

CO-OPERATIVE REPUBLIC OF GUYANA

ANNUAL REPORT

2000

PUBLIC SERVICE APPELLATE TRIBUNAL

*Submitted Pursuant to Office of the
President
Public Service Management,*

Dated: 29th May, 2001

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1.0 EXECUTIVE SUMMARY

It was a fervent hope that after the presentation of the Report of 1999, measures would have been taken by the authorities to give the Public Service Appellate Tribunal (hereinafter referred to as the Tribunal) an opportunity to flourish as some tribunals in England. It was hoped that the jurisdiction of the Tribunal would have been extended as always been suggested in each year's report commencing from the Honourable Chancellor A.V. Crane's (deceased) first report. Surely the time has come when appeals from the Teaching Service Commission and the Police Service Commission should have fallen to the Tribunal. Why must public officers be entitled to more speedy resolve of some of their matters than those in the Teaching profession and the members of the Police Force?

One comes with verve and enthusiasm in compiling a report of this nature. This year's report, however, is approached with a tint of sadness because some public officers who have sought the service of the Tribunal in having their causes promptly determined must be bothered by the number of postponements granted. Especially since most of the postponements were caused not because the lawyers were absent; but because the Tribunal on very many occasions was not properly constituted.

The cause for most of the postponements was absence of the members appointed under Section II of the Public Service Appellate Tribunal Act of 1984 hereinafter called the Act. Both of these members wore too many hats which do not always fit the head properly. This continual absence from the sittings was most obvious between October, 2000 to now. It is obvious that members believe that all their other obligations must take precedence over the Tribunal sittings. That was never visualized; nor is it right.

What is saddening is that some public officers come from afar only to hear that the Tribunal is not properly constituted; and they have to return without their matter being touched. This experience has caused the suggestion to be made that the time has come when the Tribunal should be itinerant sitting in other parts of the country when that is most convenient to all concerned. The Act makes provision for that.

The legislature when it established the Tribunal had the intention that public officers must have their matters heard and determined promptly for the benefit of all the parties affected. An appeal generally should not go beyond nine months to be determined by the Tribunal. It is a forum for speedy determination; and once a date agreeable to the parties is fixed, adjournments ought to be rare.

Besides these unnecessary adjournments, it is perceived that the non-payment of the emolument of Mr. Randolph Kirton, the member appointed on the section 11(I)(b) may have been a factor for the delay in determining matters. Mr. Kirton has not to my knowledge, received any emolument since he took the oath of office in November, 1998 despite intervention of himself and myself. I trust that this awkward situation will be rightened before long.

The Public Service Appellate Tribunal Regulations were made since 1987. They are limited in scope and should now be re-visited by some committee to make them relevant to the practice of Tribunals today especially in the areas of fees for filing of appeals and other charges concomitant thereto.

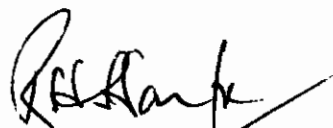
But more especially section 4(1) of the Act ought to make provisions for a wider scope for parliamentary authority. For example the Tribunal ought to have the expressed authority to award compensation in deserved cases and to impose sanctions on litigants, especially cases where a senior public officer is without reasonable doubt the root cause for the aggrieved officer's torment and/or complaint.

The Tribunal is the bastion between the Public Service Commission and the public officer; and therefore its function must be to try and ensure that both parties conduct themselves with respect, tolerance and fine consideration for the other if persons are to make a career in the public service. It is necessary for the Tribunal to be equipped with literature touching on modern trends in reconciliation and alternative disputes. It is therefore alarming that for more than one year now the Registrar of the Tribunal endeavoured to obtain an allowance to purchase necessary books for the Tribunal, but was unable to obtain any. The bare volumes of the Laws of Guyana are not sufficient if

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the Tribunal must work efficiently. A library is a sine qua non in any institution where legal consideration is necessary.



RUDOLPH H. HARPER
CHAIRMAN
PUBLIC SERVICE APPELLATE TRIBUNAL
29/05/2001

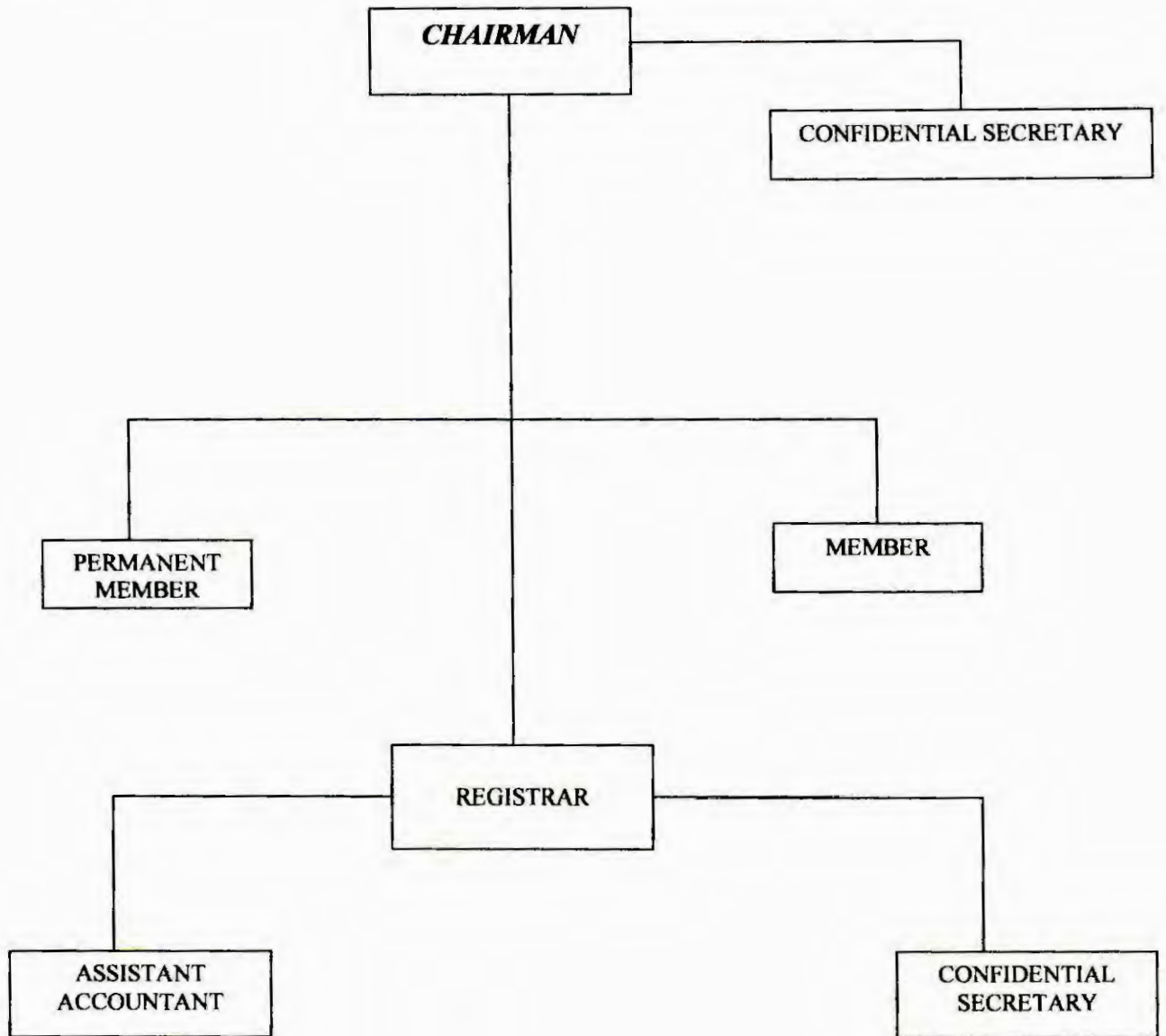
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2.0 **MISSION STATEMENT**

The mission of this office is to see justice granted to all pensionable public servants in relation to appointment by promotion of any person to a public office, and the exercise of disciplinary control over any person holding, or acting in any public office.

3.0 ORGANISATION AND MANAGEMENT

3.1 Organisational Chart



3.0 ORGANIZATION AND MANAGEMENT (CONT'D)

3.2 Description of Divisions and Departments

The Public Service Appellate Tribunal consists of an Administrative and a Legal Section:

1. The Administrative Section - is supervised by the Registrar of the Tribunal and is responsible for the general administration of the office and the smooth running of the Department. The Registrar handles all personnel matters, such as leave, resignations, Annual Confidential Reports and the overall discipline of the office staff. Also with the administrative functions the Registrar accepts appeals from Public Officers and processes same, for hearing by the Bench of the Tribunal.

Accounting matters are handled by an acting Assistant Accountant who reports to the Registrar. The acting Assistant Accountant is entailed with the preparation of pay-sheets, remittances and withdrawals from the Consolidated Fund, recoupment of imprest, keeping of imprest, payment vouchers, cheque orders, bank deposits, taking vouchers to the Treasury, preparing monthly Financial Statements, keeping votes, salaries traveling and imprest ledgers along with other related accounting duties.

2. The Legal Section - comes directly under the purview of the Chairman who is ably assisted by a permanent member and two part-time members. This section deals expeditiously with all the appeals that come in from Public Officers. The appellant is normally represented by Counsel while the Public Service Commission is represented by the Attorney General's Chambers. After appeals are heard, decisions are given orally or written as is appropriate. These decisions can be obtained from the Registrar for the payment of a small fee.

4.0 SUMMARY AND REVIEW OF CURRENT YEAR'S PROGRAMME

4.1 Legal Section

Seven (7) appeals were filed with the Tribunal during the year under review.

Four (4) appeals were concluded. Among the cases filed during 2000, one matter was dismissed, another withdrawn and in the other decision was given in favour of the respondent.

Of the four appeals one relates to 1999 the year of its filing. The decision given was in favour of the appellant.

A list showing cases filed in the Registry of the Tribunal for 2000, together with incomplete 1999 matters has been reproduced in the Appendix of this report.

The list shows the numbers of appeals filed before the Tribunal and the manner in which each case has been dealt with.

No appeals were filed with respect to public officers of the Federated Union of Government Employees (FUGE).

Changes to the Bench of the Tribunal

There are no changes to the bench of the Tribunal. The Chairman of the Tribunal is Justice Rudolph Harper C.C.H. Mr. Hubert Rodney, Attorney-at-Law is the Permanent Member. Other members are Mr. Randolph Kirton, Attorney-at-Law, representing the Guyana Public Service Union (GPSU) and Mr. Earl Welch, representing the Federated Union of Government Employees (FUGE).

4.2 Administrative Section

There are no longer changes to the staff of the Registry.

The staff are as follows:-

- (i) Trevor King - Registrar
- (ii) G. Leola Alleyne-Grant - Confidential Secretary to the Chairman
- (iii) Lavern Gaime - Acting Confidential Secretary to the Registrar
- (iv) Esma Jennings - Acting Assistant Accountant

5.0 **REVIEW OF SPECIAL INITIATIVES**

5.1 **Organizing the Support Services**

The Public Service Management, Office of the President produced a report dealing with Organizing the Support Services of the Public Service Appellate Tribunal, dated November, 1998.

The contents of the report dealt with arrangements concerning staffing, structure, workload and accommodation of the Public Service Appellate Tribunal and Office of the Ombudsman. The issues surrounding the Police Complaints Authority, Land Court and the Guyana Bar Association were mainly related to accommodation.

At the time of the report, the Public Service Appellate Tribunal had recently been reconstituted.

The Public Service Appellate Tribunal was established by an Act of Parliament, Act No. 17 of 1984. This office investigates complaints made by pensionable Public Servants in relation to:

- (i) appointment by promotion of any person to a public office;
- (ii) exercise of discipline and control over any person holding or acting in any public office.

The Office of the Ombudsman established under Chapter 19:04 of the Laws of Guyana investigates:

“any act taken by a Department of Government or authorities, upon a complaint by any person or body of persons alleging that the complaint has sustained injustice in consequence of a fault of such action.”

Both the Office of the Ombudsman and Public Service Appellate Tribunal are distinguishable constitutional agencies with distinctive constitutional functions.

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But that as it may, the idea behind establishing a merger between the Public Service Appellate Tribunal and Office of the Ombudsman is intended to create cohesion between the administrative sections of both agencies.

Thereafter, it was left to the agencies concerned, to work out details of the proposed arrangement with the supervision of Public Service Management.

On several occasions officials from Public Service Management monitored the situation. However, the probation period became prolonged and was never concluded to a point of formalization. Hence to date, Public Service Management as well as Public Service Commission have it on record that no administrative changes were made with respect to the authorized positions of Public Service Appellate Tribunal.

The direct effect of the new proposed arrangement meant the Public Service Appellate Tribunal ended up with several staff personnel eliminated from its inventory of authorized established positions: i.e.

- (i) Senior Clerk
- (ii) Accounts Clerk II
- (iii) Office Assistant
- (iv) Cleaner

Having been advised by Public Service Management officials not to recruit staff for these positions, I proceeded to act on their advice. As a consequence, the Tribunal over the period refrained from making budgetary allocations for positions so affected.

The elimination of the positions mentioned has created a vacuum. The issues surrounding this vacuum have not been concluded; hence a revisit to the above- mentioned situation is urgently required.

5.2 Construction of Concrete Trestle

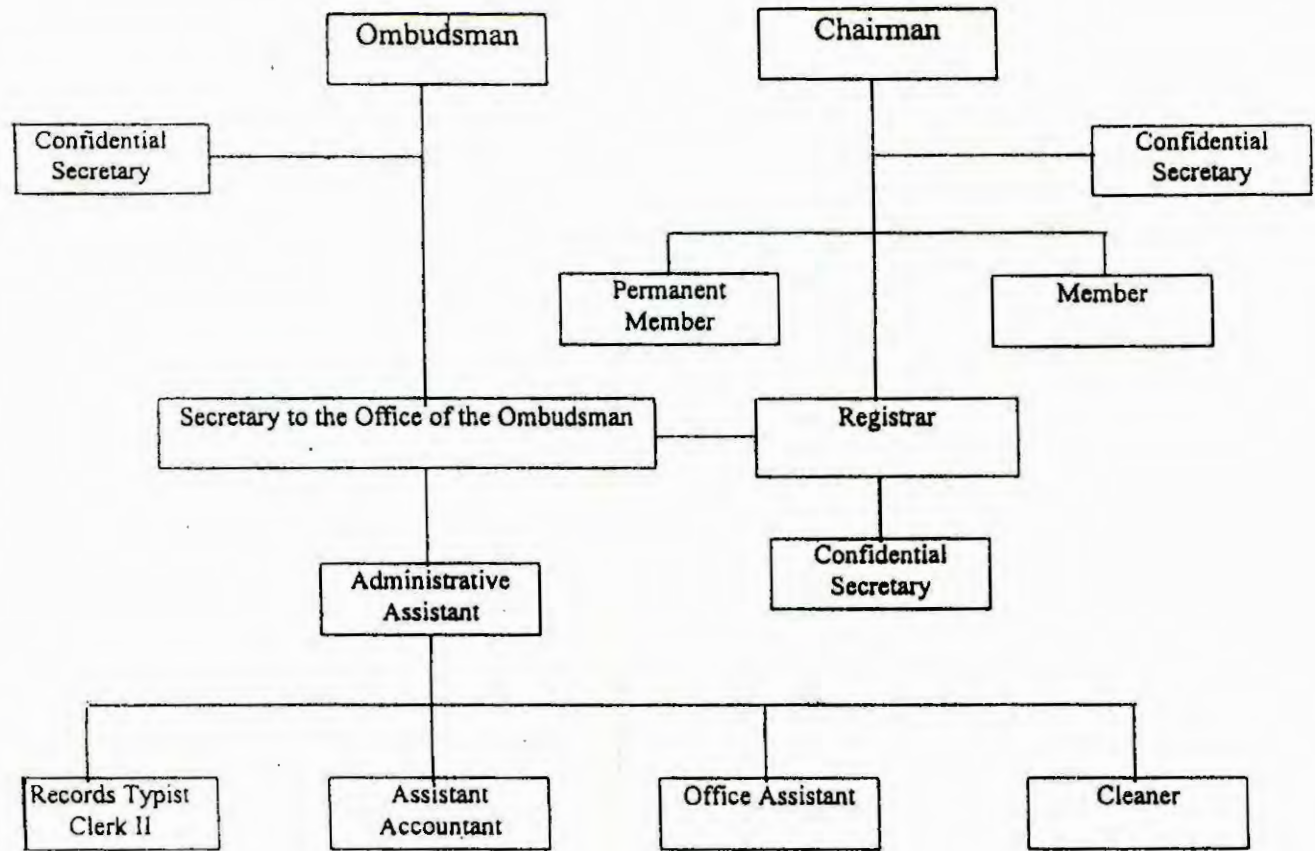
The Public Service Appellate Tribunal is housed in a three-storeyed styled colonial building. Over the years the supply and distribution of water throughout the building proved inadequate. As demand increased it became necessary to upgrade and improve the water delivery system.

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In order to address the situation, the construction of a concrete trestle was undertaken. The trestle itself was designed to store and contain six (6) water tanks. Construction of the concrete trestle came under the supervision of the Ministry of Works. However, the cost of the project was borne out of the Tribunal's funds.

Proposed Structure of Office of the Ombudsman and Public Service Appellate Tribunal.



APPENDIX I

CURRENT APROPRIATION ACCOUNTS FOR THE FISCAL YEAR
ENDED 31ST DECEMBER, 2000

PUBLIC SERVICE APELLATE TRIBUNAL

SUB HEAD	DESCRIPTION	VOTED PROVISION	SUPPLEMENTARY PROVISION	YEAR TO DATE VIREMENT	REVISED PROVISION	TOTAL EXPENDITURE	UNDER THE REVISED ESTIMATES	OVER THE REVISED ESTIMATES
011	Statutory Wages and Salaries	4,857	1,000		5,857	5,827,376	29,624	Nil
012	Statutory Benefits and Allowance	862	1,321		2,183	1,886,672	296,328	Nil
101	Administration							
103	Other Technical and Craft Skilled	300			300	250,423	49,577	Nil
104	Clerical and Office Support	519			519	177,817	341,183	Nil
105	Semi-Skilled Operatives and unskilled							
106	Contracted Employees	468			468	365,992	102,008	Nil
201	Other Direct Labour Cost	46			46	26,230	19,764	Nil
203	Benefits and Allowance	300			300	114,048	185,952	Nil
204	National Insurance	160			160	141,326	18,674	Nil
121	Drugs and Medical Supplies	20			20	650	19,350	Nil
123	Office Materials and Supplies	200			200	108,673	91,327	Nil
124	Print and Non Print Materials	300			300	270,262	29,738	Nil
142	Maintenance of Buildings			250	250	118,495	131,505	Nil
143	Janitorial and Cleaning Supplies	150			150	49,717	100,283	Nil
161	Local Travel and Subsistence	185		40	225	178,970	46,030	Nil
163	Postage, Telex and Cablegrams	20			20	300	19,700	Nil
171	Telephone Charges	300			300	111,840	188,160	Nil
173	Water Charges	150			150	133,330	16,670	Nil

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SUB-HEAD	DESCRIPTION	VOTE PROVISION	SUPPLEMENTARY VIREMENT	REVISED PROVISION	TOTAL EXPENDITURE	TOTAL EXPENDITURE	UNDER THE REVISED ESTIMASTES	OVER THE REVISED ESTIMATES
192	Electricity Charges	10			10		10	Nil
181	Security Services	3,500			3,500	1,285,440	2,214,560	Nil
182	Equipment Maintainance	20		40	60	25,835	34,165	Nil
183	Cleaning and Extermination Services	25		185	210	172,234	37,766	Nil
184	Other	150		55	205	201,750	3,250	Nil
193	Refreshments and Meals	150			150	66,546	83,454	Nil
194	Other	30			30	1,931	28,069	Nil
221	Rates and Taxes	2,500		570	1,930	Nil	1,930	Nil
191	National and other Events	20			20			
	TOTAL:-	15,242	2,321	1,140	17,563	11,515,863	4,099,067	

Under the Revised estimates	-	4,099,067
Over the Revised Estimate	-	Nil
Net under the Estimates	-	4,099,067
Expenditure for 2000	-	11,515,863
Due by the Consolidated Fund	-	7,416,796

N.B. Consolidated fund advance warrant NO.
Amount of \$15,242,000 was issued.

APPENDIX 11

**CAPITAL EXPENDITURE
DIVISION 505
DESCRIPTION: PUBLIC SERVICE APPELLATE TRIBUNAL**

DIVISION	SUB-HEAD	DESCRIPTION	VOTED PROVISION	REVISED PROVISION	TOTAL RELEASE TO DATE	TOTAL EXPENDITURE	BALANCE ON RELEASE	BALANCE ON VOTED PROVISION
505	25009	Purchase of computer, computer workstation, facsimile. Construction of concrete trestle	1,375	1,375	1,375	1,368,998	6,0002	6,002

APPENDIX III

Appeal No.	Parties	Subject Matter	How Dealt With	Remarks
1/1999	Jacquelyn Hamer vs Public Service Commission and Mohamed R. Khan	Supersession	Matter closed	Decision in favour of Appellant
2/1999	Vernon Mc Pherson vs Public Service Commission and Lennox Applewhaite	Supersession	In Progress	Nil
3/1999	John Rodney vs Public Service Commission	Demotion	In Progress	Nil
7/1999	Harrychan Ramu vs Public Service Commission Noel Holder	Supersession	In Progress	Nil
1/2000	Karen Ann Vansluytman vs Public Service Commission	Supersession	In Progress	Nil
2/2000	Michael Waithe vs Public Service Commission & Registrar, Supreme Court	Denial of Appointment to Office	In Progress	Nil
3/2000	Rampersaud Tiwari vs Public Service Commission	Denial of Promotion	Matter Closed	Case Dismissed
4/2000	Andrea Brummell vs Public Service Commission	Dismissal	Matter Closed	Decision in favour of Respondent
5/2000	Dwarka Nauth vs. Public Service Commission	Dismissal	In Progress	Nil

Appeal No.	Parties	Subject Matter	How Dealt With	Remarks
6/2000	Mitra Bholu vs. Public Service Commission	Dismissal	In Progress	Nil
7/2000	Deonarine Arjune vs. Public Service Commission	Dismissal	Matter closed	Withdrawn