

IN THE TRADE DISPUTES PANEL)
OF SOLOMON ISLANDS.)

CASE NO: L9/1/95

IN THE MATTER of the Trade
Disputes Act 1981

AND IN THE MATTER of a
Trade Dispute referral

BETWEEN: SOLOMON ISLANDS
NATIONAL TEACHERS
ASSOCIATION
Applicant

AND: TEACHING SERVICE
COMMISSION
Respondent

Full Enquiry: 11th April 1995, Honiara.

Panel: A. N. Tongarutu - Chairman
A. Fatai - Employee Member
J. Korinihona - Employer Member

Appearances: Mr. A. Radclyffe, Barrister & Solicitor for the
Applicant. Mr. Maeniuta, Secretary to the Teaching
Service Commission, and Mr. Rofeta for the Respondent.

FINDINGS

On the 12th of January 1995, the applicant gave notice of a trade dispute to the panel between itself representing its members and the Teaching Service Commission. The issues in dispute, are that of acting allowances due to certain primary and secondary school teachers and in the year 1993 and 1994 and teachers who had been victimised on recovery of over payments on allowances, the applicant parties case is mainly based on the submission of acting allowances which had not been paid to the teachers or were paid in full but that were recovered over a period of time. The teachers feel that they were neglected by the Teaching Service Commission in their complaints on acting allowances which are over due to them. The respondent's position as submitted is that the Teaching Service Commission has decided that the Education authorities should be responsible for payment of such arrears to the teachers since they were very late in submitting the recommendation on acting allowance to the Teaching Service Commission for deliberation. Their position is that all recommendations should have been submitted by the beginning of each year for the Teaching Service Commission's attention. In 1994 submissions came in late and therefore, the teachers who have been affected are only received backdated payment on the period they were appointed by the Teachers Service Commission. Any acting appointments and jobs perform on acting basis before the date of appointment or not endorsed by the Teachings Service Commission was the responsibility of the Provincial Education

authorities to pay the allowances of such teachers. Teachers, the guard lines on appointments of teachers is set out in the Teaching Service Handbook as well as the Teaching Service Regulations which set out the procedures on how teachers are appointed. The procedure for appointment is that when a vacancy for a headmaster's post at a primary school becomes vacant, the post is then advertised by the provincial education authorities, applicants send their applications to the provincial education authorities which then make submissions to the Teaching Service Commission which makes the appointment. It is not disputed by the applicant party that the Teaching Service Commission is the employer. The constitution provided before the Teachings Service Commission to employ and dismissed teachers. An example for a submitted to the panel by the applicant's solicitor on how appointments on the procedure of appointment. However, on the 21st of February 1995, Mr. Zikuli, was Head Teacher at the Nabussa Primary School, South Choiseul wrote a letter to the Teaching Service Commission complaining that he had not received his acting allowance for over 4 years in the period of 4 years. He also pointed out in his letter that acting appointments only last for a period of 6 months. This is also provided for under chapter 3 of the Teaching Service Handbook. This is the cracks of the unions complaint that teachers who have not been properly paid their acting allowances. The Chief Education Officer in the Teaching Service Division of the Ministry of Education and Human Resources Development, responded by his letter of the 27th of 1995 that in effect his acting allowance had been duly paid to him through the Ministry of Finance. Mr. Radclyffe's submission was that it was undeniable that people who have been validly appointed are entitle to their allowances and salaries for the whole period and not only for a short period as in the case of Mr. Zikuli. Payment of allowances is basically an administrative function. The respondent's in comparison to respondent's submission on lateness of submissions from provincial teaching authorities saying that if the submissions are late in coming they would not be considered by the Teaching Service Commission unless they were submitted within the right time. The problem is not on the teachers but due to the administrative inefficiency of the officers concerned. The teachers should not be victimised because of the failure of administrators. The other action which this concerned teachers could take is to shoe the government individually for breach of contract but because the large number of teachers are affected by the same issue the union which is their representative decided to refer the matter to the panel. If acting period expires it is for the teaching service commission to review the appointments. The respondent parties submission was that, it was the responsibility of education authorities to pay the teachers their acting allowance. The cracks of the matter and which concerns them is that the education authorities concern are not authorised to appoint teachers but regardless of this they issue appointment letters without the endorsement of Teaching Service Commissions and without making recommendations to the Teaching Service Commission. Zikuli's case in their submission is out of date in that he had been paid his acting allowances up to date. Paragraph 3 of his letter regarding conformation is that Teachers Service Commission does not confirm teachers on their acting post unless they have received an assessment report from the authorities concerned. In 1994 certain teachers acted on responsibility post which were not procedurally done.

The approach of the Teaching Service done was that from the period of January to October 1994, the Education authorities concerned were made the appointments were responsible to pay their allowances of the teachers and that the Teaching Service Commission will only pay from the date the appointments were valid. Then teachers were informed but no appeal was made by the teachers agreed for their pay arrears. This is provided for under sub-paragraph 3 of the Teacher's Service Handbook. In response to this submission was that certain teachers were only paid after they raised their complaint. Sub-paragraph 3 of the Teachers Service Handbook concerned teachers who are to be paid for the services delivered. The money which is due to them is from the same basket anyway. Provincial teachers should not suffer because they are posted out in the provinces.

In its assessment the Panel once accepts it there is no dispute to the employer in this case the Teaching Service Commission it is of the opinion that somewhere along the line someone is not doing his or her job. In a case in its school its not possible to operate a school without a head teacher. A head teacher who is appointed by the educational authorities and who has a problem must be seriously viewed. The respondent submission was that Educational provincial authorities are responsible to monitor the teachers posting in the provinces. The Provincial Educational Officer is directly responsible for the postings and the ministry of education pays the salaries on behalf of all educational authorities. The Teaching Service Division in the Ministry concerns itself with regulations on the decisions of the Teaching Service Commission. Firstly, teachers who have been validly or procedurally appointed by the Teaching Service Commissions and whose acting allowances are in arrears should be paid the arrears immediately. On the issue of appointments made by principal education officers or provincial educational authorities the Panel is of the assessment that the Provincial Educational Officers recommendation that the procedure in the appointment could later be validated. The Provincial Educational Officers recommendation will be later action by the Public Service Commission anyway. The Provincial Education Officer and the Educational Authorities should be aware that final appointments are to be made by the Teaching Service Commission. And the point of submission from the Provincial Education Officer does not really matter because he would give a same advise to the Teaching Service Commission anyway. The Teaching Service Commission then should not be hesitant to backdates its payments on acting allowances. This is the award of the Panel.

Appeal

The appeal provisions in the Trade Disputes Acts apply to this findings.

Panel Expenses

In the Course.

A. N. Tongarutu
CHAIRMAN/TRADE DISPUTES PANEL