



Republic of Mauritius

Annual Report

Employment Relations Tribunal 2010



ANNUAL REPORT OF THE EMPLOYMENT RELATIONS TRIBUNAL FOR THE YEAR 2010

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

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 some 500 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 2008 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 Vice-President of the Tribunal.

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

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 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 Tribunal has started its e-tribunal process and the service is free. The Tribunal has issued guidelines for the use of its e-tribunal platform and the response from relevant stakeholders has so far been very encouraging. The advantages are numerous and lawyers may, for example, seek copies of minutes of proceedings and these are simply e-mailed to them. Pleadings are being exchanged by e-mail and users have access to the website of the Tribunal where Awards of the Tribunal and its predecessor, the Permanent Arbitration Tribunal, are available online. The cause list of cases fixed before the Tribunal is also available online.

The Tribunal aims at disposing of a larger number of labour disputes within the shortest delay whilst always keeping in mind various essential considerations such as the interests of the persons immediately concerned with the dispute and the community as a whole, the need to increase the rate of economic growth and to protect employment and provide greater employment opportunities, the need to prevent gains in the wages of workers from being adversely affected by price increases whilst at the same time taking into account the capacity to pay of enterprises and the principles and best practices of good employment relations among other things. The Tribunal has played an

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essential role in the economic development of the country since it was set up in 1973 as the Permanent Arbitration Tribunal, and with new developments in the field of industrial relations and as the country further develops its services sector, the role of the Tribunal can only increase. This is why this year again emphasis is laid at the Tribunal on efficiency, innovation, service and responsibility to enable workers, trade unions and employers to have speedy, satisfactory and reliable determination of their disputes.

SUMMARY OF CASES**RN 1004 – Neguibe Toorabally & 4 Others and Central Electricity Board**

The points in dispute were in relation to upgrading of salary scale. In its Award (*GN 360 of 2010*), the Tribunal considered that the applicants did not make out their case and the disputes were accordingly set aside.

RN 1006 – Christian Ramsamy and Le Grand Casino du Domaine Ltd**RN 1007 – Seeven Curpen and Casino de Maurice Ltée****RN 1009 – Jean Michel Chicoré and Casino de Maurice Ltée****RN 1010 – Marcelino Joseph Mamode and Beach Casinos Ltd****RN 1011 – Philippe Philogene and Casino de Maurice Ltée****RN 1012 – Louis Charles Allen Zephir and Casino de Maurice Ltée**

These six cases have been consolidated. The respondent in the above matters did not consent that the Tribunal goes beyond the statutory delay prescribed by law.

The Tribunal ruled that the provisions under Section 70 of the Employment Relations Act 2008 are mandatory provisions and the matter having exceeded the time limit, the Tribunal had no more jurisdiction to hear further proceedings and there was no consent of the parties to do so. The matter was set aside accordingly.

ERT/RN 69/09 – Mohunlall Iramon & Others and Compagnie Sucrière du Sud Ltée

The disputes were in relation to salary adjustment in view of computation of compensation payable under the Blue Print. The Tribunal ruled that the applicants having signed the option form, they were debarred from declaring a dispute on issues they had agreed upon. This matter was set aside accordingly.

RN959 – Rajeswar Sibartie and Mauritius Telecom Ltd**RN960 – Poorohitum Gopee and Mauritius Telecom Ltd**

The two disputes have been consolidated. The points in dispute were in relation to claims for increase in salary. The respondent, through his Counsel, raised an objection in law to the fact that the claims of both applicants are time barred by virtue of Article 2279 of the Civil Code. After hearing arguments from both Counsel, the Tribunal ruled that the points in dispute do not relate to claims which are time barred.

The matter thus proceeded and the Tribunal delivered an Award setting aside the points in disputes nos.1 and 4 as per the Terms of Reference for both disputants and awarded the increases in salary sought as per disputes nos. 2 and 3 of the Terms of Reference. (*GN 2340 of 2010*)

ERT/RN 02/10 – Syndicat des Travailleurs des Etablissements Privés and Le Warehouse Ltée

This was an application for an Order directing the employer to recognise a trade union. The employer was ordered to grant recognition to the union as bargaining agent for manual grade workers, at the bargaining unit of Cassis, Port Louis and both parties had to meet for the purpose of collective bargaining.

ERT/RN 72/09 – V. Packiry Poullée, R. Patchay, M. Cassam & N. Ramdoo and Mauritius Housing Company Ltd

The point in dispute was whether pensions payable to employees retired under a *Mutually Agreeable Retirement Scheme (MARS)* should be revised after each salary revision at the company in the same manner as the pensions of retired employees of the MHC Ltd.

The Tribunal awarded (*GN 584 of 2010*) that the pensions of the applicants who retired under the *MARS* should be revised after each

salary revision at the company, in the same manner as the pensions of other employees who have retired at normal retirement age.

RN1041 – Union of Employees of Central Water Authority and Central Water Authority i.p.o Pay Research Bureau

RN1060 – Union of Employees of Central Water Authority and Central Water Authority i.p.o Pay Research Bureau

The two cases have been consolidated. The points in dispute were whether clerks at the CWA should be appointed as senior clerks with effect from August 2007.

In the Award of the Tribunal (*GN 641 of 2010*), the applicants were invited to make representations to the Pay Research Bureau towards reaching further clarification on the issue.

RN 1021 – Airline Employees Association and Air Mauritius Ltd

The point in dispute was the imposition of a fuel surcharge on air tickets issued free of charge to members of the union.

In its Award (*GN 705 of 2010*), the Tribunal considered that since the Memorandum of Understanding signed between the two parties, specifically allows the employer to amend or withdraw a travel privilege, there was nothing wrong in the manner in which the employer had proceeded and found no merit in the point raised by the applicant union. The dispute was set aside accordingly.

RN 1040 – Sarwansingh Navin Seeruttun and Airports of Mauritius Co. Ltd

This dispute was in relation to an allowance for performing the duties of another Systems Administrator and for appointment as Manager ICT Services through same procedure followed for the appointment of Manager Assets and Maintenance.

Considering that the applicant did not make out his case, the Tribunal awarded that the matter be set aside. (*GN 813 of 2010*)

RN 1013 – Gerard Rousseau & Ors and Le Warehouse Ltd

The point in dispute was the change in the hours of work by the employer. In its Award (*GN857 of 2010*), the Tribunal analysed the principles governing change in the conditions of work. The Tribunal invited management to engage into dialogue with workers in future whenever a change is being considered and where workers are concerned. The Tribunal however did not intervene in the said matter and the dispute was set aside.

RN 1001 – The State Bank of Mauritius Staff Union and State Bank of Mauritius Ltd

This dispute was in relation to employees being compelled to work outside their normal working hours without remuneration. In its Award (*GN 902 of 2010*), the Tribunal considered that the case of the applicant had not been made out and the matter was set aside.

RN 1062 – Pierre Emmanuel Fidele and Cargo Handling Corporation Ltd**RN 1063 – Pierre Tidlan Harrisson and Cargo Handling Corporation Ltd****RN 1064 – Assiff Beharree and Cargo Handling Corporation Ltd**

The three disputes have been consolidated. The point in dispute was appointment to the grade of Terminal Assistant. In its Award (*GN 950 of 2010*), the Tribunal invited the respondent to consider, upon next vacancy arising, the appointment of the applicants to a higher level, the more so as it did not challenge the unblemished track records of the applicants.

RN 882 – Bank of Baroda Employees Association and Bank of Baroda

The points in dispute were in relation to salary increase, increase in allowances payable, loans entitlements, travel grants and other benefits payable to employees. During the various proceedings, the Tribunal

invited and encouraged the parties for further negotiations to maintain harmonious industrial relations. In June 2010, parties moved for an Award in terms of an agreement reached. The Tribunal awarded as per the agreement. (*GN 1333 of 2010*)

ERT/RN 11/10 – Mr. Deoraz Gooriah and Mauritius Revenue Authority

ERT/RN 12/10 – Mrs. Maneshwaree Mavintah Ramdeny and Mauritius Revenue Authority

The two cases have been consolidated. The points in dispute were in relation to the integration of an allowance in the basic salary of each of the applicants and to be reckoned as part of the basic salaries for pension purposes. After hearing Counsel appearing for the parties, the Tribunal found that the disputes as per the Terms of Reference had been wrongly drafted and were thus set aside. (*GN 1534 of 2010*)

ERT/RN 22/10 – Laldeo Saleegram and New Educational College *i.p.o.* Private Secondary School Authority

The point in dispute was the withholding of the increment in respect of the applicant for the year 1998. The State Counsel appearing for the P.S.S.A. raised an objection in law on the ground that the applicant was debarred from asking the increment due in 1998 in view of the provisions of *Article 2279* of the **Code Civil Mauricien**.

After hearing the arguments of Counsel appearing in this matter, the Tribunal ruled that further proceedings were unnecessary and exceptionally ordered the applicant, in view of unreasonable delay, to pay Rs5000. as costs to each the respondent and the party put into cause. (*GN 1607 of 2010*)

ERT/RN 45/10 – Livestock and Allied Industries Workers Union and Société Palmyre

This application was in relation to the drawing up and signing of a procedure agreement between the trade union and the employer. The parties were heard. The employer showed his good intention to draw up a procedure agreement and the process was delayed by the coming into effect of the new law. There was no evidence that justified a refusal on the part the employer and the Tribunal ruled that it would not be appropriate to issue an Order at this stage. The application was set aside.

ERT/RN 30/09 – Dhanrajsing Ramlugun and Air Mauritius Ltd

The disputes were in relation to the alleged interference of the employer in the review of the contract of employment of the applicant and to harassment causing prejudice to the applicant.

In its Award (*GN 1802 of 2010*), the Tribunal concluded that the appointment of applicant was tainted with procedural impropriety to such an extent that the appointment was *ab initio* inoperative. The dispute was set aside.

ERT/RN 17/10 – Rajend Sewumber and Central Water Authority

The points in dispute were in relation to the applicant, an Executive officer, allegedly performing extra duties pertaining to the Documentation Unit and who was seeking compensation for these extra duties.

In its Award (*GN 1946 of 2010*), the Tribunal concluded that the applicant had not adduced evidence that he was assigned the duties of Documentation Officer or Assistant Documentation Officer and the applicant admitted that the payment of extra remuneration for performing extra duties had not been approved by the respondent. The dispute was accordingly set aside.

ERT/RN 58/10 – Cernol Services Ltd and Syndicat des Travailleurs des Etablissements Privés

This was an application made by the employer for the revocation of the recognition of a trade union. The application was resisted by the union and the parties were not assisted by legal representative.

After hearing both parties, the Tribunal ruled that the application was devoid of merit and was thus set aside.

ERT/RN 56/10 – Syndicat des Travailleurs des Etablissements Privés and L'Exil Ltée

This was an application for an Order directing the employer to recognise the trade union as bargaining agent. The employer was ordered to grant recognition to the union as bargaining agent for manual grade workers and the union and the employer were required to meet at such time and on such occasions as reasonably required for the purpose of collective bargaining.

ERT/RN 35/10 – Purvuram Prannath Moolchand and Tea Board

This dispute was in relation to the assignment of duties for the post of Executive Officer or Accounts Officer. For the reasons given in its Award (*GN 2060 of 2010*), the Tribunal did not find any merit in the said labour dispute referred by the Commission for Conciliation and Mediation and pointed out that frivolous matters referred to the Tribunal may entail costs to the individual worker.

The dispute was accordingly set aside.

ERT/RN 41/10 – Union of Economists and Ministry of Finance and Economic Development

This was a labour dispute jointly referred by the two parties to the Tribunal for voluntary arbitration. The point in dispute was the filling of all vacancies in the Economist Cadre including consequential ones. The Tribunal encouraged both parties to enter into meaningful negotiations to resolve the labour dispute and in September 2010

both parties reached an agreement and they moved for an Award in terms of the agreement. The Tribunal awarded accordingly. (*GN 2145 of 2010*)

RN 1031 – Telecommunications Workers Union (TWU) and Mauritius Telecom Ltd

The points in dispute were in relation to the review of Pay, Grading Structure and Conditions of Service for period July 2008 to June 2012. After hearing all the evidence, the Tribunal held that the applicant cannot proceed with the disputes as “representative of the interest of that bargaining unit”. Also since 85.7% of all relevant workers had already agreed on new terms and conditions of work, the Tribunal could not be viewed as condoning disparity in conditions of work. Thus in its Award (*GN 2341 of 2010*), all the disputes were set aside and the Tribunal observed that with the new Act and the procedure agreement entered into by both parties, good industrial relations should now prevail.

ERT/RN 57/09 – Siva Ramasawmy and Central Electricity Board

The point in dispute was whether the respondent should grant applicant 6% increase on monthly pension as from 1 July 2005 excluding government increase of year 2005. After due consideration, the Tribunal concluded in its Award (*GN 2382 of 2010*) that there was no compelling reason to intervene in relation to the decision taken by the Board of the respondent. The matter was set aside.

RN 1051 – Hotels & Restaurants Employees Union and Maritim Hotel

The claim was in relation to a salary increase of 13% to all workers with effect from July 2007. In its Award (*GN 63 of 2011*), the Tribunal held that management should consider an increase in the purchasing power of the employees and parties were ordered to sit at the negotiating table to hold meaningful negotiations. The dispute was otherwise set aside.

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STATISTICS

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

During the year 2010:

- The number of disputes lodged before the Tribunal was **104** – out of which 30 cases were referred to the Tribunal by the Commission for Conciliation and Mediation and 9 cases were referred by the Rodrigues Commission for Conciliation and Mediation.
- The number of cases disposed of summarily (through conciliation, rulings, agreements between parties) was **92**.
- There were **18** Awards and 2 Orders delivered and the Tribunal had to deliver 8 Rulings.
- The Tribunal has thus disposed of a total of **112** cases/disputes during the period January to December 2010.

As at 31st December 2010, there were **36** cases/disputes pending before the Tribunal.

