

FOURTH REPORT
OF THE
SALARIES REVIEW COMMISSION

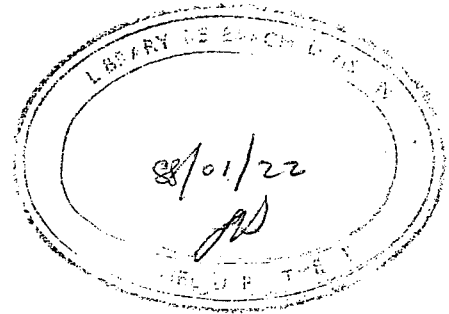
Salaries and Allowances

of the

Masters of the High Court

Deputy Chief Magistrate

Public Service Appeal Board



FOURTH REPORT

25 May, 1981

9 pages

SALARIES REVIEW COMMISSION

The Salaries Review Commission was appointed in August, 1978 in accordance with section 140 of the Constitution of the Republic of Trinidad and Tobago (Act No. 4 of 1976). The terms of reference of the Commission are to review from time to time, with the approval of the President, the salaries and other conditions of service of the President, Judges, the Auditor General, the Ombudsman, Members of Parliament, including Ministers of Government and Parliamentary Secretaries, the Director of Public Prosecution, the Chief Parliamentary Counsel, the Solicitor General, Members of the Elections and Boundaries Commission, Member of the Integrity Commission, Members of the Public Service Commission, Members of the Police Service Commission, Members of the Teaching Service Commission, Members of the Salaries Review Commission, and the holders of such other offices as may be prescribed.

The Members of the Commission are:-

MITRA G. SINANAN, (Chairman)

LOUIS G. ROSTANT

RODNEY ST. ROSE

LEONARD WILLIAMS

MASTERS OF THE HIGH COURT, DEPUTY CHIEF MAGISTRATE
AND THE PUBLIC SERVICE APPEAL BOARD

We are concerned in this report with the remuneration of the following appointments:

1. Masters of the High Court
2. Deputy Chief Magistrate
3. The Public Service Appeal Board

Masters of the High Court

2. It is interesting to recall that as far back as March 1956 the Bar Association of Trinidad and Tobago strongly recommended the appointment of a Master of the High Court.

3. In a comprehensive memorandum to the Napier Committee the Bar Association stated inter alia:

"We think further that the office of Master should be instituted so that he may deal with the bulk of interlocutory work and thereby relieve the Judge in Chambers who now attends to all such matters. The Master should have the kind of experience as is required of a Master in England. We are of opinion also that like provision should be made in the Rules of Court for the remitting of matters from the Supreme Court to the District Courts.¹

¹ In 1956 the Governor appointed a Committee of Barristers and Solicitors under the Chairmanship of Sir Albert Napier with the following terms of reference:

"To consider and report on the system of administration of Justice in the Colony and to make recommendations for expediting the work in all Courts".

The memorandum of the Bar Association was signed by a number of distinguished lawyers. They were:

H.O. B. WOODING, (Chairman)

J. ALGERNON WHARTON, (Vice-Chairman)

H. HUDSON-PHILLIPS, (Member)

I. E. HYATALI, (Member)

E. H. WELLS, (Member)

J. G. FURNESS-SMITH, (Member)

4. Unfortunately successive Colonial Governments failed to implement this important recommendation.

5. The Supreme Court of Judicature (Amendment) (No. 2) Act, 1980 has now established two Masters of the High Court. They shall respectively exercise such authority and jurisdiction of a Judge in Chambers as may from time to time be assigned to a Master by Rules of Court.

6. The relevant sections state:

64A. (1) There shall be attached to the High Court not less than two Masters who shall respectively exercise such authority and jurisdiction of a judge in Chambers as may from time to time be assigned to a Master by Rules of Court.

(2) The Masters shall, save as this Act or Rules of Court may otherwise expressly provide, have in all respects equal power, authority and jurisdiction but shall rank among themselves according to the priority of the dates of their respective appointments as Masters.

(3) No person shall be appointed to be a Master unless he either -

(a) is a member of the Bar of Trinidad and Tobago and has practised as such for not less than seven years; or

(b) is a solicitor of the Supreme Court and has practised as such for not less than seven years; or

(c) is a barrister or solicitor of the Supreme Court or of a Superior Court of jurisdiction in a Commonwealth Country and has either -

- (i) practised as such for not less than seven years; or
- (ii) after he became qualified so to practice, has served in the judicial or legal department of Trinidad and Tobago or of any Commonwealth Country for not less than seven years; or has so practised and so served for periods which together amount to not less than seven years.

(4) The office of Master shall be an office to which section III of the Constitution applies.

Powers of the Master

64B.(1) Where under this Act a Master has jurisdiction in relation to any matter, then, subject to this Act, he shall have and may exercise in relation to that matter all the powers of the Court or of a Judge of the High Court sitting in Chambers to make an order in the matter and such an order may include provision for costs, certificate for counsel or other consequential matters; and any such order made by a Master shall, subject to this Act, have the same effect as if it had been made by the Court or by a Judge.

(2) Where under this Act a Master exercises jurisdiction in relation to any matter, then -

- (a) in relation to such matter, the Master shall have all the rights, powers, immunities and privileges of a Judge;
- (b) any party to the proceedings may, if he so desires, appear by counsel or solicitor.

Appeals

64C.(1) An appeal shall be to the Court of Appeal from any order or decision of the Master made in the exercise of any jurisdiction conferred on him under this Act.

(2) No appeal from an order or a decision of a Master under this section shall operate as a stay of proceedings unless such Master or the Court of Appeal so orders.

Salary and Allowances

7. We consider on a balance of all the relevant factors that the Masters of the High Court should be equated with the Chief Legal Officers.

8. We accordingly recommend the following salary and other terms and conditions of service for the post of Master of the High Court.

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|-------------------------|--|
| <u>Salary</u> | - \$5,659 per month. |
| <u>Housing</u> | - Rent-free accommodation of Grade I specification or an allowance of \$750 per month in lieu thereof. |
| <u>Transport</u> | - 1) A maximum loan of \$25,000 to facilitate the purchase of a motor car with exemption from Motor Vehicles Tax limited to the amount associated with the maximum loan.

ii) A loan to cover the cost of Motor Vehicle Insurance premium.

iii) A Chauffeur Allowance equivalent to the minimum salary of a Chauffeur I in the Public Service.

iv) A Commuted Travelling Allowance of \$450 per month. |
| <u>Subsistence</u> | - When travelling beyond a radius of ten miles from official headquarters, office-holders to be paid a Subsistence Allowance of \$30 per day; and when in Tobago, \$40 per day. |
| <u>Entertainment</u> | - Actual expenses incurred for entertainment to be met from an official Entertainment Vote under the control of the Prime Minister's Office. |
| <u>Medical Benefits</u> | - To be entitled without charge to pathological examinations and physiological treatment and to all incidental services at any hospital or State institution or, with approval to be paid the cost of such treatment at any other institution in Trinidad and Tobago. |

DEPUTY CHIEF MAGISTRATE

9. The post of Deputy Chief Magistrate was created on 18 January 1980 in Salary Range 64. By Minute dated 9 January, 1981 Cabinet noted in this connection that the salary of the post was subject to review by the Salaries Review Commission.

Functions and Duties

10. We have been informed by the Chief Magistrate that the Deputy Chief Magistrate would be expected to perform the following functions and duties:

- 1) Assist the Chief Magistrate in administrative duties generally.
- 2) Assist the Chief Magistrate in the routine day to day problems of staff and attendances at Court.
- 3) Assist the Chief Magistrate in carrying out the provision of the Exchequer and Audit Ordinance and the Audit directives and enquiries.
- 4) Assist the Chief Magistrate in interpreting the various circulars issued by the Minister of Finance in connection with the financial obligation under the Exchequer and Audit Ordinance and Financial control generally.
- 5) Assist the Chief Magistrate in responding to queries from the Auditor General in various aspects of field surveys.
- 6) Assist the Chief Magistrate in speeding up the submission of depositions in Preliminary Enquiry to the D.P.P. Department.
- 7) Assist the Chief Magistrate in the submission of Notes of Evidence required by the D.P.A. Ombudsman and the public in general especially in Civil litigation.
- 8) Assist the Chief Magistrate in supervision of the various Magisterial Districts in relation to administration generally and the replies to letters and queries received against faults in administration.
- 9) Assist the Chief Magistrate in replying to the growing enquiries from the Ombudsman in complaints from the general public.

- 10) Assist the Chief Magistrate in supplying reports and surveys required under the Financial Regulations and Exchequer and Audit Ordinance.
- 11) Deputise for the Chief Magistrate in various Boards and Committees such as Mental Health Act.
- 12) Deputise for the Chief Magistrate at various Seminars and Work-shops.
- 13) Assist the Chief Magistrate in checking paysheets and signing vouchers for the Magistracy.
- 14) Assist the Chief Magistrate in investigating complaints against Magistrates and officers of the various Magistracies in the State.
- 15) Sitting in Courts in Port of Spain and other districts in cases of illness of Magistrates or absence from duty.

Salary and Allowances

11. Having regard to his duties and functions we consider it appropriate to recommend a salary for the Deputy Chief Magistrate at the mid-point between the salaries of the Chief Magistrate and Senior Magistrate. Other terms and conditions of service should be the same as those approved for the Chief Magistrate.

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|------------------|---|---|
| <u>Salary</u> | - | \$5,382 per month. |
| <u>Housing</u> | - | Rent-free accommodation of Grade I specification or an allowance of \$750 per month in lieu thereof. |
| <u>Transport</u> | - | <ol style="list-style-type: none"> i) A maximum loan of \$25,000 to facilitate the purchase of a motor car with exemption from Motor Vehicles Tax limited to the amount associated with the maximum loan. ii) A loan to cover the cost of Motor Vehicle Insurance premium. iii) A Chauffeur Allowance equivalent to the minimum salary of a Chauffeur I in the Public Service. |

- iv) A Commuted Travelling Allowance of \$450 per month.

- Subsistence - When travelling beyond a radius of ten miles from official headquarters, office-holders to be paid a Subsistence Allowance of \$30 per day; and when in Tobago, \$40 per day.
- Entertainment - Actual expenses incurred for entertainment to be met from an official Entertainment Vote under the control of the Prime Minister's Office.
- Medical Benefits - To be entitled without charge to pathological examinations and physiological treatment and to all incidental services at any hospital or State institution or, with approval to be paid the cost of such treatment at any other institution in Trinidad and Tobago.

THE PUBLIC SERVICE APPEAL BOARD

12. This Tribunal has been established under the Constitution.

13. The composition, functions and powers of the Board are set out in Sections 130 and 132.

Composition:

(a) The Appeal Board shall consist of a Chairman appointed by the President after consultation with the Chief Justice and two other members appointed by the President after consultation with the Prime Minister and the Leader of the Opposition.

(b) The Chairman shall be a Judge or former Judge or a citizen of Trinidad and Tobago who has held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court.

(c) One member of the Appeal Board shall be a retired public officer.

Functions and Powers

14. The functions and powers of the Board are enumerated in Section 132 of the Constitution.

(1) An appeal shall lie to the Public Service Appeal Board from any decision of a Service Commission, or of any person to whom the powers of the Commission have been delegated, as a result of disciplinary proceedings brought against a public officer.

(2) An appeal under subsection (1) shall lie to the Appeal Board at the instance of the public officer in respect of whom the decision is made.

(3) Upon an appeal under this section, the Appeal Board may affirm or set aside the decision appealed against or may substitute any other decision which the Service Commission or the person from whom the appeal lies could have made.

(4) Every decision of the Appeal Board shall require the concurrence of the majority of its members.

(5) The Appeal Board may by regulations make provision for -

- (a) procedure of its own; and
- (b) the procedure in appeals under this section.

(6) With the consent of the Prime Minister, the Appeal Board may by regulation or otherwise confer powers and impose duties on any public officer or any authority of the Government of Trinidad and Tobago for the purpose of the exercise of the functions of the Appeal Board.

15. Under the Constitution "Service Commission" means the Judicial and Legal Service Commission, the Public Service Commission, the Police Service Commission and the Teaching Service Commission.

Salary and Allowances

16. In all the circumstances we consider that these appointments should be regarded as part-time and ought to rank with the Judicial and Legal Service Commission and the Police Service Commission.

17. The substantive office of the present Chairman is a Justice of Appeal.

18. We accordingly recommend:

- (a) that the salary of the Chairman should be \$750 per month.

- (b) the salary of a Member should be \$600 per month.
- (c) Commuted Travelling Allowance \$150 per month.
- (d) When travelling on official business beyond a radius of ten miles from official headquarters office holders to be paid a Subsistence Allowance of \$40 per day.

19. Effective date of payment should be 1 January, 1981.

20. In our view the posts of Master of the High Court and Deputy Chief Magistrate constitute an essential element in the judicial structure. One of our objectives has been to rationalise and streamline this structure. In order to achieve this we have adopted the principle of "broad-banding".

21. In this context "broad-banding" means "that where different posts, whether in the same or different classes, carry roughly the same level of responsibility, they should have the same pay and that no attempt should be made to mark minor differences in the content of the work by minor differences in the rates of pay."²

² The Report of the Royal Commission on the Civil Service 1953-55 (U.K.)

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Mitra G. Sinanan (Chairman)

.....
Louis Rostant

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Rodney St. Rose

.....
Leonard Williams

Dated this 25th day of May, 1981

