



**Annual Report on Performance of the Employment Relations
Tribunal for 2021-2022**

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Performance of the
Employment Relations
Tribunal
2021/2022

Vision

To be the expert tribunal for the settling of industrial disputes.

Mission

To provide an efficient, modern, reliable and rapid means of arbitrating and settling disputes between workers or trade unions of workers and employers or trade unions of employers so that peace, social stability and economic development are maintained in the country.

Supervising Officer's Statement

The financial year 2021-2022 was again a challenging year. Though the Covid-19 pandemic subdued, its aftermath continued to hinder the proper functioning of the Tribunal. The Tribunal (still) had to allow for unavoidable postponements related to the Covid-19. The temporary suspension of commercial flights between Mauritius and Rodrigues for a major part of that financial year affected the disposal of cases referred by the Rodrigues Commission for Conciliation and Mediation. Other factors such as requests made in several cases to await the publication of the then forthcoming PRB Report 2021, expected to cater for certain issues in dispute in those cases or requests made to await forthcoming judgments of the Supreme Court, which were to deal with issues similar to those pending before the Tribunal, have also had a bearing on the speed at which cases were disposed of.

In light of all of the above, the Employment Relations Tribunal (ERT) has changed for the financial year 2022-2023 its Key Performance Indicator ("KPI") to the number of cases disposed of (simply) as compared to the number of cases disposed of within statutory limits. In any event, the Act expressly allows in certain matters for these time limits to be extended where the circumstances so require, with the consent of the parties to the dispute or at the request of the applicant before the Tribunal. This will include, for example, where the Tribunal, in an appropriate case, enables parties to avail themselves of conciliation and mediation services. The new KPI will thus better reflect the performance and achievement of the Tribunal in its mandate to arbitrate and settle labour disputes.

The Tribunal has managed, despite this difficult year, to deliver 12 Awards, 4 Orders and 9 Rulings, and has disposed of a total of 93 cases. It is important to note that the Tribunal has yet again reduced the number of cases pending before the Tribunal, that is, from 74 on 1 July 2021 to 52 on 30 June 2022.

I thank the Vice-President, Mr Shameer Janhangeer for his support and contribution, members of the staff for their dedication and hard work and the panel members for their valuable time and effort to enable the Tribunal to achieve such a performance.

Indiren Sivaramen

Acting President Employment Relations Tribunal

Roles and Functions of the ERT

List of Services

- Arbitration of labour disputes and the making of awards.
- Making of orders in relation to recognition of trade unions, variation of or non-compliance with a procedure agreement, check-off agreement and other relevant issues under the Employment Relations Act.
- Sitting on appeal in relation to certain decisions of the President of the Commission for Conciliation and Mediation and the Registrar of Associations.

Details of Services

- Acting as arbitrator between parties having to resolve a dispute.
- Settling labour disputes after hearing parties, more especially employer's and worker's representatives, and any other witnesses. Under the Employment Relations Act, as recently amended, a labour dispute
 - (a) means a dispute between a worker, a recognised trade union of workers or a joint negotiating panel, and an employer which relates wholly or mainly to –
 - (i) the wages, terms and conditions of employment of, promotion of, or allocation of work to, a worker or group of workers;
 - (ii) the reinstatement of a worker, other than a worker who is appointed by, or under delegated powers by, the Judicial and Legal Service Commission, the Public Service Commission or the Local Government Service Commission –

- (A) where the worker is suspended from employment, except where the alleged misconduct of the worker is subject to criminal proceedings; or
[(B)- Deleted by Act No. 15 of 2022]
 - (b) does not, notwithstanding any other enactment, include a dispute by a worker made as a result of the exercise by him of an option to be governed by the recommendations made in a report of the Pay Research Bureau or a salary commission, by whatever name called, in relation to remuneration or allowances of any kind;
 - (c) does not include a dispute that is reported more than 3 years after the act or omission that gave rise to the dispute.
- Applications may be made directly to the Tribunal by trade unions under various provisions of the Employment Relations Act in relation to recognition, revocation of recognition, variation of or non-compliance with a procedure agreement, unfair labour practices during collective bargaining, check-off agreement, time-off facilities and access to workplace and to information, among others.
- An award is delivered within 90 days as from the date the case has been referred to the Tribunal, after the parties have been heard in relation to their dispute/s. The Tribunal may however extend this period where the circumstances so require and with the consent of the parties to the dispute. The procedures adopted before the Tribunal (summoning of witnesses, depositions of parties and/or witnesses under oath or solemn affirmation and so on) are fairly similar to those before a Court of Law where the Court will deliver a judgment after it has heard the parties.

Gender Statement

The ERT as an institution dealing with employment relations is particularly attentive to ensuring gender equality. The Tribunal ensures that training opportunities are offered to all members of staff irrespective of gender. No grade at the ERT, including the senior most position is gender-based but instead any position is open to the best available candidate. Even in relation to

members appointed to be on panels hearing disputes, there is a very good representation of genders. Also, the ERT treats all its stakeholders including lawyers, workers, representatives of unions and employers with gender equality and sees to it that this approach is taken at all levels of the service offered by the ERT to the public at large.

About our people

Composition of the Employment Relations Tribunal

Acting President

Mr Indiren SIVARAMEN

Vice-President

Mr Shameer JANHANGEER

Members

Representatives of Workers

1. Ms Marie Désirée Lily LACTIVE
2. Mr Francis SUPPARAYEN
3. Mr Raffick HOSSENBACCUS
4. Mr Abdool Kader LOTUN
5. Mr Vijay Kumar MOHIT

Representatives of Employers

1. Mr Abdool Feroze ACHARAUZ
2. Mrs Jeanique PAUL-GOPAL
3. Mr Rabin GUNGOO
4. Mr Bharuth Kumar RAMDANY
5. Mrs Karen K. VEERAPEN

Independent Members

1. Mr Kevin C. LUKEERAM
2. Mr Arassen KALLEE(resigned as from
27.9.2022)
3. Mr Parmeshwar BUROSEE
4. Mr Ghianeswar GOKHOOL
5. Mr Yves Christian FANCHETTE

Staff List

SN	NAME	TITLE	EMAIL	PHONE NO (230)
Professional Level				
1	Mr SIVARAMEN Indiren	Acting President	isivaramen@govmu.org	Thro' CS 213 2892
2	Mr JANHANGEER Shameer	Vice-President	sjanhangeer@govmu.org	Thro' CS 210 0998
3	Mrs HORIL Luxmi	Registrar	registrar-ert@govmu.org	212 5184
Administrative/Supportive Levels				
1	Miss KADER Nazia	Human Resource Executive (Part-time)	nkader@govmu.org	260 2936/ 212 8286
2	Mrs JHURREEA Sandhya	Financial Operations Officer/ Senior Financial Operations Officer	Fin_ert@govmu.org	211 1303
3	Miss MOHINDEE Ganeshwaree	Office Management Assistant	gmohindee@govmu.org	212 4636
4	Mrs SHAMSOODEEN Beebee Zubeida (assumed duty at ERT on 17.05.2022)	Assistant Procurement and Supply Officer	zshamsodeen@govmu.org	212 4636
5	Mrs SUMPUTH-RAMSARAN Deepa	Safety and Health Officer/Senior Safety and Health Officer (Part-time)	ert@govmu.org	405-4100
6	Miss UJOODHA Lakshana	Acting Senior Transcriber	ert@govmu.org	208 0091
7	Mrs DOOBUR Vidiawatee	Transcriber	ert@govmu.org	208 0091
8	Mrs PURREMCHUND Priya Ashwini	Transcriber	ertgovmu.org	208 0091
9	Mrs DOSIEAH Deeneshwaree	Confidential Secretary (Mr Sivaramen)	ddosieah@govmu.org	213 2892
10	Mrs LAM TO Ivonnette	Confidential Secretary (Mr Janhangeer)	ylamto@govmu.org	210 0998
11	Mrs NEERUNJUN-GUJADHUR Binta Devi	Management Support Officer	ert@govmu.org	212 4636
12	Mrs DAUHAWOO-GUNGADIN Priscilla	Management Support Officer	ert@govmu.org	212 4636

13	Mr POONOOSAMY Srinivassen	Employed to give assistance at Management Support Officer Level	ert@govmu.org	212 4636
14	Mrs SANTOO Ricamah (joined ERT on 28.07.2022)	Employed to give assistance at Management Support Officer Level	ert@govmu.org	212 4636
15	Miss DABOO Lakshana Devi	Employed to give assistance at Management Support Officer Level	ert@govmu.org	212 4636
16	Mr KISTO Mohun (retired on 15.10.2022)	Head Office Auxiliary	ert@govmu.org	208 0091
17	Mrs RAMPHUL Nivedita	Office Auxiliary/ Senior Office Auxiliary	ert@govmu.org	208 0091
18	Mr MOHUN Purmessursingh	Office Auxiliary/ Senior Office Auxiliary	ert@govmu.org	208 0091

Part II: ERT ACHIEVEMENTS AND CHALLENGES

Status on Implementation of Budget Measures

Not applicable.

Major Achievements

For the period 2021/22, 71 cases (industrial & employment disputes) have been referred to or lodged before the Tribunal.

The Tribunal has delivered 12 Awards, 4 Orders and 9 Rulings and has disposed of a total of 93 cases. The total number of cases pending before the Tribunal as at 1 July 2022 thus stood at 52.

The Tribunal has disposed of 24 cases within statutory time limits. This is below the target of 93 cases. This is explained by several factors. Indeed, during the financial year 2021/2022, in many cases parties have requested for cases not to be proceeded with temporarily since matters were likely to be addressed in the then forthcoming PRB Report 2021. There were also requests made by parties to await relevant judgments to be delivered by the Supreme Court and which would have a bearing on cases pending before the Tribunal. The rate of disposal of cases was also affected to a large extent by the temporary suspension of commercial flights between Mauritius and Rodrigues for a major part of the financial year 2021/2022 (because of Covid-19) whereby cases referred to the Tribunal by fax or e-mail by the Rodrigues Commission for Conciliation and Mediation (RCCM) could not, in fairness to the parties, be heard pending the resumption of commercial flights.

The Tribunal has nonetheless disposed of a total of 93 cases during the same reporting period thereby managing to reduce, yet again, the number of cases pending before the Tribunal (from 74 on 1 July 2021 to 52 on 30 June 2022).

Status on Implementation of Key Actions

Key Action	Key Performance Indicator	Target 2021/22	Status of Key Action as at 30 June 2022
Dealing with increasing number of disputes and applications targeting a yearly increase of 2% in the number of cases disposed of within statutory time limit subject to complexity of cases.	Number of cases disposed of within statutory limit (actual 2020/21: 81).	93	24 Below target (in many cases parties have requested for cases not to be proceeded with temporarily since matters were likely to be addressed in the then forthcoming PRB Report 2021 or because of judgments to be delivered by the Supreme Court and which would have a bearing on cases pending before the Tribunal. The rate of disposal of cases was also affected to a large extent by the temporary suspension of commercial flights between Mauritius and Rodrigues for a major part of the financial year 2021/2022 (because of Covid-19) whereby cases referred to the Tribunal by the RCCM could not be heard pending the resumption of commercial flights.

Other Internal Developed KPI's

Number of cases disposed

The number of cases disposed of gives a clearer indication of the performance of the Tribunal and its ability to cope with the number of cases referred to or lodged before the Tribunal. The Tribunal has managed to dispose of a total of 93 cases during the period 2021/2022 (bearing in mind that a total of 71 cases were referred to or lodged during the same period) despite the increase in the complexity of cases, requests made by parties to await recommendations of the then forthcoming PRB Report 2021 and to await relevant judgments from the Supreme Court which would have a bearing on certain cases pending before the Tribunal. The non-availability of commercial flights between Mauritius and Rodrigues have also impacted on the disposal of cases referred to the Tribunal by the RCCM. The ERT has, nevertheless, with the contribution of its staff, members of the Tribunal, lawyers, litigants and their representatives been able once again to reduce the number of pending cases before the Tribunal (52 as at 1 July 2022).

Risk Management, Citizen Oriented Initiatives & Good Governance

The Public Sector Anti-Corruption Framework

(Good Governance) Anti-corruption policies and procedures

In line with the Public Sector Anti-Corruption Framework (PSACF), Management is committed to “building corruption resistance” within the Tribunal.

The anti-corruption policy of the Tribunal is available on the website of the Tribunal (<https://ert.govmu.org>) and is disseminated to all staff members. The Tribunal has an anti-corruption committee which is currently chaired by the Acting President of the Tribunal. The Registrar of the Tribunal, Mrs Luxmi Horil, is the Integrity Officer and acts as the Secretary of the committee. Mr K. Koonjal, Chief Corruption Prevention Officer at the Independent Commission against Corruption (ICAC) is the ex-officio member of the committee and guides the Tribunal in implementing the PSACF within the Tribunal and also in monitoring its application.

The committee meets regularly and for the financial year 2021/2022 the anti-corruption committee met on no less than five occasions. Following Corruption

Risk Assessments (CRAs) conducted in the following areas: arbitration of labour disputes and hearing of other cases, procurement, payment of overtime and finally in relation to other payments made by the Tribunal, the Tribunal has embarked on the process of monitoring the implementation of the measures identified and adopted. In line with its objective of ensuring that all measures, as adopted by the anti-corruption committee and management, are implemented within the Tribunal, the Tribunal will report regularly on progress achieved in relation to implementation of the measures identified following CRAs. The staff is thus being called upon, with relevant training, to report on the Management Information System put in place by the Ministry of Public Service, Administrative and Institutional Reforms for the purposes of the implementation of the PSACF and monitoring of measures adopted following CRAs and for reporting of measures taken by the Transformation Implementation Committees of Ministries/Departments.

Other KPIs adopted by the MPSAIR

100% utilisation of Training Budget

The budget for training for the Tribunal for the financial year was Rs 75,000. The Tribunal encourages all of its staff, irrespective of grade, to follow relevant training courses which will be useful both for the Tribunal, and the officer in his/her every day duties and activities and/or in his/her career progression. Training followed by the staff comprised of face to face training and online training. The Tribunal exhausted the whole of its training budget and ensured that all members of the staff had been able to follow at least one training course during the financial year. This met the KPI adopted by the MPSAIR for implementation at the level of Ministries, Departments, Local Authorities and State-Owned Enterprises for the financial year 2021/2022.

Implementation of the e-HR system

The e-HR system was not applicable to the Tribunal during the financial year 2021-2022. The MPSAIR has rolled out the e-HR system to the Tribunal as from 31 August 2022 and applications for casual leave, sick leave and vacation leave for the staff of the Tribunal are as from that date being done through the e-HR system.

Compliance of buildings housing Public Officers with fire safety

requirements

The Employment Relations Tribunal rents premises at Newton Tower, Sir William Newton Street, Port-Louis. The Tribunal ensures that it is provided with a copy of the relevant up to date Fire Certificate from the landlord. The Tribunal and all its staff also actively participate in fire drills organized regularly as per law in the building. Fire wardens have been nominated among the staff of the Tribunal and they assist other members of the staff especially during fire drills. The Occupational Safety and Health Officer/Senior Occupational Safety and Health Officer (posted part-time at the Tribunal) also makes recommendations and checks in relation to issues such as fire extinguishers, fire exits and so on.

Prescription of Scheme of Service

The scheme of service for Senior Transcriber (formerly Senior Shorthand Writer which has been restyled Senior Transcriber in the PRB Report 2021) which dates back to 2001 and prescribed before the enactment of the Employment Relations Act, is outdated and needs to be reviewed.

The duties of Senior Transcriber and Transcriber (formerly Shorthand Writer which has been restyled Transcriber in the PRB Report 2021) are closely linked and thus the scheme of service for Transcriber needs to be reviewed concurrently with that of Senior Transcriber. All relevant procedures are being followed for the eventual prescription of the relevant schemes of service.

Other matters

Procurement

The Tribunal has for the first time been provided with the services of an Assistant Procurement and Supply Officer (APSO) full-time within the budget of the Tribunal. The APSO has assumed duty at the Tribunal on 17 May 2022. The Tribunal has seized this opportunity and implemented the e-procurement system for the procurement of goods and services at the Tribunal. The exercise was completed end of July 2022 and currently all procurements for goods and services at the Employment Relations Tribunal are being done through the e-procurement system.

Implementation Plan – Director of Audit Comments

Not applicable.

Part III – FINANCIAL PERFORMANCE

Financial Highlights – 2021-2022

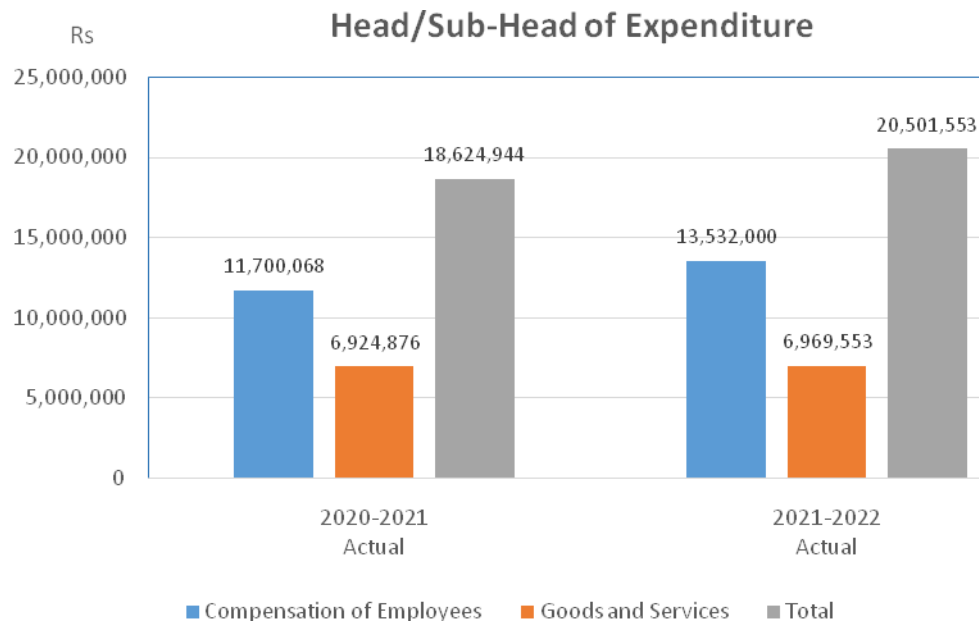
A Budget Estimates of Rs 23,300,000 was allocated to the ERT for the financial year 2021-2022 comprising of:

Rs 15,325,000 for **Compensation of Employees**; and
Rs 7,975,000 was provided under **Goods and Services**.

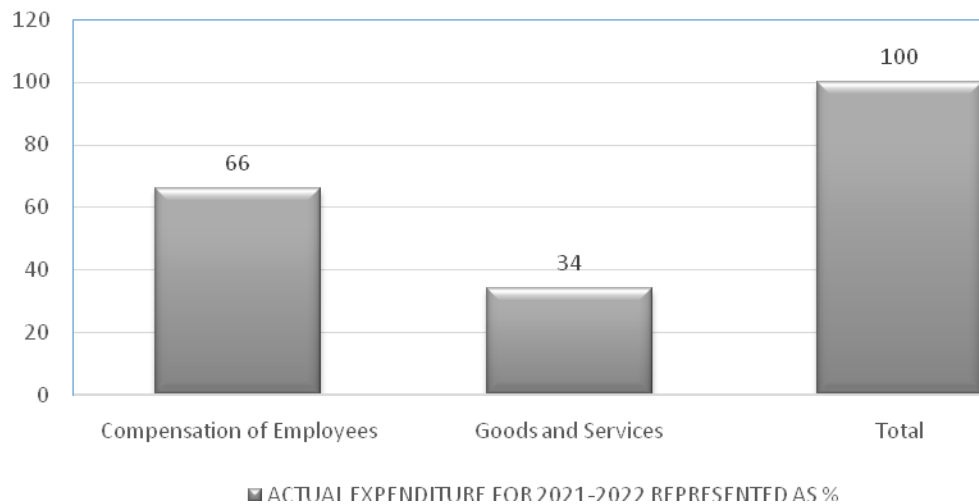
Statement of Expenditure

The table hereafter provides figures as regards to Estimates for Year 2021-2022 and actual expenditure for the years 2020-2021 and 2021-2022

Head/Sub-Head of Expenditure	2020-2021	2021-2022	2021-2022	Actual 2021-2022 Expenditure as a %
	Actual	Estimates	Actual	
Compensation of Employees	11,700,068	15,325,000	13,532,000	66
Goods and Services	6,924,876	7,975,000	6,969,553	34
Total	18,624,944	23,300,000	20,501,553	100



ACTUAL EXPENDITURE FOR 2021-2022 REPRESENTED AS %



Analysis of Expenditure

There is an increase in the actual expenditure for financial year 2021-2022 when compared to the previous financial year 2020-2021. The main reason for this is the adjustments of salaries and other benefits following the PRB Report 2021 and the subsequent back pay to staff. Expenditure for travelling and transport for the staff also went up following the increase in refund of bus fares and travelling allowances.

The expenditure for 'Goods and Services' has increased only slightly (by 0.65%) when compared to the previous financial year 2020-21.

PART IV – WAY FORWARD

Trends and Challenges

The Tribunal is currently constituted of the Acting President, Mr I. Sivaramen and the Vice-President, Mr S. Janhangeer. The post of President is vacant since 3 November 2019 and the Tribunal is hopeful that the post, which is

funded, will be filled in the near future.

We take note of what is happening internationally including in Europe, the consequences of the war in Ukraine, especially in the aftermath of the Covid-19 pandemic, rising prices of commodities and the fear of a global economic recession which is still there. In the light of the above, we cannot make a reliable forecast of a possible trend in the number of cases to be referred to the Tribunal in the coming financial year. However, we have noted recently a marked increase in the number of disputes referred to and applications lodged before the Tribunal.

Besides the amendments brought to the Employment Relations Act in 2019 by **Act No. 21 of 2019** (effective as from 27 August 2019), the **Finance (Miscellaneous Provisions) Act 2022 (Act No. 15 of 2022)** has brought a **noticeable change** in the law in relation to the Employment Relations Tribunal. By amending the **Employment Relations Act**, the **Industrial Court Act** and the **Workers' Rights Act 2019**, the **Finance (Miscellaneous Provisions) Act 2022** now grants an additional jurisdiction to the Tribunal. Indeed, where an employer terminates the employment of a worker **for any reason**, other than reasons related to reduction of workforce or closure of enterprises (under Sub-part III of the **Workers' Rights Act**), the worker may, instead of claiming severance allowance, register a complaint with the supervising officer of the Ministry of Labour, Human Resource Development and Training. The latter may, where he/she is of the opinion that the worker has a bone fide case for reinstatement, refer the matter to the Tribunal. The Tribunal shall hear the case and may order that the worker be reinstated in his former employment or order, in an appropriate case, that the worker be paid severance allowance in accordance with the **Workers' Rights Act 2019**.

With adequate staffing, the Tribunal will strive to deliver on its mandate (including its new mandate) particularly in these 'uncertain times' so that good employment relations are maintained for the benefit of one and all and for the benefit of the country as a whole.

Strategic Direction

The Tribunal aims to:

1. foster and promote good employment relations between parties;
2. ensure the rights of aggrieved parties are restored in line with employment laws; and
3. dispose of cases with celerity whilst ensuring fairness to all parties.