

PERMANENT ARBITRATION TRIBUNAL

AWARD

RN 788

BEFORE

Rashid Hossen - Ag. President

Binnodh Ramburn - Member

Rajendranath Sumputh - Member

In the matter of:

MSIRI Manual Workers' Union

and

Mauritius Sugar Industry Research Institute

The present disputes have been referred for Compulsory Arbitration by the Minister responsible for Labour, Industrial Relations and Employment in accordance with section **82 (1) (f) of the Industrial Act 1973** as amended.

Mr A. Domingue, of Counsel, appears for the Applicant.

Mr R. D'Unienville, Q.C. appears for the Mauritius Sugar Industry Research Institute (MSIRI).

The Terms of Reference read:

1. Whether the salary structure and classification Table of Posts should be as per Annex I or otherwise.
2. Whether the system for the payment of Cost of Living Compensation applicable to the Staff grade and the Managerial grades should be extended to the Manual grades or otherwise.
3. Whether the system of computing the Pension Benefits of the Staff and Managerial grades should be extended to the Manual grades or otherwise.
4. Whether the contribution payable to the Medical Scheme for the manual grades should be increased at par with the Staff and Managerial grades to allow SICOM to provide the same/similar benefits enjoyed by the staff and managerial grades under MEFPA or otherwise.
5. Whether the Club House of the MSIRI should be opened to all employees of the MSIRI including the Manual grades or that alternative facilities be provide to them or otherwise.
6. Whether the Transport Loan should be opened to allow Manual Employees to have the same facilities as Staff grades or otherwise.
7. Whether the Vacation Leave Scheme should be as per Annex 2 or otherwise.
8. Whether the Promotion Procedures should be as per Annex 3 or otherwise.
9. Whether training facilities should be extended to Manual grades or otherwise
10. Whether overtime should be rationalized or otherwise
11. Whether a Family Scheme should be set up same as the Staff and Managerial Grades or otherwise.
12. Whether time off facilities should be granted to Union Representatives or otherwise.
13. Whether leave without pay should be granted or otherwise.
14. Whether casual workers should be integrated in the Permanent Establishment or otherwise

Annex I (Part A)- Classification Table of Posts

- *Level I*
- *Trademan I*

- *Senior Laboratory Attendant*

- *Senior Office Attendant*

- *Senior field Attendant*

- *Gangman*

- *Driver I*

- *Level 2*

Tradesman II

Laboratory Attendant

Office Attendant

Field Attendant

Assistant Gangman

Driver II

Level 3

- *Senior Labourer*

- *Gardener*

- *Nurseryman*

- *Watchman*

- *Sampler*

Level 4

Labourer

Annex I (Part B) – Salary structure effective as from 1.7.2001

- *Level 1 9700 x 200⁽⁷⁾ – 11000 x 300⁽⁹⁾ – 13800*
- *Level 2 8750 x 150⁽⁵⁾ -9500 x 200⁽⁸⁾ – 11000 x 300⁽¹³⁾ – 12000*
- *Level 3 7500 x 150⁽¹³⁾ – 9500 x 200⁽¹³⁾ – 10100*
- *Level 4 5450 x 150⁽¹⁶⁾ – 7850*

In the master scale :- 5000 x 150 -9500 x 200 – 11000 x 300 -13800.

Conversion: Point to point

Annex I (Part C) – Long Service & Very Long Service Allowance

The Long Service Allowance to be paid as from top. Point 12 as follows:

Point 13 2 years at top

Point 14 4 years at top

Point 15 6 years at top

Point 16 8 years at top

Point 17 12 years at top

And the Very Long Service Allowance

5 years after point 17-5%

7 years after point 17-10%

Annex 2

<i>Monthly Salary</i>	<i>Length of Service (in years)</i>	<i>Leave Earning Rate Per annum (in days)</i>	<i>Maximum Leave to be accumulated (in days)</i>
<i>Less than Rs 9300</i>	<i>Up to 5</i>	<i>20</i>	<i>75</i>
	<i>5 + to 10</i>	<i>25</i>	<i>90</i>
	<i>10+ to 20</i>	<i>30</i>	<i>120</i>
	<i>Over 20</i>	<i>35</i>	<i>150</i>
<i>Rs 9300-less than Rs 15500</i>	<i>Up to 5</i>	<i>25</i>	<i>90</i>
	<i>5 + to 10</i>	<i>30</i>	<i>120</i>
	<i>Over 10</i>	<i>35</i>	<i>150</i>

Annex 3 Promotion

The system to provide for promotion from class to class and promotion from grade to grade

- 1. From class to class*

The following posts have to be advertised internally and candidates having the required entry grade qualifications may be selected by interview on the basis of:

- 1. Years of service at MSIRI*
- 2. Experience acquired in the job*
- 3. Additional qualification and*
- 4. Personal File (conduct)*

Tradesman II

Laboratory Attendant

Office Attendant

Assistant Gangman

Driver II

Gardener

Nurseryman

Watchman

2. *For grade to grade*

The following posts to be filled by appointed of the senior most employee who has no adverse report during the previous 5 years.

Tradesman I

Senior Laboratory Attendant

Senior office Attendant

Senior Field Attendant

Gangman

Driver I

Senior Labourer

The post of Labourer to be filled among casual labourers having completed 2 years service

Disputes Nos. 2,6, and 7 are withdrawn

In its Statement of case, the Union avers that:-

1. Regarding **dispute No.1**, the Tribunal has to determine
 - (a) Whether the Classification Table of Posts recommended by the Salary Commission should be as recommended by the Salary Committee or as per the Union stand. The proposal of the Union implies a merging of Levels 1 and 2 on the ground that these employees perform the same duties.
 - (b) Whether the Salary structure should be reviewed to bridge the gap between Staff Grades and the Manual Grades. The union contends the relativity between these two categories have been disturbed to the extent that we may reasonably say that the salaries of the manual grades have been downgraded.

Dispute No. 3. The union avers that

- (a) MSIRI Employees are covered by NPS or the SIPF Scheme. Contribution of employees is calculated on 3/5% of their basic salary up to the prescribed ceiling and that of the employer is 6/7%
- (b) The formula for calculating the pension by SIPF is laid down in the rules of that pension fund.
- (c) The MSIRI staff employees benefit over and above the SIPF Pension Scheme, from a special pension scheme. The formula for calculation of pension under this scheme is 2/3 of pensionable emoluments. The manual grades have been excluded from this scheme.
- (d) The non-staff grade get in lieu of an additional pension, a lump sum calculated on basis $\frac{3}{4}$ of their monthly salary, times their year of service.

- (e) The Union contends that this glaring discrimination should be removed from the existing conditions of employment and the lump sum payment should be replaced by a pension under the existing scheme applicable to the staff grades only.

Dispute No. 4. The Union avers that:

- (a) The Manual Grades are covered by the SICOM scheme
- (b) The Staff grades are covered by the MEFPA scheme.
- (c) This is another case where the staff grades draw benefits that are far higher than the manual grades. The Union is requesting that the medical benefits provided by the SICOM be increased to the level of the MEFPA scheme.
- (d) The Union contends that this discrimination in the conditions of employment should also be removed.

Dispute No. 5. The Union avers that:-

- (a) There exists a Club House at the MSIRI opened to the Staff grades only
- (b) In addition to the fact that the Institute provides the building and all its amenities, it contributes to its funds
- (c) The Income and Expenditure Account for period ending 28 February 2001 provides information on the activities of the club House.
- (d) The Union is claiming that the Club House be opened to all the employees of the MSIRI or otherwise that alternative facilities be provided to them.
- (e) The Union contends that this is another class discrimination in the treatment of employees at the MSIRI.

Dispute No 8. The Union avers that:

Promotion consists of 2 elements: A career path and procedures to promote employees. The Union has proposed the following:

- (a) That any vacancy in any grade be advertised internally first
- (b) That entry qualifications be introduced for non-promotional posts
- (c) That years of service (seniority) be applied for promotional posts
- (d) That the other criteria be Additional qualifications, experience in the job and conduct.

Above are procedures and criteria for appointment and promotion which are generally adopted in other companies. There is no justification for the MSIRI to select employees and to promote them on an ad hoc basis.

Dispute No 9. The Union avers that:

- (a) There exists a Training Centre at the MSIRI providing training to MSIRI employees and those of the sugar industry (Staff and Manual Grades combined)
- (b) The categories concerned are:

MSIRI : As from Technical Assistant

The Sugar Industry : All manual grades and all staff grades
- (c) The question is: Why such facilities are not extended to MSIRI non staff grades?
- (d) In the context of the actual grading structure, promotion is made on the criterion of seniority except where the employees do not have the appropriate skills and qualification.
- (e) It is therefore imperative that training be granted to Manual Grades. Staff Grades benefit also from an Educational Scheme.

Dispute No 10. The Union avers that:

- (a) As per existing practice only employees protected by supervising staff are allowed to work on overtime.
- (b) The Union is requesting that overtime be equally shared among the employees
- (c) The Union contends that the practice of selective overtime creates much frustration and affects considerably inter personnel relationship.

Dispute No 11. The Union avers that:

At the MSIRI, the staff grades are allowed facilities to organize private and staff parties. Not the Manual employees. They are involved in attending such activities as cleaners, cooks and waiters.

Dispute No 12. The Union avers that:

- (a) The actual facilities of 2 hours monthly to attend FPU activities and 1 hour monthly to attend to Union activities are not enough. Such facilities are granted to the President of the Union only.
- (b) The Union contends that the actual scheme should be amended as follows:
 - Release as from 13.00 hours to attend the FPU Monthly Executive Committee Meeting. To a maximum of 3 Representatives
 - Release to attend Seminars organized by the Ministry of Labour and Industrial Relations, TUTF and the FPU on matters such as Trade Union Education, Health and Safety. The release should be with pay.

Dispute No 13. The Union avers that:

Leave without pay is needed when an employee has to follow educational courses, to proceed on overseas leave etc. The Union contends that such facilities exist in all sectors comparable to MSIRI.

Dispute No 14. The Union avers that:

- (a) The Institute employs casual employees.
- (b) With a view not to appointing them on its P & P establishment the MSIRI terminates their contracts of employment on a roster basis. They are re-employed on a new contract after 1 month.

The Union considers this practice as abusive and requests that all those casual employees who have worked for the MSIRI for more than 2 years be absorbed on the P &P Establishment.

In its Statement of Case dated 24 October 2003, the Respondent avers that:

- (a) The MSIRI's mission is to "carry out highly research and development on sugar cane and other crops to meet agricultural, commercial and social needs of Mauritius"
- (b) It is a statutory Non-Profit Making Organisation governed by a Board comprising of 7 representatives of the sugar industry, millers as well as planters, and 3 representatives of Government.
- (c) The MSIRI is financed mainly by access on sugar produced.
- (d) The MSIRI has no reserve funds and cannot take any loan.

Dispute No 1. The Respondent avers that:-

This point in dispute has been studied, examined and recommendations made in Chapter 1, pages 1 to 8 of the Salary Commission Report (Document H).

Dispute No 3. The Respondent avers that:-

A pension scheme was proposed to the Union in 1995. However, after protracted negotiations a vast majority of workers (156 out of 196 employees) rejected the setting up of a Pension Scheme (Document 0). They preferred the Retirement and Death Gratuities paid as stated in the

Agreement signed with the Union on wages and conditions of Employment, that is, similar to the retirement and death gratuities paid in the Sugar Industry Remuneration Orders.

Dispute No. 4. The Respondent avers that:-

In 1994, Management proposed to the Union a Medical Scheme offered by the Mauritius Employers Federation Provident Association (MEFPA) as for staff employees. However, the proposal was turned down. The Union preferred the SICOM Medical Scheme (Document P-Section 5). The Salary Commission has maintained the existing provisions of the SICOM Scheme at Sections 2.50 and 2.52 at page 14 of the Report (Document H).

Dispute No. 5. The Respondent avers that:-

The MSIRI caters for separate Mess rooms facilities for Staff employees, Attendants and Labourers. Management grants recreational facilities to both staff and manual employees. Support staff is welcome to use their mess rooms for games and other activities since these rooms are employed for lunch on every working day and are under-utilised at present.

Dispute No. 8. The Respondent avers that:-

This point in dispute has been studied, examined and recommendations made at Section 2.25 to 2.26 at page 11 of the Salary Commission Report (Document H).

Dispute No 9. The Respondent avers that:-

Training facilities are provided to manual grades employees in their field of work and depending on needs for training at per Corporate goals at the MSIRI.

Dispute No 10. The Respondent avers that:

This point in dispute has been studied, examined and recommendations made at Section 2.61 to 2.74 at pages 16 to 18 of the Salary Commission Report (Document H).

Dispute No 11. The Respondent avers that:

No such Scheme (Family Scheme) exists at the MSIRI

Dispute No 12. The Respondent avers that:-

Time off facilities are granted to Union representatives (Document Q)

Dispute No 13. The Respondent avers that:-

It is not the Policy of the MSIRI to grant leave without pay. However, this leave may be granted exceptionally on compassionate grounds and to proceed overseas for medical treatment after the employee has exhausted his sick and Vacation Leave Entitlement.

Dispute No. 14. The Respondent avers that:-

Appointment are not being made as provided by the Sugar Strategic Plan due to the precarious financial situation of the Sugar Industry.

In conclusion the Respondent avers that

- A. The MSIRI Board has appointed a Salary Commission to review the Organisational Salary Structure and Conditions of Employment of all employees in order to allow it to continue to meet effectively its objectives in the context of continuous globalization and the implementation of the Sugar Sector Strategic Plan.
- B. It is to be emphasized that 82.5% of the labour force has accepted in toto the report and availed themselves to the new salaries and conditions of employment.
- C. It should be noted that the increase in salaries were granted to all Manual Grade employees as follows:

- 12% on June 1996 salaries for period July 1996 to Dec 1997
- An additional 6% on June 1996 salaries for period January 1998 to June 2001 i.e an increase of 18% on June 1996 wages.
- An average of 12% on July 2002 salaries.

D. Therefore approximately 30% over the past 6 years excluding cost of Living Allowance as granted by the Government Enactment.

E. In spite of major budgetary constraints the MSIRI has constantly endeavoured to improve salaries and conditions of employment of all its employees so as to motivate them and to have a committed Labour Force to meet the objectives and challenges of the Sugar Industry. The salaries and conditions of employment offered to manual grade employees compare more favourably than those obtained in other sector of employment as mentioned at Section 1.31 page 7 of the Salary Commission Report.

F. The MSIRI therefore avers that the claims of the Union are not justified and should be dismissed or alternatively set aside with costs, and prays accordingly.

Mr Beejaye Coomar Appanna, Director, Pay Research Bureau, examined in Chief stated that:-

1. In 2001 the Board of the MSIRI approved the appointment of a Salary Commission to review the salaries and conditions of employment of all categories of employees at the MSIRI.
2. He was appointed as Chairman of that Commission and has 2 assessors namely Mr Alain Noel and Mr Gnany of the Chamber of Agriculture.
3. The terms of reference of the commission was to review the organization of pay structure and conditions of employment at the MSIRI in order to allow it to continue to

meet effectively subjective in the context of continued globalization and the implementation of the Sugar sector Strategy Plan.

4. After listening to evidence he made a report relating to supporting staff (Document H).
5. He supports this document, having nothing to change or modify.

In cross-examination, the witness stated that:-

1. There was another report in respect of pay structures and conditions of employment of staff.
2. Concessions made by staff were converted into salary. Firstly the number of hours of work was increased from 36.25 hours to 40 hours. Also, there was leave, 2 months, 3 months and 4 months – these were rationalized to 2 months. Vacation leave was rationalized to 2 months. In addition, he has taken into account the issue of the staff, the MSIRI lost 10 of its officers from March 2000 to July 2002, one or two to the University of Mauritius.
3. To justify the classification of posts proposed for operative grades, they have taken into account the skills and responsibility at the different levels and they have integrated where could be integrated and they have maintained the 5 categories.
4. Manual workers reach their top salary on the 36th year (20th point). There was a system of long service increment at the MSIRI. The recommendation that he made is one that guaranteed an increase every 3 years whereas it was not standardized prior to 2002. He personally believes and the Commission believes that we have come up with something which improves. A 12 point scale is granted to all manual workers and they will after doing 3 years on the top salary, qualify for an increment and then this will go on for 8 increments, in other words 8 times 3. 24+12 makes 36. On the 36th year they therefore reach the top. There are 20 points on the ladder. The first 12 points are on an annual basis. As soon as they stay for 3 years on the 12th point they are eligible for the next point.

They had only to receive compensation on basis of 6.3 only for the year 2001-2002.

4. Manual grade should draw a relatively higher increase than the staff grades because staff grades have been more fully compensated (inflation rate) than manual workers between year 1996 and 2001.
5. As regard the average of 28% salary increase granted to the staff, there is no problem that the integration represents 15% increase. However he contests that the element of sick leave which represents (.9) day per month.
6. At the end of the day staff grades have been drawing an increase over and above the manual grades which is not justified in the report. Hence, the contention of the Union right from the start is that they could not accept the report on the issue of "déséquilibre dans la relativité entre les salaires du Staff et les Manuels."
7. There has been a greater disparity in the Staff Grades on the one hand and the Manual Grades after the Appanah report than before.
8. As regard the Pension Scheme he stands by what he has said in his Document (dispute No 3)
9. The same treatment should be given to the staff and non-staff concerning the Medical Scheme (Dispute No 4).
10. As far as disputes Nos 5,9,10,11,12 and 13 are concerned these are matters which have been discussed at the meeting of the 23 November 2004 with the Employer. There has been more or less an agreement except that the Employer cannot bind itself.
11. Disputes Nos 2,6 and 7 are withdrawn and the Tribunal is moved to set them aside.

12. They could have come to an agreement concerning disputes No 8 had the Management obtained the green light from the Board.
13. At annex 8 of the Statement of Case of the Union there is a list of 20 employees (some of them have been employed for more than 10 years now). They are working on the basis of 11 months yearly, then a break of one month and then they come back to a new contract. It is time now that they come back to a new contract, and that they be integrated on the permanent and pensionable establishment of the MSIRI. In the past, casual workers were integrated after 2 or 3 years of service but this has been discontinued.
14. The Union is proposing for the classification of manual workers into 4 groups instead of 5.

Mr Appanah, replied that:-

1. The salaries obtaining in 1996 for non-manual grades as well as for manual grades were adjusted using the factor 143.4 (multiplied by 1.434). The rate of inflation from 1996 to 30 June 2002 was 43.4. The report was to take effect from 1 July 2002 following agreement with the staff side.
2. There is a tapering system of increase of compensation that are given at the tripartite. Now with the tapering system of increase those at the lower level are fully compensated and those at the higher level are less fully compensated, so that the rate of erosion is higher for those at the higher level.
3. There has been an agreement that the hours of work be increased from 36.25 to 40 for certain categories of people in the non-manual group and their salary were adjusted multiplying by the multiplier 40 over 36.25. Manual workers were already performing 40 hours work.

4. Further adjustment in the salary of staff were effected (multiplied by 1.083) as half a month of vacation leave and 11 days of sick leave (equivalent to another half a month) were foregone.
5. The manual workers have obtained the minimum – 1.434% for lost of purchasing power since 1996. The initial is 55% for tradesman and 72% for woman labourer. If one takes the salary of benchmark else where one will find that MSIRI lead the other sectors.
6. He finds no reason to come back to any aspect of his report.

Mr Appanah, added that:-

1. He does not think that we can say by and large that the increase for manual grades was in the region of 14 1/2% whereas for the staff grade (for example group 9) it was 36%.
2. He agrees that there has been an average increase of 36% in the wages for group 9 of the staff (Laboratory Assistant, Receptionist, Telephonist /Datakeyer.)
3. In general the Manual grades of the MSIRI are better remunerated than those of the Public Sector.
4. The benchmark comparison was higher, for instance, at the University of Mauritius for non-manual grades and therefore the correction has been made for the non-manual grades.
5. At the time of the review both the manual grades and the non-manual grades are compensated fully. The issue of compensating one more than the other does not arise.
6. The benchmark exercise and the relativity exercise are a complete exercise we are looking at. The benchmark is one of the factors they have taken into account, probably the predominant factor.

7. According to the compensation policy, which has been introduced by the MSIRI, the Manual Grades were getting less in terms of compensation than what their counterparts were receiving.
8. His Report takes effect from 2001-2002 and he cannot speak as regards the previous years. His exercise does not have anything to do with compensation for the intervening period 1996-1997 up to 2001-2002.
9. The rate of inflation was relevant to the fixing of the salaries. If the manual workers were lagging behind on the inflation compensation then they would get more in 2002. This has been done by the correcting factor of 143.7.
10. The adjustment to compensate for the increase in the hours of work applies to all the Staff Grades.
11. The leave foregone in total works out to be around one month and the figure of 8.25 was used for every category of staff to compensate them.
12. It is true that the factor 143.4 was reached with reference to the inflationary figures produced by the C.S.O. The staff grades have been compensated by a uniform increase equivalent to the rate of inflation for period 1 July 1996 to 30 June 2001 and their salaries have been adjusted to 129.2 on the basis of the system of methodology agreement and not 134.9 as stated by the Union.
13. The Union alleged that the salary of the staff grade had to be adjusted by only 6.3% for years 2001 and 2002. Since there is an error in the computation of the Union this figure arrives at 14.2% i.e. 143.4 minus 129.2 so that difference (14.2%) has to be compensated for the non-manual grade.
14. The manual grade should draw the full 143.4 adjustment for period 1996-1997 to 2001-2002.

He further added that:-

1. As regard relativity within the same occupational group, within manual grades, if there is an increase in one grade in the manual category this affects relativity in the manual category, in other words within the same occupation group. It does not necessarily have a bearing on the non-manual group.
2. If there is an increase in the non-manual grades this does not necessarily have an effect on the manual grade because of market realities. The rates have been set for non-manual grades whereas the market realities are completely different for the manual grades.

Mr Jean Claude Autrey, Director of MSIRI, testified to the effect that:-

1. 83% of manual workers opted for the Appanah Report.
2. Sports facilities such as the practice of tennis, volley-ball and 'petangue' are open to all MSIRI employees. For the staff there is a "Mess" where they play and have their lunch. Likewise, the manual workers have their "Mess" for the purpose of lunch and for the practice of different indoor games. There is the "Maison Boname" which is essentially used by Management and the "Boname Hall" is open to all where various activities such as conferences, general assemblies and recreation activities are held.
3. The MSIRI in 1994 proposed to the Union a Medical Scheme offered by the MEFPA as for staff employees. The proposal was not accepted by the Union. They preferred to join the SICOM Medical Scheme. The Union is now requesting the MEFPA Scheme. The Appanah report has maintained the option of 1994 accepted by the Union (the SICOM).
4. Since 1995 the Institute has proposed a pension scheme- same as the staff. However a majority of workers (156 out of 196) rejected the proposal. They preferred their scheme. Now the Appanah report has recommended to maintain the conditions that the Union opted in 1998.

5. The salary and conditions of service offered by the MSIRI as per the Appanah Report are better than in the Public, Private or Sugar Sector.

Mr Autrey further stated that:-

1. The manual workers have their "mess" – it is a comfortable building, where there are tables for indoor games. Outside there are playing grounds for tennis, volley-ball and "petangue" and everybody has access to them.
2. As regard pension, 60% of retiring salary was proposed to manual grades whereas for the staff it is 66.66%. It is not upon the question of the difference of 6% that the majority of workers rejected the pension plan. The issue was that under the scheme in existence they were drawing a substantial lump sum which they wanted to retain, which they would have foregone if they opted for the 60% formula. But in the long run they would be winners.
3. Concerning the Medical Scheme, the MEFPA Plan was proposed to the workers. They rejected it saying that it is something which is owned by the Employer. The scheme itself is very good. What was for the Staff was proposed to the manual workers and they rejected it. They remained in the SICOM Medical Scheme. Between 1996 and 2000 this matter was not brought forward.
4. The Home cinema and the gym-equipment belong to the Staff as they were purchased by them. Sport facilities are open to everybody. It is a matter of getting registered.
5. When we come to the Mess, we have to cater for visitors, for trainees (the Institute is an official Training Centre). If they want food they can purchase them as they are not given free.
6. At the Institute there are different categories of employees. We have PhDs, MScs, high valuable professionals. We have to give them some treatment and this is why there might be a difference, but the difference is due to the status of the

employees. This is the answer to why Rs 13000 is paid by the Institute to the Club House and only Rs 3000 for the mess.

7. Since 1998 the MSIRI has stopped recruiting employees but employs casual labour on a contractual basis- be it for manual or non-manual. In 1997 we were about 177 on the staff. This was cut down to 114. The policy of the Board is not to employ permanent personnel due to the reform programme in the Industry which means substantial decrease in human and financial resources.

In his submission, Mr D'Unienville Q.C. draws our attention to the following:-

1. The Respondent maintains all the points put forward in its Statement of case. 82.5% of the labour force has accepted in toto the Report and availed themselves of the new salaries and conditions of employment.
2. With that percentage of employees who are perfectly happy, he humbly submits that it would be at least something that has to be looked into very seriously and carefully by the Tribunal before disturbing the state of affairs and introducing new conditions as asked by the Union especially on the question of pensions and schemes. The Union is backpedalling. They have adopted an attitude 10 years ago and now they want to come forward again to repeat the same request in a completely different context. In those days their demands were met to a certain extent. In the present financial context of the MSIRI, it is out of question for a re-opening of those questions. They have missed the bus and have to bear the result.

On the question of pension the supposed difference of 6% was never put forward at the relevant time. It is only now that we are hearing a sort of permanent distinction between staff and manual workers. The scheme was rejected but not on that ground.

As regards the Medical Scheme, it was accepted but the Applicants were against the adhering to the MEFPA (which is an association of Employers) and they would rather contact an Insurance Company. SICOM was contacted and the matter was geared in that direction on instructions from the Union.

Mr Domainque, in his submission, highlights the following:

1. There were 14 disputes referred to this Tribunal and 3 of them (Nos. 2,6 and 7) have been withdrawn.
2. Dispute No 1 concerns the salary structure which itself entails the classification of post and the long service increment. His instructions are now not to proceed with the issue concerning long service increment. He lays emphasis on the fact that the main argument is that employees were drawing different compensation for the rise in cost of living up to the year 2000. The staff grades have been drawing their compensation on the full CPI up to June 2001 whereas the manual grades have been drawing the compensation as per government enactment which do not take care of the full CPI. When the exercise of adjustment was made by the Appanah Salary Committee, the salaries of staff grades had to be adjusted for July 2001 only. Whereas the salaries of the manual grades have to be adjusted for period July 1996 to July 2001 for which they have not been fully compensated. Consequently the revised salary of their manual grades should have been relatively higher than the revised salary of staff grades.
3. For the Pension Scheme, the final pension should be calculated on the basis not of 60% of the last pay but on 66.6% as in the case of staff.
4. The problem is two-fold for the Medical Scheme. They say that it would be at par with the staff and the second question is about the beneficiaries. Should it apply also to the spouse and children? There is no quarrel with SICOM continuing to manage the fund.
5. The access to the Club House has been fully ventilated.

6. He leaves it to the Tribunal to look into the promotion procedures, the training facilities and the rationalization of overtime and time off facilities.
7. Concerning the Family Scheme, this is more or less to be dealt together with the access to the MSIRI Club House – manual workers are not receiving the same treatment.
8. The casual employees who have been at the MSIRI for 5 years or more ought after 5 years service, albeit not continuous because there is a gap of one month per year, be absorbed in the Permanent Establishment.

After going through all the documentary and testimonial evidence adduced, we note that:-

- The MSIRI is a statutory Non-Profit Making Organisation governed by a Board comprising 7 representatives of the Sugar Industry (millers and planters) and 3 representatives of Government. It is not governed by the P.R.B.
- 82% of the labour force has accepted in toto the Report and availed themselves of the new salaries and conditions of service.

Dispute No.1. The contention of the Union is that the relativity between the staff grades and the Manual grades have been disturbed concerning the Salary Structure following the Salary Review. They state that the staff grades have been more favourably compensated than the Manual grades – an increase in salary of 12% to 17% for the Manual grades and 31% for the Staff grades. This can be explained by the following factors:-

- (a) There has been an increase in the weekly hours of work for the staff grades from 36.25 hours to 40 hours- an increase of about 10.34%.
- (b) Sick Leave (11 days) and Vacation Leave (5 to 20 days) foregone equivalent to one month and slightly less in some cases.

- (c) Entertainment Allowance of Rs 600 and Rs 400 payable to SSO I and SSO II respectively at 30 June 2002 have been integrated in the salaries recommended.
- (d) Inflation Rate not fully compensated for the year 2001-2002. In addition we should bear in mind the following 2 points.
 - (i) Mr Appanah averred that the benchmark exercise was probably the predominant factor he took into account at the time of the Salary Review. Benchmark comparison was made with the Public sector particularly the University of Mauritius where the benchmark was higher and the MSIRI were losing its "cadres" at the expense of the University.
 - (ii) There is a need to retain and motivate the Institutes' valuable Scientific, Technical, Administrative and other officers because the risk of losing them is great as more and more attractive packages are being offered elsewhere.

As regard the Salary Structure of the Manual grade following the Report of the Salary Commission we are of the considered view that this grade is not earning less than their colleagues elsewhere be it the Public, Private or the Sugar Sector. For instance a Labourer in the Public Service as per the PRB Report of 2003 (which takes effect as from 1 July 2003) is starting with Rs 4800 and tops at Rs 7025. At the MSIRI the Labourer starts with Rs 5000 and tops at Rs 7850.

Furthermore, at page 7 paragraph 1.31 of the Salary Commission Report we can read and this has not been denied:

"It is noted that pay level in force in MSIRI as well as the career prospects for manual grades is in general more favourable than those obtaining for comparable benchmarks."

So the Tribunal is not convinced that it should award in favour of the Applicants concerning the Salary Structure as well as the classification of posts. The last point has been studied by the Salary Commission Report and the 5 categories have been maintained.

Dispute No. 1 is therefore set aside.

Dispute No.2. This dispute has been withdrawn.

Dispute No 3. In the year 2005 Management proposed to set up a Pension Scheme. After explanations and negotiations a majority of workers (156 out 196) rejected the proposition. They preferred the Retirement and Death Gratuities similar to the Retirement and Death gratuities paid in the Sugar Industry Remuneration Order. The lump sum under this scheme, as averred by Mr Autrey, was considered as very important by the workers. In fact they were drawing a substantial lump sum which they wanted to retain and which would have foregone if they opted for the Scheme proposed by Management. Management explained to them that they would be winners, they would not lose. The difference of 6.66% (66.66-60) was not an issue at that time. The scheme was not rejected on that ground.

The Tribunal takes into account that:-

- (a) The salaries of the staff grades have been adjusted to compensate for an increase in their hours of work
- (b) The salaries have been further adjusted to compensate for sick leave and vacation leave foregone. The result is that they are working for more hours weekly and for more days during the year. Therefore the conditions of service of the staff grade is different to that of the manual grade.
- (c) The capacity to pay of the Institution which depends on the Sugar Industry whose financial situation is not so rosy.

For the above reasons the Tribunal cannot award in favour of the Applicant. This dispute is set aside.

Dispute No 4.

In the year 1994 Management proposed to the Union a Medical Scheme offered by the MEFPA- as for the Staff employees. However, the proposal was rejected. The Union instead opted for the SICOM Medical Scheme. They rejected the Employer's proposal saying that it was something owned by the Employer. The Employer avers that the Scheme itself was very good.

It should be noted that the Salary Commission has maintained the existing provisions of the SICOM Scheme.

This is a case where the Tribunal will not interfere as it is best for the parties to reach a consensus on the matter. The claim is not allowed. The Tribunal awards accordingly.

Dispute No 5.

The Union states that the MSIRI Club House is open to the Staff Grades only and contends that this is a case of class discrimination in the treatment of employees. Management replies that it grants recreational facilities to both staff and manual employees. Non-staff employees are welcome to use their mess room for games and other conventional activities. The Respondent adds that sport facilities such as the practice of tennis, volleyball and 'petangue' are open to all employees. It is just a matter of getting registered.

The Tribunal will not interfere in this dispute. Instead, it invites Management to come to a settlement with the Union to the satisfaction of both parties. The Tribunal disallows this claim and awards accordingly.

Disputes Nos 6 and 7 are withdrawn.

Dispute No. 8

The Union has proposed procedures and criteria for appointment and promotion.

The Salary Commission Report after having studied and examined this issue of "promotion" has made its recommendation.

The Tribunal on its part will not interfere in this dispute as the question of promotion is within the province of the employer.

The claim is disallowed. The Tribunal awards accordingly.

Dispute No 9

As regard training facilities, the Union is asking that these facilities be extended to the MSIRI non-staff grades. They aver that the Training Centre at the MSIRI provides training to almost all the staff grades of the MSIRI and to all the manual and staff grades of the Sugar Industry.

The Respondent, on the other hand, states that training facilities are provided to manual grade employees in their field of work and depending on needs for training as per Corporate goals of the MSIRI.

This is another case where the Tribunal will not interfere since the argument put forward by management appears reasonable.

This claim is not allowed. The Tribunal awards accordingly.

Dispute No 10.

The Union is complaining that only employees protected by the Supervisory Staff are granted overtime work and requests that this be equally shared among the employees. The Salary Commission has also made some recommendations on certain aspects of "overtime".

This being the case, the claim is not allowed. The Tribunal awards accordingly.

Dispute No 11

The Respondent affirms that there is no family scheme at the MSIRI.

The Applicant however avers that facilities are offered to staff grades for the organization of private and staff parties. There is nothing in substance in support of that claim.

It is disallowed. The Tribunal awards accordingly.

Dispute No 12

Time Off facilities granted to the Union to attend Union activities are considered not enough by the Applicant. We view that the granting of time off facilities is at the discretion of Management. The Respondent states that in general it has never rejected any time off application.

Again the Tribunal will not interfere in this matter as nothing in substance was advanced to support it.

The claim is not allowed. The Tribunal awards accordingly.

Dispute No 13

The Union claims that leave without pay is needed when an employee has to follow educational courses. The Union contends that such leave facilities exist in all sectors comparable to the MSIRI. For the Management it is not the policy of the MSIRI to grant leave without pay. However, this leave may be granted exceptionally on compassionate grounds to proceed overseas for medical treatment after the employee has exhausted his Sick and Vacation Leave Entitlement. Again the Tribunal will not interfere in this dispute and invites both parties to reach an agreement. This claim is not allowed. The Tribunal awards accordingly.

Dispute No 14

There are 20 casual employees on the list of the MSIRI. The request of the Union is that these employees be absorbed on the P & P Establishment. Mr Autrey states that since 1998 the MSIRI has stopped recruiting employees-be it manual or non-manual. Instead they are employed on a contractual basis. In 1997 there were about 177 employees on the staff group and this has been to-

day cut down to 114. He further conceded that the policy of the Board is not to employ permanent personnel due to the reform programme in the "Industry" which means substantial decrease in human and financial resources.

The Appanah Salary Committee has recommended that a worker after a continuous service of 12 months be placed on a permanent status.

Taking the above into account, this claim is not allowed.

The Tribunal awards accordingly.

Rashid Hossen

Ag President

Binnodh Ramburn

Member

Rajendranath Sumputh

Member

Date: 20th September, 2007