

PERMANENT ARBITRATION TRIBUNAL

INTERPRETATION OF AWARD

RN 902

Before:

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

In the matter of:

Mauritius Civil Service

Mutual Aid Association Employees Union

And

Mauritius Civil Service

Mutual Aid Association Ltd

This is an application for the interpretation of part of an Award delivered in July 2005 in the matter of “Mauritius Civil Service Mutual Aid Association Employees Union and Mauritius Civil Service Mutual Aid Association Ltd” (RN 696). The interpretation concerns item 10 of the terms of reference as to *“Whether other*

employees drawing a monthly basic salary of Rs14,500 should receive a monthly car travelling allowance of Rs3,850 or otherwise”.

We must stress that this Award was delivered based on an agreement reached by both parties. Following that Award, the employer informed the union that item 10 would only apply to officers as from the grade of senior Portfolio Administrator onward and not to all employees. In its Statement of Case the union avers –

- “1. By letter dated 12 September 2005 the Union applied for the interpretation of the Tribunal's award dated 27 July 2005 in case bearing RN 696.*
- 2. It is common ground that the aforesaid award was delivered by consent of parties.*
- 3. The Union repeats the facts and matters already set out in its aforesaid letter dated 12 September 2005.*
- 4. Further, the Union also refers to its claim dated 28 September 2005 and the Employer's stand per paragraph 2 of its letter dated 5 September 2005.*
- 5. The aforesaid award is in the very terms agreed upon by the parties and it does not contain the qualifications now sought to be invoked by the employer in the second paragraph of its letter dated 5 September 2005.*
- 6. It is also the case for the Union that the implementation of the Core Services report was without prejudice to the matter which was then pending before the Tribunal.*
- 7. The present matter concerns more specifically the following five employees to whom a bus fare allowance is still being paid instead of the car travelling allowance, as awarded.*

8. *The total amount of refund of travelling by bus to the five employees mentioned above is Rs4224 monthly while if they were to be paid a travel grant, it would cost Rs19250 monthly.*
9. *Pursuant to section 88 of the Industrial Relations Act, the Union prays for a declaration on the question of interpretation, namely that the monthly Car Travelling Allowance of Rs3850, as awarded by the Tribunal under item 10 of the terms of reference, should apply to all employees drawing a monthly salary of not less than Rs14500, irrespective of the grades occupied by them."*

In its Statement of Case the Respondent avers –

- "1. The Respondent admits paragraph 1, 2 of the applicant's case.*
- 2. The Award made on the 17th of July 2005 in case No. RN 696, was made in connection the Salary Report of Mr Appanah that was published in May 1999.*
 - 2.1 The issues that were in dispute arose from the said report.*
 - 2.2 The disputes concerned the employees as they were categorized under the said report.*
 - 2.3 Item No 10 of the said dispute was "whether other employees drawing a monthly basic salary of Rs14,500/- should receive a monthly car travelling allowance of Rs3,850 or otherwise". Under the Appanah report only those persons belonging to the supervisory grade of Finance & Accounts Officer and drawing the top salary in that grade, were concerned.*
 - 2.4 Following the agreement reached between the parties, the Award made by the Tribunal on the 27th July 2005, could thus concern only one particular grade of employees.*

3. *In November 2003, the Core Report was published. A new grade structure was set up. Under this new salary scheme, a travelling allowance of Rs4,060/- was provided for employees drawing a minimum basic salary of Rs15,000/- (This criteria applies to all those employees belonging to grade MA05 and above.*
- 3.1 *It is worthy to note that 46 out of the said 47 employees of the Mauritius Civil Service Mutual Aid Association Ltd have signed the option forms thereby irrevocably accepting the terms and conditions as set out in the "CORE SERVICES" Report. Annexed are the duly signed option form.*
- 3.2 *Admittedly some of the employees who signed the option forms did make some reservations.*
- 3.3 *Of the 12 persons who are concerned with the present application only 2 made such reservations, they are Messrs Benoit & Jugnaikaloo.*
- 3.4 *The five employees referred to at paragraph 7 of the applicant's case did not sign the reservations.*
4. *As per the procedural agreement, negotiations will start in January 2006 with a view to reach a new salary structure."*

Mr S. Naidoo, an Accounts Clerk, who represents the interests of the union confirmed to the contents of the union's Statement of Case. He also confirmed under cross-examination that the dispute before the Tribunal followed the Appanah Report which came out in 1999. he agreed that item (10) reads "*Whether other employees drawing a monthly basic salary of Rs 14,500 should receive a monthly car traveling allowance of Rs 3,850 or otherwise.*" While the dispute was before the Tribunal, there had been a Core

Services Report which came out in 2003. All the employees signed an option form following the latter report. However, some 11 employees had some reservations which they expressed in a separate letter. The witness initially admitted that as far as the Interpretation of the Award is concerned only 2 employees are concerned, and further agreed that in the Award that followed Appanah Report the union in the Statement of Case stated the following:- *"It is worth knowing that only a few employees will be concerned if this proposal is adopted."* He does not dispute the fact that the Award is linked to the Appanah Report. The witness fully subscribed to the view that the Award was delivered following an agreement reached, based on the terms of reference under the Appanah Report, so that the Award delivered is in respect of salary scale as per the Appanah Report.

Mr Domingue who appears for the Union submitted that the meaning to be given to the Award should be the plain meaning which is to be found in the terms of reference. According to him other employees should include all employees drawing a monthly basic salary of Rs 14,500. He agreed that under Appanah Report only those persons belonging to the supervisory grade of Finance and Accounts Officer are drawing the salary in that grade were concerned. The Appanah Report was to award to the supervisory grade of Finance and Accounts Officer. The question arose post Appanah Report as to whether this should be extended to all employees irrespective of the grade who were drawing a basic salary of Rs 14,500. Counsel submitted that it is the contention of the union that this dispute was settled because of the employer did not come up with any reservation regarding item 10, among other things.

Mrs N. Bundhun who appeared for the employer submitted that by opting for the report of the Core Services, the employees agreed that there has been a salary review, the contents of which they have agreed to, that is, the Core Services Report of 2003. 11 employees made some reservations regarding the report in a separate letter. Out of the 11 letters sent, only 2 found their names in the applicant's Statement of Case. Counsel also submitted that in the light of a forthcoming salary review, whatever interpretation this Tribunal will make will have no useful purpose.

We have said at the beginning that the Award *in lite* is based on an agreement reached by the two parties. A superficial and literal meaning that can be given to item 10 is that all employees drawing a monthly basic salary of Rs 14,500 should receive a monthly car travelling allowance of Rs 3850. One is tempted to dispose of the matter peremptorily by saying that we should be giving it the plain meaning as written in the terms of reference.

We do not believe by any stretch of imagination that the dispute lodged in 2001 and which admittedly is linked to the Appanah Report of 1991 where reference is made to only those persons belonging to the Supervisory Grade of Finance and Accounts Officer drawing the salary in that grade were concerned that it should now be extended to all employees drawing a monthly salary of Rs 14,500. Indeed, it would be a departure to what has been all along been an on-going process of negotiations. We deplore the fact that both parties being assisted by Counsel, the latter did not think fit to enlighten and clarify parties of that issue when a final settlement was being made.

As regard the argument that the Tribunal's interpretation will only be an academic one and would serve no useful purpose, is in our view, hopeless.

In short, we declare that the Interpretation to be given to Item 10 is that it is restricted to those persons belonging to the Supervisory Grade of Finance and Accounts Officer and drawing the top salary in that grade.

(sd)Rashid Hossen
Acting President

(sd)Binnodh Ramburn
Member

(sd)Masseelamanee Goinden
Member

Date: 2nd March 2007

