AWARD

OF

THE ARBITRATION TRIBUNAL

OF

THE REPUBLIC OF THE FIJI ISLANDS

NO.19 OF 2006

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In the Dispute Between

TELECOMMUNICATIONS EMPLOYEES ASSOCIATION

and

FIJI INTERNATIONAL TELECOMMUNICATIONS LIMITED

TEA : Mr A Naco
FINTEL : Mr S Samuta

DECISION

This is a dispute between the Telecommunications Employees Association (the "Union") and Fiji International Telecommunications Limited (the "Employer") concerning the implementation of the revised salary structure adjustment.

A trade dispute was reported on 8 November 2005 by the Union. The report was accepted on 30 November 2005 by the Chief Executive Officer who referred the Dispute to conciliation. As the Dispute was not resolved and as the Dispute involved an essential service the Minister authorized the Chief Executive Officer to refer the dispute to an Arbitration Tribunal for settlement pursuant to section 6 (2) (b) of the Trade Disputes Act Cap 97.

The Dispute was referred to the Permanent Arbitrator on 21 December 2005 with the following terms of reference:

> ***"..... for settlement over the unfair discriminatory and illogical method in which the Company implemented the revised salary structure adjustment, thus depriving members of a fair, legitimate and deserving pay rise".***

The Dispute was listed for a preliminary hearing on 4 January 2006. On that day the parties were directed to file preliminary submissions by 11 January and the Dispute was listed for mention on 13 January 2006. At the request of the Union the Dispute was listed for special mention on 10 January 2006. The Tribunal gave directions concerning the disclosure of material and extended the time for filing preliminary submissions to 13 January 2006. The mention date of 13 January was vacated and the Dispute was listed for mention on 18 January 2006.

Again at the request of the Union the Dispute was called for special mention on 13 January 2006 to resolve further issues concerning discovery. The date for filing preliminary submissions was further extended, at the request of the parties, to 18 January 2006. The Dispute was listed for mention on 20 January 2006.

Both parties filed their preliminary submissions on 18 January 2006.

When the Dispute was called for mention on 20 January 2006, the parties indicated that they were ready for a hearing which was then fixed by the Tribunal for 23 February 2006. This was the first available date which was convenient to the advocates for the parties.

The hearing of the Dispute took place in Suva on 23 February 2006. Each party called one witness. At the conclusion of the evidence the parties sought and were granted leave to file written final submissions.

The Union filed its final submissions on 9 March 2006. The Employer filed answering submissions on 23 March 2006 and the Union filed a brief reply submission on 30 March 2006.

It would appear that between the years 1992 and 2004 there have been four salary structure adjustments. It would also appear that the Union agreed to the system of adjustments for a two year trial basis in 1992. In 1994 and 1996 the Union agreed to a continuation of the system but objected to the system of implementation in 2004

The system of wage adjustment in those years has been that the minimum or starting point of each salary type (GG1 to GG5) has been increased by a certain percentage amount. The amount has been calculated by a firm of consultants based upon a market survey of industry players. It should also be noted that the decision to increase the minimum or starting point salary in each salary type is based upon a recommendation from the same consultants.

In addition to these four salary adjustments, employees have regularly received both merit increases in salary and bonus payments which are tied to individual and corporate performance respectively.

In 2004 the consultants recommended that salary adjustments for the minimum or starting point should be fixed for GG1 at 2.8%, for GG2 at 2.1%, for GG3 at 2.0%, for GG4 at 2.2% and for GG5 at 2.3%.

In his evidence the witness called by the Union, Mr M Konataci, indicated that the Union did not have a problem with the percentage increases recommended by the consultants. The Union takes issue with the method of implementation on the basis that wage relatively within each salary type is not being maintained.

In its final submission the Union points out that the Employer has engaged the consultants to recommend salary adjustments on the basis of market relativity but does not appear to be concerned about relativity within the organization when it comes to implementing the consultant's recommendations.

Evidence for the Employer was given by its Chief Executive, Mr S Tuilakepa. He stated that the basis of the decision adopted by the Consultants and implemented by the Employer was that the increase in the starting point salary of each category reflected the increase in the value of the job.

The Employer submits that wage relativity is maintained through the merit increases paid to individual workers based on capacity as assessed by a performance management system.

The Tribunal has assessed the evidence and carefully considered the written submissions filed by the parties.

The Tribunal accepts that an adjustment increase in the starting point of a salary may well reflect an increase in the value of the job. However, the Tribunal has concluded that there is no reason for limiting a calculated increase in the value of the same job performed by different employees on varying pay scales within a salary type to only those employees on the starting point. It seems to the Tribunal that there is no reason why an employee who is being paid $14,264 as the starting salary point of the GG2 salary type should receive a 2.1% salary adjustment to $14,560 because of an increase in the value of the job he performs whilst an employee who is paid a higher salary within the same salary type (perhaps due to a performance increase) does not receive any percentage adjustment to his salary. It would seem to the Tribunal that if the value of the job has increased by 2.1% relative to the market, then there is no reason for saying that the value increase should be limited to those employees on the starting salary.

The effect on relativity, putting to one side any increase by way of merit, is that the gap between the starting point and other salary points within the salary type becomes less as a result of each adjustment.

The Tribunal notes that there are some restrictions on the payment of merit increases to those on the starting point of any given salary type. However, the Tribunal does not consider that those restrictions are sufficient to outweigh what appears to the Tribunal to be the unfair implementation of the salary adjustment increases.

The Tribunal also notes that bonus payments made to employees as a result of corporate performance are one-off payments and do not affect salary scales.

The Tribunal considers that the value of a job is a different concept from how well that job is performed by any given employee and therefore the two issues must be considered separately and independently.

AWARD

The revised salary structure adjustment is to be applied to all salary points in each salary type and not just to the starting or entry point of each salary type.

DATED at Suva this 21st day of April 2006.

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ARBITRATION TRIBUNAL