

CO-OPERATIVE REPUBLIC OF GUYANA

ANNUAL REPORT

1999

PUBLIC SERVICE APPELLATE TRIBUNAL

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

Dated: 11th February, 2000

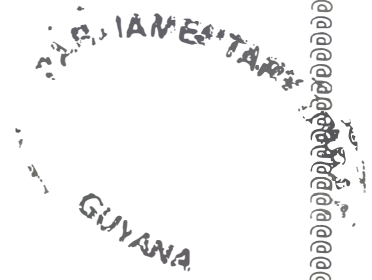


TABLE OF CONTENTS

1.0	Executive Summary
2.0	Mission Statement
3.0	Organization and Management
3.1	Organizational Chart
3.2	Description and Divisions and Departments
4.0	Summary and Review of Current Year's Programme
4.1	Administrative Section
4.2	Legal Section
5.0	Review of Special Initiatives
6.0	Appendices
6.1	Budgeted and Actual Recurrent Expenditure

1.0 EXECUTIVE SUMMARY

The Public Service Appellate Tribunal, hereinafter called the Tribunal, first sat on 1st February, 1988, although the institution was established by the Public Service Appellate Tribunal Act No. 17 of 1984 in accordance with Article 164 of the 1980 Constitution. It, however, came into operation in July, 1985. Yet it was not until 1988 that the first sitting of the Tribunal took place.

The Tribunal sat continually from 1988 to 1995 when the then incumbent chairman's authority came to an end constitutionally. Since then there were no sittings of the Tribunal until 1999 after the institution was reconstituted and the members and the Registrar were sworn in. However, as in the eighties the Tribunal did not actually sit before April, 1999 because of staffing. The Tribunal, unlike the eighties and early nineties, now shares staff with the Office of the Ombudsman, a situation not desirable.

The jurisdiction of the Tribunal remains as it was in the eighties and nineties, a letter written by the first Chairman, the late Honourable Victor Crane, O.R., to the Permanent Secretary of the Public Service Management on 13th January, 1992, notwithstanding. When the Chairman submitted his report in 1995 he referred to that letter because had the authorities favourably considered closely the content of that letter, the Tribunal would have been more attractive to public officers who appreciate that their concerns will be more readily expedited in a tribunal concerned only with their alleged grievance.

I am therefore constrained to remind the authorities of that letter:

"COPY

PUBLIC SERVICE APPELLATE TRIBUNAL
39 Brickdam,
Stabroek,
Georgetown.

1992-01-13.

Dear Cde Permanent Secretary,

You will remember during our conversation at the swearing-in ceremony of Randolph Kirton at the Presidential Secretariat in December last in response to your enquiry as to whether I had any suggestions as would improve the quality and work-performance at the Public Service Appellate Tribunal. I had undertaken to write you.

/...

As my first suggestion, I would emphasise the point that the Tribunal's work-load is not at all satisfactory. This is no doubt due I think, to the fact that our jurisdiction is of an extremely limited nature. Appellable matters are contained in the schedule to the Public Service Appellate Tribunal Act 1984, s. 17(1), and confined to -

- (1) Appointment by promotion of any person to public office;
- (2) Exercise of disciplinary control over any person holding or acting in any public office.

The Tribunal commenced its business on February 1st, 1988. However, after four months it was discovered that the number of cases filed in our Registry was not as many as expected, and I duly acquainted the Cde President of this fact suggesting that our jurisdiction under s. 17 should be amended to include appeals from either the Teaching or Police Service Commissions, or both of them.

Unfortunately, up to the moment we have received only an acknowledgement to my letter to His Excellency, and after many months had passed by, intimation from the Head of the Presidential Secretariat that enquiries were made by the Teaching Service Commission as to whether the time had arrived for filing public officers appeals to the Tribunal. The Secretary was accordingly advised that the matter was receiving attention.

So on the first point, we are still awaiting an answer to the suggestion.

My second suggestion is that our Tribunal ought to have been given in the first place, power to give executory or coercive relief to appellants in the form of damages or compensation and costs etc. It has been known that few Tribunals are given power to award costs, and parties have to bear their own costs in cases involving expense. It is considered that if our Tribunal is so empowered, appellants would seek relief here, rather than in the High Court. It must be emphasised that our jurisdiction is restricted to only declaratory judgments. The essence of such a judgment; as Professor Wade writes, "is that it merely states some existing legal situation - the rights or legal position of the parties as they stand without changing them" in any way; although it may be supplemented by other remedies in suitable cases".

I would with humility suggest the situation revealed at our Tribunal is clearly "a suitable case" for other remedies besides mere declaratory judgments. I am of opinion if such other remedies as above indicated are allowed us, public officers would surely resort to our Tribunal rather than to the High Court; they would resort to our Tribunal where the costs are much cheaper and the hearings more expeditious. The case of Remington Hinds v. The Public Service Commission, is a case in point, Hinds was a Schools Welfare Officer of the Ministry of Education. He recovered in the High Court damages in the sum of

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\$107,672.65 for wrongful dismissal by the Public Service Commission. Obviously, it suited Hinds' purpose to proceed in the High Court instead of the Tribunal, where he could only have gotten a declaration that he was wrongfully dismissed, and not even the costs of his appeal.

My third and final point is the need, as recent events have shown, to have our Appellate Tribunal represented by counsel in the event of an appeal to the High Court by the PSC (the Respondent) against our decision. Why I am so suggesting is because, in J.F. Ross v. The P.S.C., the just concluded appeal by certiorari against our decision, only the parties were represented by counsel before the High Court. The result was, that in addition to the many affidavits documentaries and explanations requested by the trial judge directly from the Tribunal, there was no one to explain anything to the judge on behalf of the Tribunal: whereas the appellant P.S.C. was provided with the legal assistance both from the Chambers of the Attorney General and surprisingly from State Solicitor's Office. I should have thought the Tribunal ought properly to have been represented by the latter. As there is no provision in the Rules to the Public Service Appellate Tribunal, for what has been revealed, it is suggested the Rules ought to be amended giving power to the Tribunal to employ counsel to watch the Tribunal's interest.

Yours co-operatively,

(Sgd) V.E. Crane
CHAIRMAN
PUBLIC SERVICE APPELLATE TRIBUNAL

Permanent Secretary,
Thru Dr. Faith Harding,
Minister of Public Service,
Office of the President,
Public Service Management,
Waterloo Street,
Georgetown."

Perhaps the time has come when Section 5 of the Public Service Appellate Tribunal Act No. 17 of 1984 be activated.

The Tribunal is a crucial safeguard of the rights of public officers even though its jurisdiction is quite limited in scope. Whenever a statutory provision gives power to an authority; that power must be exercised fairly, having taken into consideration every relevant aspect of each case; and its decision must not be in conjunction with the views of other unauthorised persons or bodies; but only on the facts

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presented for its consideration. All allegations of impropriety and bad faith must be investigated so that all concerned must have trust in its decisions.

It is worthy to note that three appeals to the Tribunal in which public officers were complaining of interdiction from duty for over two years; and on part salary were granted leave to be withdrawn, when those officers and many others were re-instated in office by the Public Service Commission. Counsel for those officers sought to have some sort of compensation to be awarded by the Tribunal.

It is my view that even though the officers ought to be awarded some sort of compensation and the Public Service Commission ought to be sanctioned for the long delay in correcting its wrong, the Tribunal has no authority to order either. Had the entreaty of the Hon. Victor Crane O.R., embodied in this letter above, had been favourably entertained by the authority, the Tribunal more likely would have awarded those officers some compensation and sanctioned the Public Service Commission.

It is hoped that the Tribunal over the years will be given an opportunity to flourish as the Tribunals in England.



RUDOLPH H. HARPER
CHAIRMAN

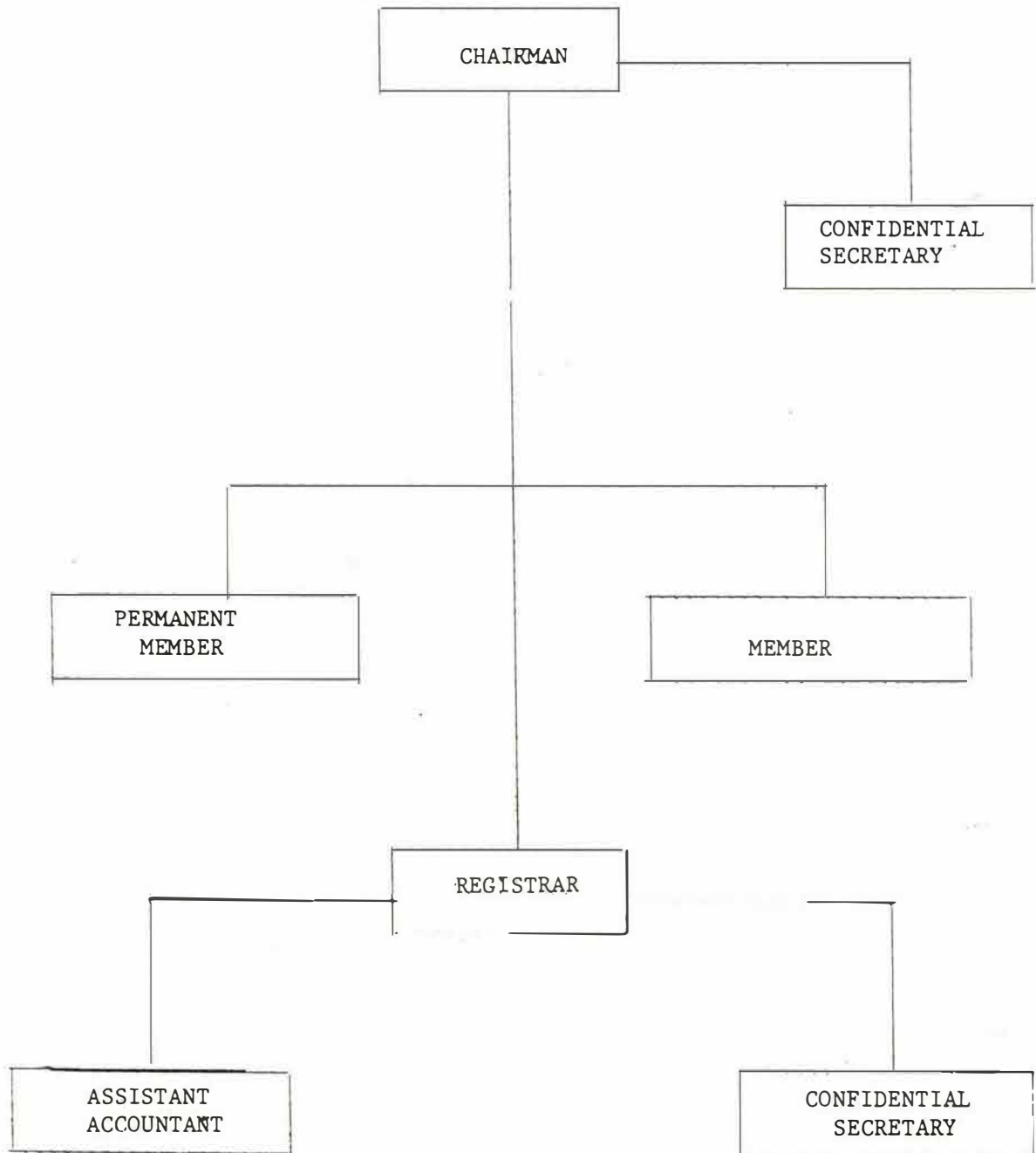
PUBLIC SERVICE APPELLATE TRIBUNAL
11.02.2000

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



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ORGANISATION 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 Assistant Accountant who reports to the Registrar. This entailed the preparation of paysheets, 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, travelling 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 PROGRAMME4.1 Legal Section

The Tribunal's work flow is currently on stream. There were seven (7) cases filed before the Tribunal during the year under review.

Three matters involving officers from the Customs and Excise Department were withdrawn. However none of the other matters are concluded.

A list showing those cases filed in the Registry of the Tribunal for 1999 has been reproduced in the Appendix of this report.

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

We regret to say however, that no Appeals were filed with respect to public officers of the Federated Union of Government Employees (FUGE).

Changes on the Bench of the Tribunal

The Chairman of the Tribunal is Mr. Rudolph Harper, C.C.H., who held the position during the previous tenure which lasted from 1992 - 1995.

Mr. Hubert Rodney, Attorney-at-Law is the new permanent member replacing Mr. Charles Ramson, Attorney-at-Law, the current Attorney General.

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 SectionChanges on the Staff of the Registry

Changes on the Registry staff are as follows:

- (i) Trevor King, Registrar with effect from 8th December, 1998 ;

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- (ii) G.L. Alleyne-Grant, Confidential Secretary to the Chairman;
- (iii) Esma Jennings, Assistant Accountant
- (iv) Jacqueline Moonsammy, Temporary Typist-Clerk.

NOTE: The Registrar is working without a Confidential Secretary. This position is vacant. The person previously employed as Typist-Clerk attached to the Registrar's office was of a temporary nature.

5.0 REVIEW OF SPECIAL INITIATIVES

Reference is made to a proposal - Organising the Support Services of the Appellate Tribunal put forward by the Public Service Management, Office of the President, the merging of certain aspects of administration involving the Public Service Appellate Tribunal and the Office of the Ombudsman.

Ever since this proposal has been put forward, Public Service Management is yet to engage the Public Service Appellate Tribunal officials in further dialogue towards its intention in this direction.

According to the Authorised Administrative Staffing for the Public Service Appellate Tribunal from the Public Service Management, the total authorised staffing amounts to eight (8) persons.

Currently, the number of persons engaged as staff with the Tribunal number three (3). This situation is untenable.

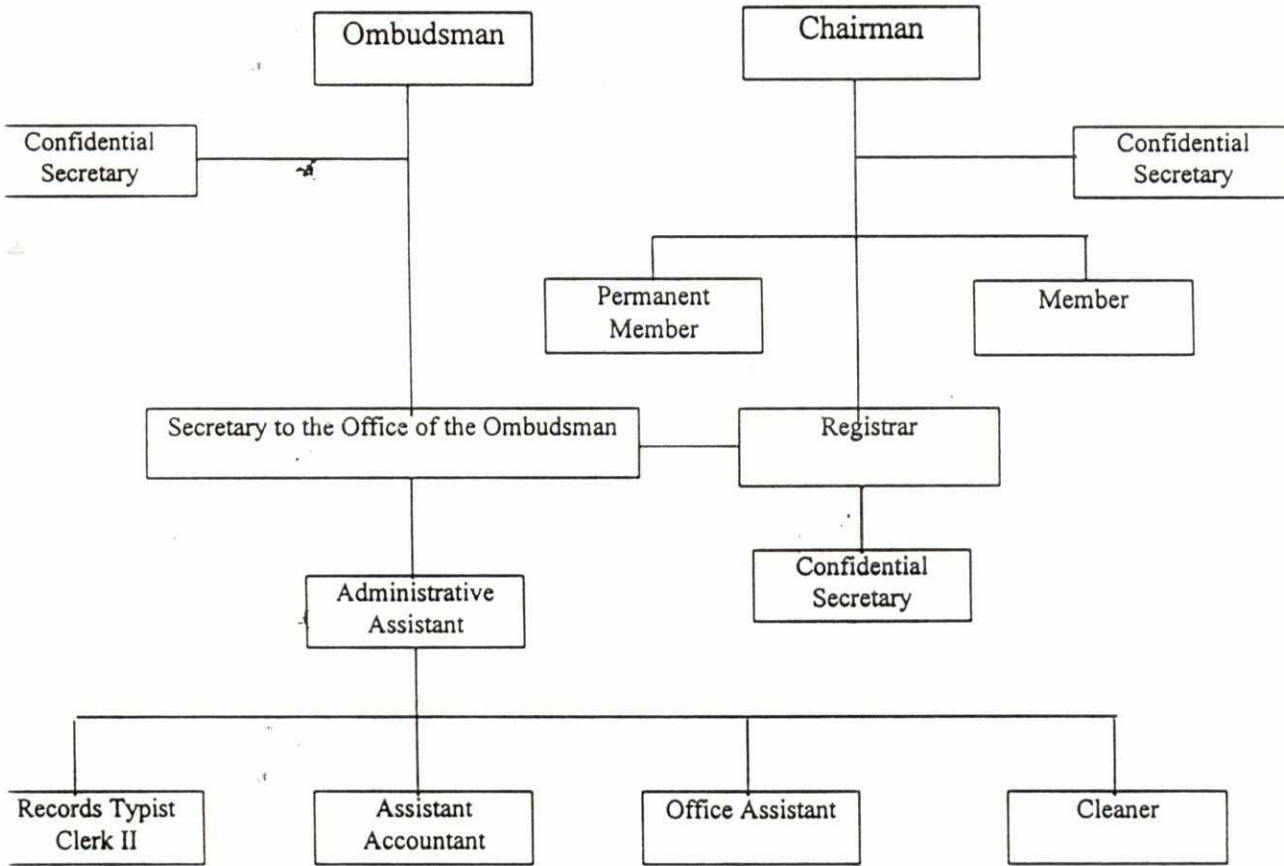
A copy of the Proposed Structure of the Office of the Ombudsman and the Public Service Appellate Tribunal is attached.

5.1 Repairs and Renovation to Tribunal Building

During the year under review, the Tribunal building which, apart from the Tribunal itself, also houses the Office of the Ombudsman, the Land Court, Guyana Bar Association, as well as the Police Complaints Authority, underwent general repairs, renovation and electrical maintenance.

The cost of these works were jointly shared by the Ministry of Public Works and Communication and the Public Service Appellate Tribunal.

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



6.0 APPENDICES

6.1 Budgeted and Actual Recurrent Expenditure

HEAD NO. 11

DESCRIPTION: PUBLIC SERVICE APPELLATE TRIBUNAL

Head of Charge	Voted Provision	Revised Provision	Year to Date Releases	Year to Date Expenditure	Balance on Releases	Balance on Voted Provision
011	3,320,000	4,404,000	4,404,000	4,403,000	1,000	1,000
012	615,000	615,000	145,000	61,000	84,000	554,000
013	NIL	-	-	-	-	-
021	NIL	-	-	-	-	-
031	NIL	-	-	-	-	-
032	-	-	-	-	-	-
033	-	-	-	-	-	-
034	-	-	-	-	-	-
101	-	-	-	-	-	-
102	-	-	-	-	-	-
103	191,000	191,000	169,000	160,000	9,000	31,000
104	519,000	519,000	296,000	293,000	3,000	226,000
105	128,000	128,000	-	-	-	-
106	-	-	-	-	-	-
107	-	-	-	-	-	-
201	40,000	40,000	20,000	18,000	2,000	22,000
202	-	-	-	-	-	-
203	210,000 + 100,000	310,000	215,000	39,000	176,000	271,000
204	453,000 - 100,000	353,000	90,000	90,000	NIL	263,000
205	-	-	-	-	-	-
271	-	-	-	-	-	-
111	-	-	-	-	-	-
121	12,000	12,000	12,000	11,000	1,000	1,000
122	-	-	-	-	-	-
123	100,000 + 100,000	200,000	160,000	108,000	52,000	92,000
124	150,000	150,000	150,000	114,000	36,000	36,000
131	-	-	-	-	-	-
141	-	-	-	-	-	-
142	500,000 - 100,000	400,000	200,000	2,000	198,000	398,000
143	20,000 + 80,000	100,000	67,000	38,000	29,000	62,000
151	-	-	-	-	-	-
152	-	-	-	-	-	-
153	-	-	-	-	-	-
154	-	-	-	-	-	-
155	-	-	-	-	-	-

Head of Charge	Voted Provision	Revised Provision	Year to Date Releases	Year to Date Expenditure	Balance on Releases	Balance on Voted Provision
161	20	120	120	118,000	2,000	2,000
162						
163	5	5	5	150	4	4
164						
165						
171	300	300	94	37	57,000	263,000
172	5	5	Nil	Nil	Nil	Nil
173						
181	1,000,	1,120,	1,120,	923,000	197,000	197,000
182	200	200	200	143,000	57,000	57,000
183	100	100	65	15,000	50,000	85,000
184	300	400	400	301,000	99,000	99,000
191						
192						
193	100	100	56	24,000	32,000	76,000
194	10	Nil	10	Nil	Nil	10

APPENDIX II

CAPITAL EXPENDITURE

Division 505

DESCRIPTION: PUBLIC SERVICE APPELLATE TRIBUNAL

SUBHEAD PROJECT CODE	DESCRIPTION	VOTED PROVISION	RELEASES	TOTAL EXPENDITURE	BALANCE
250009	Provision for grill and electrical work Purchase of office furniture	1,500,000	1,500,000	\$1,471,151.00	\$28,489.00

APPENDIX III

Appeal No.	Parties	Subject Matter	How Dealt With	Remarks
1/1999	Jacquelyn Hamer v. Public Service Commission and Mohamed R. Khan	Supersession	In Progress	Nil
2/1999	Vernon Mc Pherson v. Public Service Commission and Lennox Appellwaite	Supersession	In Progress	Nil
3/1999	John Rodney v. Public Service Commission	Demotion	In Progress	Nil
4/1999	Lawrence Dundas v. Public Service Commission	Placed on Interdiction	Matter withdrawn	Nil
5/1999	Deonarine Singh v. Public Service Commission	Placed on Interdiction	Matter withdrawn	Nil
6/1999	Matthew Famey v. Public Service Commission	Placed on Interdiction	Matter withdrawn	Nil
7/1999	Harrychan Ramu v. Public Service Commission	Supersession	In Progress	Nil