industrial dispute” by deleting paragraph (a) and replacing it by the following paragraph –*

(d) *a contract of employment or a procedure agreement except, notwithstanding any enactment, those provisions of the contract or agreement which -*

(i) *concern remuneration or allowance or any kind; and*

(ii) *apply to the employee as a result of the exercise by him of an option to be governed by the corresponding recommendations made in a report of the Pay Research Bureau.*

(b) *by inserting in its appropriate alphabetical place the following definition –*
“Pay Research Bureau” means the bureau referred to in the yearly Recurrent Budget under the Vote of Expenditure pertaining to the Prime Minister’s Office”.

The dispute is therefore set aside.

(sd) Rashid HOSSEN
Acting President

(sd)Binnodh RAMBURN
Member

(sd)Masseelamane GOINDEN
Member

Date: 13th December 2007