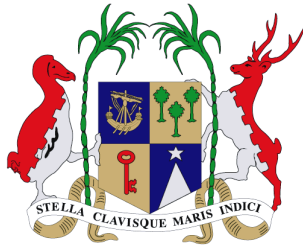


2009



Annual Report



**EMPLOYMENT
RELATIONS
TRIBUNAL**

HISTORY

The Tribunal was set up in 1973 as the **Permanent Arbitration Tribunal**, following the enactment of the Industrial Relations Act 1973.

The President and Vice-President of the Tribunal must be qualified for appointment as Judges of the Supreme Court.

The sittings of the Tribunal were held in the Astor Court Building, adjacent to the Supreme Court, in Port Louis. Since 2008, the President of the Tribunal has been Mr. Rashid Hossen, who served as Vice-President as from 2002.

The industrial disputes referred to the Tribunal since its setting up, be it voluntary or compulsory, cover the key economic sectors like the Sugar Industry, Transport, Customs, Banking, Manufacturing and Hotel Industry. Over a thousand cases/disputes have been referred to the Tribunal and whilst some 400 cases have been disposed of summarily, i.e by agreement reached between parties before the Tribunal, the Tribunal has delivered over 600 Awards.

In the application of the Industrial Relations Act, 1973 to the Public Service, the functions of the Permanent Arbitration Tribunal were exercised by the **Civil Service Arbitration Tribunal**. The President of the Civil Service Arbitration Tribunal since 2003 was Mr Rashid Hossen.

With the enactment of the Employment Relations Act 2008 in February 2009, the Permanent Arbitration Tribunal and the Civil Service Arbitration Tribunal merged as one with the setting up of the **Employment Relations Tribunal** in February 2009. The Tribunal is reconstituted and the law provides that the tribunal shall consist of a President, two Vice-Presidents and not more than thirteen members.

The President of the Employment Relations Tribunal is Mr. Rashid Hossen and since February 2010, Mr. Indiren Sivaramen has been appointed as Vice-President of the Tribunal.

Currently the Tribunal is constituted of a President, one Vice-President and twelve members.

As from the 01st of April 2010, the Employment Relations Tribunal has moved to a new office location situated at **Level 18, Newton Tower, Sir William Newton Street, Port Louis**.

What's New?

The Employment Relations Tribunal has moved to new premises at level 18, Newton Tower, Sir William Newton Street, Port Louis since 1st April 2010. The offices of the Tribunal are modern with new facilities such as two hearing rooms (instead of one previously), a large conference room/library, an intranet system for internal communication and an electronic case management system (to be operational shortly), a modern registry where gradually documents and statements of case are going to be received by e-mail instead of the conventional filing of documents before the Tribunal. The Tribunal has started its operational process of an e-tribunal and the service is free.

Thus, a party can submit his statement of case, supporting documents and make written requests by e-mail provided of course that a copy is sent to the other party. This will be done under the supervision of the IT Security Unit of the Ministry of Information and Communication Technology. There is thus no need for parties to be physically present before the Tribunal until the case is fully in shape for hearing or conciliation proceedings. Counsel can also e-mail copies of relevant case law that they intend to use or written submissions subject to prior approval having been obtained for such a course of conduct. Awards of the Tribunal are also available online on the website of the Tribunal (<http://ert.gov.mu>) as soon as they have been published in the Government Gazette. A user can also have access to previous Awards of the Tribunal and of its predecessor, the Permanent Arbitration Tribunal. The cause list of cases fixed before the Tribunal is also available online. A copy of the speech of the President of the Tribunal, Mr. R. Hossen who laid stress on this process of an e-tribunal on the occasion of the launching of the new venue at Newton Tower, is available on <http://ert.gov.mu>

The Tribunal aims at providing an excellent service to its users and will spare no effort to achieve its goal of operating at an international standard. This modern seat of the Tribunal is not only a show case of the principles governing the Employment Relations Act but also strengthens the position of Mauritius as a modern and reliable hub in the region for arbitration matters. The process of change has started but the road is long. The Tribunal however is confident that with the support of all stakeholders including Counsel and Solicitors, the Tribunal can meet its goal of excellence in arbitration matters and continue delivering well reasoned, balanced, adequate and innovative Awards which can contribute to foster good industrial relations and at the same time sustained economic growth for the Republic of Mauritius.

SUMMARY OF CASES

RN 1015 – Gawtam Bachoo v Casino de Maurice Cie Ltee
RN 1016 – Gervais Bruno Olivier v Beach Casinos Co Ltd
RN 1017 – Rodney Sadien v Caudan Waterfront Casino Co Ltd
RN 1018 – Gaetan Coutee v Sun Casinos Co Ltd
RN 1019 – Viresh Rambhujun v Sun Casinos Co Ltd

The five cases were consolidated. The applicants declared a common dispute with regard to their appointment as Senior Slot Technician.

In December 2008, an agreement was reached between parties and the Tribunal delivered an Award accordingly as per this agreement.

RN 1037 – C. Laviolette & 86 Ors v Central Electricity Board i.p.o. Mr. Jean Clency Bibi & 13 Others.

This was an application for the extension of Award RN 816 delivered by the Tribunal on 15 April 2008.

The application was not resisted and in the interest of uniformity of terms and conditions of employment in the industry, the extension of the award, as agreed between parties, was granted.

RN 899 – The Food & Beverages Industry Employees Union v The International Distillers (Mauritius Ltd).

The dispute was in relation to the signing of a Procedural Agreement between the trade union and the employer.

Parties were invited to proceed with the signing of the Procedural Agreement and the Tribunal awarded accordingly.

RN 971 – SBI (Mtius) Ltd (formerly Indian Ocean International Bank Ltd) v Private Bank Staff and Employees Association.

RN 1029 – Private Bank Staff and Employees Association v SBI (Mtius) Ltd (formerly Indian Ocean International Bank).

The two cases were consolidated. There was an application by the Bank for the interpretation and/or variation of an Award RN 848 delivered by the Tribunal.

The Tribunal did not conclude to any ambiguity that required interpretation or variation and the application was accordingly set aside.

RN 956 – Veerjanand Baichoo v Central Electricity Board

RN 957 – Ramatar Madhub v Central Electricity Board

Both cases were consolidated and were in relation to prayers for appointment as Technician or otherwise as driver.

The Tribunal recommended that priority of consideration be given to the applicants, should vacancies for the post of drivers occurs. The dispute was otherwise set aside.

RN 1020 – Union of Municipalities Workers v Municipal Council of Beau Bassin/Rose Hill

This was an application with regards to uniform entitlement.

After having heard the parties, the Tribunal ruled out that the claim was time barred and the matter was accordingly set aside.

ERT/RN 20/09 – Export Enterprises Employees Union v Texto Ltée

This was an application for an order directing the employers to recognize a trade union.

Recognition was granted to the union as bargaining agent to undertake collective bargaining with the employer.

ERT/RN 07/09 – Syndicat des Travailleurs des Etablissements Privés v La Rocaille Ltd

This was an application for an order directing the employer to recognise a trade union. Recognition was granted to the union as bargaining agent to undertake collective bargaining with the employer which changed its name to Beemanique Nouvelle France.

ERT/RN 16/09 – Newspapers and Printing Industry Employees Association v Book Printing Services Ltd

This was an application for an order directing the employer to recognize a trade union. Recognition was granted to the union as bargaining agent to undertake collective bargaining with the employer.

ERT/RN 09/09 – Organisation of Hotel & Catering Workers Unity v La Plantation Hotel

This was an application for an order directing the employer to recognize a trade union. Recognition was granted to the union as bargaining agent to undertake collective bargaining with the employer.

RN 800 – Union of Municipalities Workers v 1. Municipal Council of Port Louis 2. Local Government Service Commission in presence of Ministry of Local Government

The point in dispute was the implementation of the Purang/Ganoo Report of 1998. The Tribunal ruled that it had no jurisdiction to entertain the said matter and it was thus set aside.

RN 22/09 – Union of Artisans of the Sugar Industry (UASI) v Mauritius Sugar Producers' Association (MSPA).

The Tribunal ruled that the application was misconceived and it was thus set aside.

ERT/RN 3/09 – Private Enterprises Employees Union v Rodrigues High Security Agency Ltd

This was an application for an order directing the employer to recognise a trade union. Recognition was granted to the union as bargaining agent to undertake collective bargaining with the employer.

ERT/RN 14/09 – Private Enterprises Employees Union v Scenic Land Design Ltd

This was an application for an order directing the employer to recognize a trade union. Recognition was granted to the union as bargaining agent to undertake collective bargaining with the employer.

ERT/RN 32/09 – Union of Employees of Information, Communication and related Services Section (UEICSS) v Execom Ltd

This was an application for an order directing the employer to recognize a trade union. Recognition was granted to the union as bargaining agent to undertake collective bargaining with the employer.

RN 685 – Miss J. Rose and Miss B. Frederic v Casino de Mauritius Ltd

This application was in relation to appointment and seniority. In its Award, the Tribunal considered that the applicants had not made out their cases and the dispute was accordingly set aside.

ERT/RN 27/09 – Syndicat des Travailleurs des Etablissement Privés v Biodia Co. Ltd

This was an application for an order directing the employer to recognize a trade union. The Tribunal ruled that the union did not give sufficient evidence to proceed with the application and the matter was accordingly set aside.

RN 927 – Mr. Prakash N. Chadee v SIC Management Services Co. Ltd

This application was in relation to appointment. In July 2009, parties reached an agreement and the Tribunal awarded as per this agreement accordingly.

RN 1034 – Mr. Deoduth (Amar) Nabobsing v Beach Casinos Ltd

The application was in relation to the appointment of the applicant to a higher post. In its Award, the Tribunal considered that the applicant did not make out his case and the matter was accordingly set aside.

RN 922 – Mrs. Shirley Radegonde v 1. Bureau de L'Education Catholique (BEC) 2. College de la Confiance.

The Tribunal had to consider whether a transfer was in accordance with the rules and regulations of the P.S.S.A. In August 2009, parties reached an agreement and the Tribunal awarded accordingly as per this agreement.

RN 1048 – Mr. Shamshuddin Durgauhee v Sun Casinos Ltd

This application was in relation to promotion to the post of Administrative & H.R. Manager. In its Award, the Tribunal was of the considered view that the company cannot go beyond its structure and hierarchy. The matter was set aside accordingly.

RN 1045 – Construction, Metal, Wooden & Related Industries Employees Union v Rattan Vettex Wares Ltd

This application was in relation to the upgrading of employees from a lower to a higher grade. In its Award, the Tribunal concluded that the applicant's case has not been made out and the matter was accordingly set aside.

RN 631 – Sugar Industry Workers' Association (S.I.W.A) v 1. Flacq United Estates Limited (F.U.E.L) 2. Fuel Sugar Milling Company Limited (F.S.M.C) 3. Fuel Steam and Power Generation Limited (F.S.P.G)

This was an application for the extension of the Part Award delivered by the Tribunal and dated 10 December 2008 to the whole Sugar Industry. After careful consideration and for reasons given, the Tribunal awarded an extension of the Part Award to the whole Sugar Industry. The Award also provided how the 'extension' was to be implemented in stages.

RN 871 – Mr. Dev Anand Dhawotal v Development Works Corporation

This was an application in relation to appointment. With the closing down of the Corporation, the Tribunal ruled that further proceedings were unnecessary and the matter was set aside accordingly.

RN 1023 – Devanand Bagha v Ministry of Education, Culture and Human Resources i.p.o. Public Service Commission

This was an application regarding the qualifications required for the post of Director of the National Archives Department in a communiqué issued by the Public Service Commission. In this matter, the Tribunal ruled that the Respondent was not the employer, and the matter was accordingly set aside.

RN 961 – Maritime Transport & Port Employees Union (MTPEU) v Cargo Handling Corporation Ltd (CHCL) i.p.o. Mauritius Ports Authority (MPA)

The application was in relation to the adjustment of salary as per the salary revision exercise of 2005 for employees transferred on loan from the M.P.A. After due consideration, the Tribunal, in its Award, held that the applicant had not made out his case and the application was accordingly set aside.

ERT/RN 1047 – Choomnesh Jankee v Mauritius Examination Syndicate

This application was in relation to the numerous transfers of the applicant. In October 2009, parties reached an agreement and the Tribunal awarded accordingly as per this agreement.

ERT/RN 55/09 – Sugar Industry Workers’ Association (SIWA) v 1. Flacq United Estates Limited (FUEL) 2. Fuel Sugar Milling Company Limited (FSMC) 3. Fuel Steam and Power Generation Limited (FSPG)

This application was for the making of a Procedure Agreement by way of an Award. After hearing the parties, the Tribunal awarded that the Procedure Agreement be signed at the earliest.

RN 1028 – T.S.M. Cunden & 5 Others v Technical School Management Trust Fund (TSMTF)

The application was for the adjustment of salary of the applicants with effect from their appointment. The Tribunal ruled that the applicants, having signed an Option Form, were debarred from declaring a dispute. The matter was accordingly set aside.

ERT/RN 64/09 – Manufacturing Workers Association (MWA) v Dyers and Finishers Ltd, Consolidated Dyeing Ltd and Consolidated Dyeing Fabrics Ltd

This was an application for an order directing the employer to recognize a trade union. The Tribunal concluded that there were no refusals on the part of the employer to recognize the union and the matter was set aside accordingly.

ERT/RN 63/09 – Mauritius Ports Authority Maritime and Technical Staff Union (MPAMATSU) v Mauritius Ports Authority (MPA)

This was an application for an order directing the employer to recognize a trade union. The Tribunal concluded that the requirements of the Employment Relations Act 2008 in relation to an application for the recognition of a trade union had not been met and the matter was set aside accordingly.

The Tribunal, upon applications received and duly considered, delivered Orders directing the Registrar of Associations to cancel the registration of the following trade unions which have ceased their operations:

- **Distributive Trade Workers Union**
- **Financial Intelligence Unit Staff Union**
- **National Computer Board Employees Union**
- **Union of Workers of Local Government**
- **Private Firms Employees Union**
- **Steel Rolling Workers Union**
- **Lorry Drivers and Helpers Union**

STATISTICS

This annual report is published in accordance with Section 86(2)(d) of the Employment Relations Act 2008.

During the year 2009:

- The number of disputes lodged before the Tribunal was **80** – out of which 8 disputes were referred by the Ministry of Labour, Industrial Relations & Employment and **13** cases were referred to the Tribunal by the Commission for Conciliation and Mediation.
- The number of cases disposed of summarily (through conciliations and rulings) was **127**;
- There were **31** Awards/Orders delivered as well as **14** Rulings.
- The Tribunal has thus disposed of a total of **158** cases/disputes during the period January to December 2009, so that the number of outstanding cases before the Tribunal was reduced from **117** (as at 31st December 2008) to **39**.

As at 31st December 2009, there were **39** cases/disputes still pending before the Tribunal, to be dealt with.