JAMAICA CIVIL SERVICE ASSOCIATION

COLLECTIVE BARGAINING IN THE CIVIL SERVICE

The ILO Caribbean Sub-regional Seminar on Employment and Collective Bargaining in the Civil Service, Antigua and Barbuda: 19-23 May 2003

INTRODUCTION

Up until recently collective bargaining was never a term commonly used in the Jamaica Civil Service. In fact the concept of collective bargaining was solely characterized by negotiations for salary and fringe benefits. Even then many would suggest that negotiations did not take place in the civil service.

However, since the beginning of the 1990s, Trade Unions and in particular the Jamaica Civil Service Association (JCSA) have sought to redefine the industrial relations landscape in the civil service by insisting on the practice of effective bargaining for the securing of and improvement in adequate conditions of employment for their members.

This through the systematic preparation of salary and benefits claims underpinned by the use of scientific methodologies and a reliance on international and national data and information. There has been an insistence on the observation of national labour laws including the Constitution of Jamaica, economic indicators and international best practices. This process however is an evolving one that has inherent challenges and problems.

The Process

By Ministry paper #18 of 1992, the Permanent Salaries Review Board (PSRB) was established after consultation between the government and Public Sector Trade Unions.

Its Terms of Reference to undertake on an on-going basic reviews of the salaries, fringe benefits and other conditions of service, as requested,
of all categories of employees of Central and Local Government and designated Statutory Bodies. However, matters not directly relevant to wages, salaries and monetary allowances may be referred by the Board to the Ministry of the Public Service or to other relevant authorities.

When proposed, the Government of Jamaica committed itself to accept the recommendations of this independent body, but as the national economy deteriorated, the Government of Jamaica found it necessary to reject the Board's recommendations with regularity and as such bargaining resulted. This often times resulted in protracted negotiations leading to the unions and their members questioning the relevance of the PSRB.

The negotiation process would often time lead to disputes between the parties with the unions having to resort to industrial action.

While the PSRB in its early years demonstrated a clear understanding of the plight of the public sector workers and in fact made recommendations in keeping with this undertaking, as time passed it seemed to have abandoned its approach and it is not unusual to see the resulting agreements characterized by items recording better benefits than recommended by the PSRB. The Eighty Percent (80%) of Market Agreement is a case in point. This agreement reached through negotiations, provides for a moving of emoluments of civil servants to within twenty percent (20%) of those which exists in the rest of the labour market within the context of a restructured/redeveloped civil service.

Public Sector Reform which picked up momentum in the 1990s has served to further erode the role of the PSRB and much of what is now in place for conditions of employment is driven by the objectives of the reform process. Improved performance as an objective to realize better service delivery, is accompanied by changes in benefits like Leave entitlement which require commensurate changes in rates of pay, significantly a matter out of the purview of the PSRB.

As the practice in the civil service is not to sign collective bargaining agreements but rather Heads of Agreement it is often suggested that agreements reached with the government are not challengeable in Court. This the unions consistently oppose as it is our view that any agreement especially if written, is challengeable in a Court of Law.

With the Introduction of new forms of public administration like Executive Agencies, the process has grown even more complex. There exists, an uncertainty as to whether these Agencies are authorized to conduct their own collective bargaining negotiations with Unions, given the fact that they still rely on budgetary support from central government. As such the Ministry of Finance
and Planning continues to seek to set the pay rates for employees in these Agencies and even to do so without negotiations with the Unions.

**Challenges**

Unlike in industries where Unions rely on the financial records of the firm to determine ability to pay, in the civil service, unions are not provided with these figures and even when done these are presented in a very complex and unclear manner. Unions often have to resort to activities to force government to provide more reliable information.

As the government does not have a culture of negotiations in industrial matters, its representatives are not usually adequately trained in the art and as such they come to the table unprepared. This clearly serves to prolong and frustrate the process thus threatening the industrial peace.

Negotiations in statutory and par-statal entities often suffer too from the lack of information and their reliance on directive from central government since some of them are dependent on central government's budgetary support. It is therefore often the case that these entities are unwilling to proceed with negotiations until those for central government are completed.

**Dispute Resolution**

The Labour Relations and Industrial Disputes Act (LRIDA) of 1976 provides for industrial disputes to be settled either through conciliation at the Ministry of Labour or ultimately at the Industrial Disputes Tribunal. However it is not commonplace for civil service salary disputes to be resolved through these mechanisms. Disputes when reached are often addressed with the intervention of the Prime Minister. This only after the unions request such intervention.

However, occasions are recorded when these disputes are put through the industrial relations machinery above. Ultimately the Courts of the land are available and have been used.

While the LRIDA provides for dispute resolutions there are Regulations and Orders which govern the handling of disputes other than salary related issues in the civil service. The Public Services Commission administers these through its Secretariat the Office of the Services Commission (OSC). Disputes are supposed to be referred to the OSC if they cannot be settled locally for the Commission to handle. However these are often frustrated, even for years, as Agencies often are negligent in providing timely and adequate reports. The Commission itself often exhibits either an incapacity or unwillingness to advance the process.
Representational Rights/Recognition

Under the LRIDA, government agencies are not required to or can they engage in representational rights polls. The practice is one of recognition accorded Unions by the Agencies.

As a consequence of the non-application of the law to the sector, public servants often refuse to join the Union especially since the benefits of the collective bargaining process also accrue to them. The government has consistently refused to agree on Agency fee/shop agreement suggesting that such a move would serve to discriminate and force workers to join the Union.

RECOMMENDATIONS

- Improvement in the skills levels of government and union negotiators;
- Provision of reliable data and other information by government;
- Autonomy for para-statals and other independent agencies of government;
- Greater assertiveness by Public Services Commission to settle disputes;
- Government's agreement to agency fee/shop.

If the foregoing recommendations are effected it is our view that the industrial relations climate of the civil service can only improve and thus increase efficiencies we all seek to achieve are more likely guaranteed. This has as less time will be spent resolving disputes and settling grievances.

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