

PERMANENT ARBITRATION TRIBUNAL

AWARD

RN 968

Before:

Rashid HOSSEN	-	Ag President
Binnodh RAMBURN	-	Member
Rajendranath SUMPUTH	-	Member

In the matter of :-

**Mr Seevapragassen Ramasawmy**

**And**

**Central Electricity Board**

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

The point in dispute is :-

*“Whether in the light of the fact that (1) when vacancies existed in the post of Senior Supplies Officer, Mr Seevapragassen Ramasawmy was qualified to participate in the selection process and eventually be appointed in that post and; (2) he has since 2002 been asked to act in such vacancies, he should be appointed Senior Supplies Officer or otherwise allowed to participate in any selection process with a qualification waiver and be appointed thereto.”*

In his Statement of Case, Applicant avers:-

1. Mr Seevapragasen Ramasawmy was appointed Assistant Storekeeper (restyled Supplies Officer) in the CEB wef 14 September 1985. He therefore, reckons 22 years in service within the Board.
2. When he joined the above entry grade, it was clear, on the basis of the existing schemes of services for the higher grades in the class of Supplies Officer that he would move smoothly to the top of the class if vacancies arose and his performance continued to be satisfactory.
3. However, at the beginning of 2006, there was a major restructure at the CEB and terms & conditions of employment changed overnight. Mr Ramasawmy opted for the new formula with his eyes only on the increased salary, completely oblivious of the increased academic qualifications for the next higher grade of Senior Supplies Officer, i.e. from School Certificate only to School Certificate and HSC/Advance level in 2 subjects. An additional note specified that possession of ACCA would be an advantage.
4. By January 2006, Mr Ramasawmy was already 56 years old and well past studies. In any case, neither was he presented with opportunities for studies in order to make the grade nor was any training started in earnest for that purpose.
5. Mr Ramasawmy had between May 2002 and September 2006, i.e. for more than four years, acted in the higher position of Senior Supplies Officer. Granted this was understandable as Structural changes had not yet occurred. But since January 2006, things must be viewed differently. Thus Mr Ramasawmy was called upon to act in the higher post from

- 6.11.06 to 17.11.06 and
- 17.1.07 to end of the month
- May-July, 2007

6. Mr Ramasawmy considers that it is most unfair and unreasonable

- That he should be made to act in the superior capacity and not be promoted in a substantial capacity on the occurrence of vacancies. This is what actually occurred recently when he has seen his juniors superseding him.
- That a scheme of service would be made without any analysis of its repercussions on existing personnel. In this connection, the normal practice should have exempted existing staff from its application (a qualification waiver). The Board could not expect Mr Ramasawmy to upgrade his qualifications in a couple of months.
- That he was not promoted on the occurrence of vacancies prior to January 2006, when he was fully qualified for promotion by virtue of academic qualifications and years of practical experience at Senior Supplies Officer level.

In the circumstances

7. Mr Ramasawmy is of the view that, in all fairness and equity and given his age and length of service should be appointed Senior Supplies Officer.

In its Statement of Case, the Respondent avers:-

1. Mr Seevapragasen Ramasawmy was appointed Assistant Storekeeper at the CEB on 14<sup>th</sup> September 1985. The post has been restyled as Supplies

Officer as per a recommendation in the Job evaluation and Salary review Report 2005. He reckons 22 years of service in that capacity at the CEB.

2. The qualifications held by Mr S. Ramasawmy are as follows:

- SCHOOL CERTIFICATE                      1975

English Language	8
History	7
Economic/Public Affairs	7
French	6
Commerce	8
Principle of Accounts	8

- GENERAL CERTIFICATE OF EDUCATION 'O' LEVEL

Commerce	C
English Language	E
French	C
History	C

- LCC (Intermediate) - Commerce, Economics and Bookkeeping.

3. As from January 2002, he was called upon to replace Mr Jodhun Persand in an acting capacity at Nicolay Power Station as Storekeeper (Senior Supplies Officer). It was clearly pointed out to him that the acting capacity would not give him any claim for a permanent appointment to that post. **(ANNEX A)**. At that point in time, he was qualified for the post of Storekeeper **(Annex B)** and the qualifying requirements for the post were as follows:

*Cambridge School Certificate or London GCE with passes in 5 subjects at 'O' level including English Language*

*A Diploma in Book Keeping and/or and Accountancy qualification and a knowledge in Computer operation would be an advantage.*

*Ability to maintain stocks at their most economical level by keeping accurate records of stock extending a prompt service to users.*

*Candidates who do not possess the academic qualification mentioned above but who have been in the Board's employ for at least 8 years may also apply.*

He was paid actingship allowance at the full rate. However, vacancies in the grade of Storekeeper were not being filled.

#### **4. Job evaluation and Salary review**

A job evaluation and salary review exercise was carried out in year 2004 with the following terms of reference and scope of work:

- *Critically examine current job grades, compensation structure, and terms and conditions of employment, including the Internal Regulations, with a view to rationalizing, harmonizing and simplifying these so as to attract and retain the competent and efficient resource persons required to perform the duties and functions of the CEB.*
- *Eliminate overlapping jobs and functions, reduce the number of job grades, if necessary, to a level consistent with best business*

*management practices within electric utilities, and establish the optimum human resource requirements of the organization; and*

- *Establish appropriate levels compensation and benefits consistent with Mauritius market exigencies relative to comparable companies in similar operational environments.*

A Collective Agreement incorporating new terms and conditions of employment has been signed between CEB and the CEB Staff Association, and has taken effect as from 01<sup>st</sup> July 2005. The qualification requirements were revised both for the grade of Supplies Officer and Senior Supplies Officer (Annex C). At this juncture, Mr Ramasawmy did not fulfill the new qualification criteria for the next higher post, i.e. Senior Supplies Officer. The acting allowance that was previously being paid to him for shouldering the responsibility of the post of Senior Supplies Officer has been reduced to 2/3 of the rate, payable to employees fully qualified to act in a higher position.

## 5. **Main submission of the Board**

### **Option Form**

Following the Collective Agreement that has been signed between the Board and the Unions on 9<sup>th</sup> February 2006, for the implementation of a New Salary Structure and Revised Conditions of Employment with effect from 1<sup>st</sup> July 2005, Mr Ramasawmy signed the option form and accepted the new conditions of his post.

In addition to the Collective Agreement, each employee has signed an irrevocable option form exercising his option to accept the revised emoluments, terms and conditions of service and revised schedule of duties.

Following the job evaluation and salary review exercise, salaries have generally been increased by an average of 13%.

The Consultants have also recommended a corresponding upgrading of entry qualification requirements for most posts.

Following the implementation of the new salary structure and new terms and conditions of employment, the Board is not bound to provide for a waiver in qualification requirements for a post that is advertised.

However, it is submitted in this particular case it did not and could not prevent each individual employee from raising his grievances before the 'Grievance Committee' established by paragraph 9 and 10 of the aforesaid Collective Agreement which stipulates as follows:

**Paragraph 9: Grievance Resolution**

*Any problem arising out of the implementation of these recommendations which are deemed to unjustly affect the employees or any employee, should be submitted to the Joint Negotiating Council (JNC) through the General Manager within a period of six months as from the date of the implementation of the Collective Agreement, for any corrective action or otherwise. Errors and Omissions may be corrected at any time.*

**Paragraph 10: Grievance Resolution Committee**

*A Grievance Resolution Committee shall be set up to look into representations and grievances submitted by employees and/or their union.*

**However, it is submitted that those matters already dealt with in the Collective Agreement cannot be discussed anew in a Grievance Committee**

Neither Mr S. Ramasawmy nor his respective Union, i.e CEBSA made representation regarding the new job description and the qualification requirements for the post of Senior Supplies Officer. Besides, since Mr S. Ramasawmy signed the option form, accepting the new conditions of his post, that is, Supplies Officer, he cannot now be heard to go counter this acceptance.

**6. In the event a vacancy will arise, consideration may be given to him so that he can take part in the recruitment and selection process.**

**6.1 Selection and Appointment procedure**

The Selection and Appointment procedure as stipulated in the Collective Agreement of 2002 and 2006 is at **Annexes D and E** respectively.

In view of this, it is submitted that the Staff Committee and the Board have the prerogative to select and appoint an incumbent.

On the basis of the above, it is humbly submitted that the dispute be set aside.

When this matter was called for disposal on 04/03/08, Counsel for the applicant moved for an award in terms of paragraph 6 of the Respondent’s Statement of Case, which reads as follows:-

**“In the event a vacancy will arise, consideration may be given to him so that he can take part in the recruitment and selection process.”.**

The Tribunal awards accordingly. The dispute is otherwise set aside.

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**Rashid Hossen  
Ag. President**



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**Binnodh Ramburn**  
**Member**

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**Rajendranath Sumputh**  
**Member**

**Date: 18<sup>th</sup> March, 2008**