

REPUBLIC OF TRINIDAD AND TOBAGO



The Public Service Commission



ANNUAL REPORT



Chairman's Message

September 2009

I am pleased to present the Annual Report of the Public Service Commission for the year 2008.

As the report for 2008 reveals, the ambitious targets which the Commission had set itself were not all fully achieved.

At the policy level, collaboration with other related authorities continued; the decision of the Court of Appeal on the assessment exercise for the evaluation of Senior Managers of the Public Service remained outstanding and the framework for the accountability of Senior Managers has not been finalized. These and other operational matters as indicated in the report will be pursued in 2009.

Significant consolidation has however, been made in the delegation of authority to Permanent Secretaries, Deputy Permanent Secretaries and Heads of Departments. The consolidation of the delegation of authority will provide the basis for further delegation and devolution of managerial responsibilities to Permanent Secretaries, Deputy Permanent Secretaries and Heads of Department as issues of their professional evaluation and accountability are finalized, and the requisite legislation updated. These developments in turn, will advance the evolution of the role of the Public Service Commission to one of policy guidance, monitoring and oversight.

The policy framework for the Commission for 2009 will accordingly be configured as outlined above.

I take this opportunity to thank the Deputy Chairman of the Commission and the other members of the Commission for their support throughout 2008. I also thank the Director of Personnel Administration and her staff for their invaluable contribution and cooperation throughout 2008.

I would also like to convey the Commission's gratitude to all stakeholders who rendered support to the Commission in carrying out its constitutional mandate.

Christopher R. Thomas
Chairman
Public Service Commission

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Section 1 - The Role of the Public Service Commission

1.0 INTRODUCTION

The Annual Report of the Public Service Commission for the year 2008 is submitted pursuant to Section 66B of the Constitution of the Republic of Trinidad and Tobago (as amended by Act No. 29 of 1999) which requires the Commission to report each year on its administration, the manner of the exercise of its powers, its method of functioning and any criteria adopted by it in the exercise of its powers and functions.

2.0 ORIGIN AND MEMBERSHIP

The Commission is an independent body established under Section 120 of the Constitution and comprises a Chairman, Deputy Chairman and no less than two or more than four members, appointed by the President after consultation with the Prime Minister and the Leader of the Opposition.

During the year 2008, the membership of the Commission comprised:

Mr. Christopher Thomas, C.M.T. LL.D - Chairman

Mrs. Zaida Rajnauth, C.M.T. - Deputy Chairman

Mr. Sakal Seemungal, M.O.M. - Member

Mr. Neil Rolingson - Member

Mrs. Pamela Benson, M.O.M. - Member

Miss Susheila Maharaj - Member



From left: Mr Sakal Seemungal, Mrs Pamela Benson, Director of Personnel Administration
Mrs Gloria Edwards-Joseph, Chairman Christopher R Thomas, Ms Zaida Rajnauth, Mr Neil Rolingson,
Ms Suzette Lynch and Ms Susheila Maharaj

3.0 THE RESPONSIBILITY OF THE PUBLIC SERVICE COMMISSION WITHIN THE CONTEXT OF HUMAN RESOURCE MANAGEMENT IN THE PUBLIC SERVICE

The management of human resources in the Public Service is fragmented. Responsibility for discrete activities falls within the purview of different bodies/agencies. Position management and system-wide training activities are handled departmentally by the Ministry of Public Administration; terms and conditions of service, code of conduct for Public Officers, classification and compensation, job description, job specification and assessment of qualification are under the purview of the Personnel Department; performance management, staff training and succession planning are handled by Permanent Secretaries and Heads of Departments; the Service Commissions Department under the direction of the Director of Personnel Administration serves as the Secretariat to the Public Service Commission in the discharge of its Constitutional functions to make appointments on promotion, transfer, confirm appointments and to exercise disciplinary control over persons holding or acting in such offices.

This shared responsibility for the management of the human resource functions in the Public Service lacks synergy and continues to result in major delays in the functioning of the Commission and significant inefficiencies in its delivery of the services for which it is charged, for example:

- The selection of candidates for appointment in accordance with outdated job descriptions and training requirements;
- Newly created offices by Cabinet which cannot be filled because they have not been classified by the Personnel Department;
- Late submissions of Performance Appraisal Reports by Permanent Secretaries/Heads of Departments;
- Untimely recommendations for the filling of vacancies from Permanent Secretaries and Heads of Departments which result in delays in decisions on appointments and promotions.

The specific functions of the Public Service Commission are prescribed under Section 121 of the Constitution of the Republic of Trinidad and Tobago. Under this section, the Public Service Commission is empowered "to appoint persons to hold or to act in offices in the Civil Service, Prison Service and the Fire Service including power to make appointments on promotion and transfer and to confirm appointments and to remove and exercise disciplinary control over persons holding or acting in such offices and to enforce standards of conduct on such officers."

The Commission is therefore constrained in its capability to meet its responsibilities under the Constitution, given this truncated administration of human resource management in the Public Service.

It is hoped that any review of the Constitution will consider this fact while preserving the core functions of the Service Commissions and their independence.

4.0 MODUS OPERANDI

The Commission conducts its work at weekly meetings or through special meetings as required using a number of mechanisms including:

- Deliberation on relevant Human Resource matters submitted through the Service Commissions Department in the form of Notes;
- Identification, formulation and consideration of various policy matters;
- Direct consultation with a core group of Senior Public Officers who comprise the Permanent Secretary to the Prime Minister and Head of the Public Service, the Permanent Secretary, Ministry of Public Administration, the Chief Personnel Officer, and the Director of Personnel Administration informally called the Group of Four;
- Indirect consultation with the Board of Permanent Secretaries through the Director of Personnel Administration;
- Provision of monitoring and oversight of the performance of Ministries in respect of the exercise of the delegated functions;
- Interface with Permanent Secretaries, Heads of Departments, staff associations and other stakeholders from time to time.
- Frequent consultation with internal legal counsel and external Senior Counsel to ensure compliance with the current body of opinion in public law

Section 2 - Review of 2008

5.0 WORK OF THE PUBLIC SERVICE COMMISSION DURING 2008

During the year, the Commission held 48 statutory meetings and had 11 meetings with Permanent Secretaries and Heads of Departments. During the period under review, the Commission considered 1,746 matters.

The Commission also initiated the following:

- A new recruitment policy and selection procedure for job applications in the manipulative class. This became necessary due to the overwhelming number of unsolicited applications being received;
- Review of existing rulings and precedents in light of Court Judgments;
- Strategies in consultation with the Director of Personnel Administration to address the backlog of matters in respect of acting appointment, appointment and promotion in the Service Commissions Department;
- Amendment of certain Public Service Commission Regulations to bring them up to date with modern Human Resource Management principles;
- A mechanism for consulting with the Chief Personnel Officer to treat with outstanding matters with that Department.

5.1 Recruitment and Selection

The recruitment process involves the advertisement of vacancies within the Public Service in the first instance and then externally if no suitable candidates are found. In instances where there were more than 100 applicants, the Commission took the decision that examinations be conducted by the Public Service Examinations Board in order to shortlist candidates. The selection process also includes the conduct of interviews by Selection Boards in some instances.

During the year under review, 67 offices were advertised, comprising 39 notices of vacancy done via circular memorandum and 28 external advertisements. Three examinations were held. Interviews were conducted in 38 instances and Selection Boards were appointed in 43. Of these, 38 were accepted by the Commission; five reports remain pending.

Figure 1 depicts details of recruitment and selection indicators for the years 2004 - 2008.



5.2 Permanent Appointments

In 2008, 842 permanent appointments were made in vacant offices. This figure represents 84% of the Commission's set target of 1,000 and is 158 less than the desired outcome. Although this is a shortfall, the statistics actually show a 19% increase over the corresponding figures for 2007. The Commission will once again aim to achieve the target of 1,000 appointments in 2009.

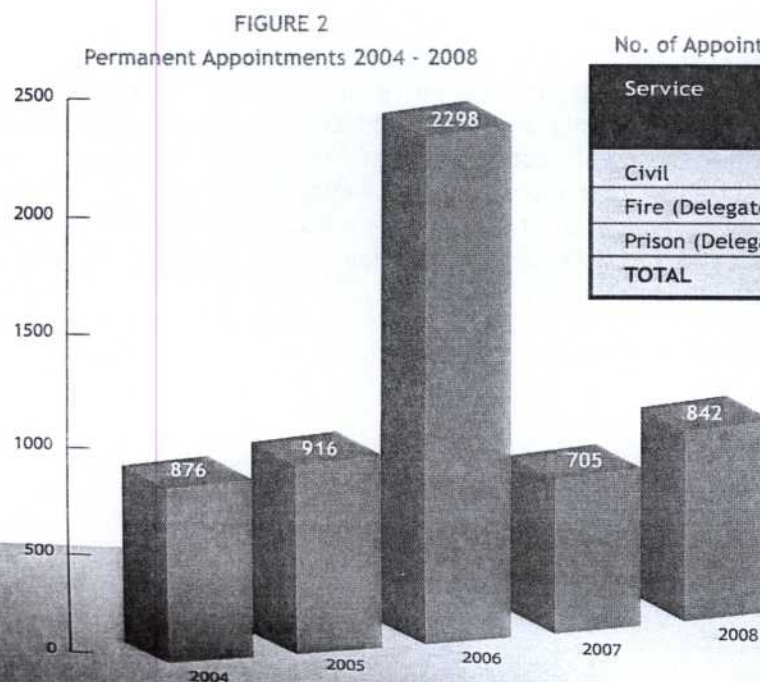
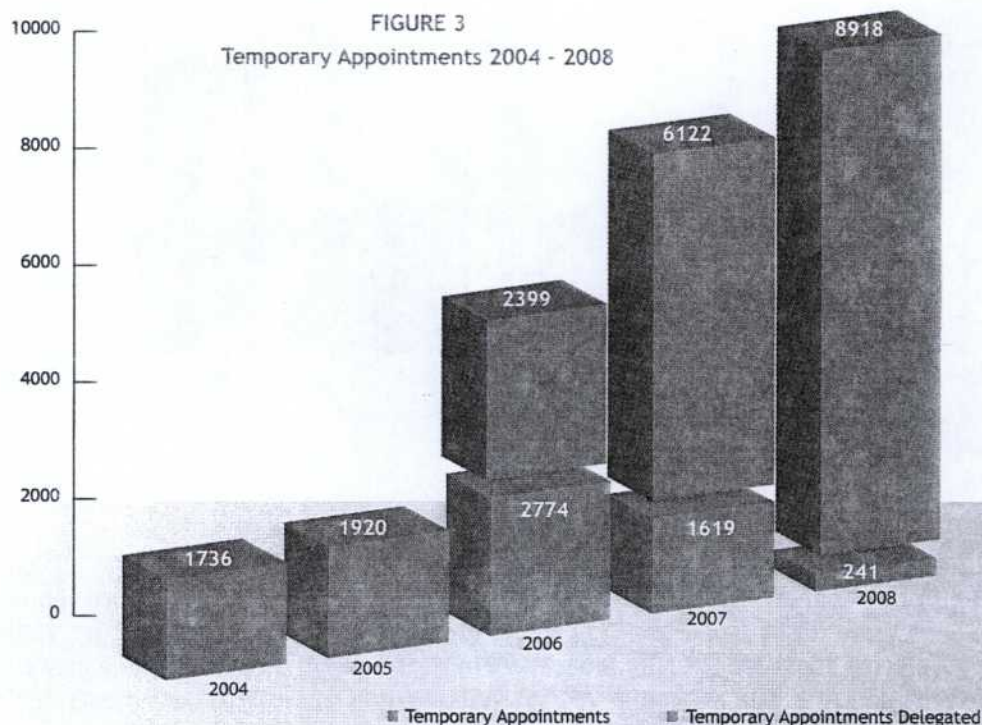


TABLE 1
No. of Appointments across the Public Service 2007-2008

Service	Appointments	
	2007	2008
Civil	438	437
Fire (Delegated)	107	184
Prison (Delegated)	160	221
TOTAL	705	842

5.3 Temporary Appointments

In 2008, 241 temporary appointments were made. A five-year review of the statistics in this area is shown below.



From these figures, it is clear that the delegated authority to Permanent Secretaries/Heads of Department (Delegation of Powers (Amendment) Order, 2006) continues to have tremendous impact. The Commission makes only the first temporary appointment and Permanent Secretaries and Heads of Departments are authorised to make subsequent temporary appointments under the Delegated Authority. However, the function of making the first temporary appointment has been delegated in two instances; to the Chief Administrative Officer, Tobago House of Assembly and the Permanent Secretary, Central Administrative Services, Tobago.

Figure 3 gives details of the quantum of temporary appointments.

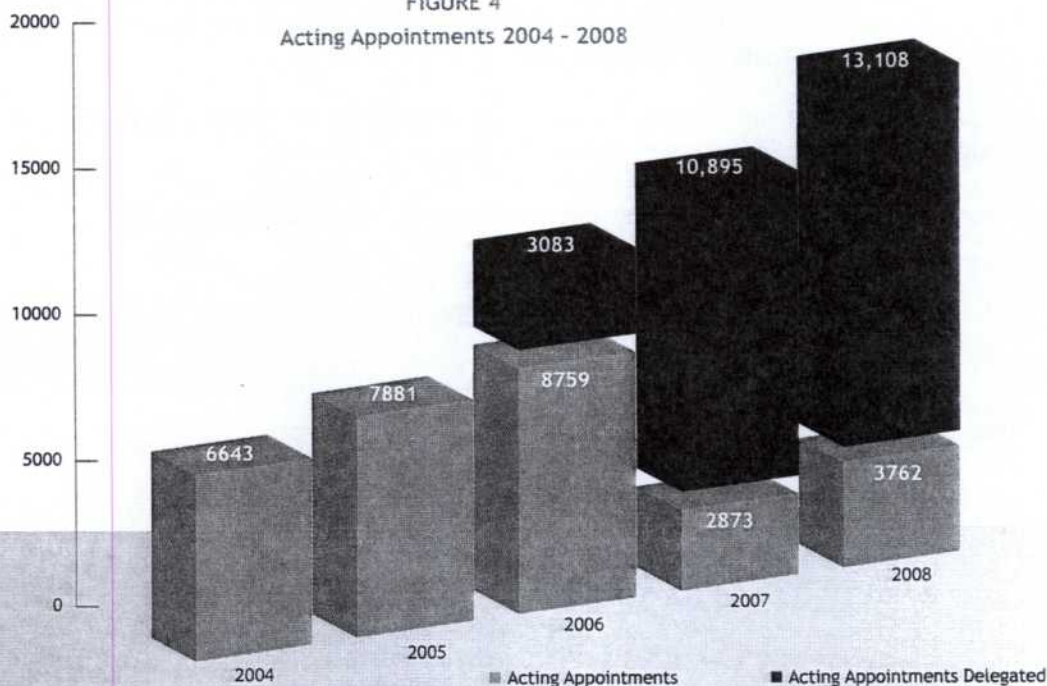
5.4 Acting Appointments

In 2008, 16,870 acting appointments were made. Of these 13,108 were made under delegated authority. This resulted in public officers receiving allowances for their acting appointments in a more timely manner, and again demonstrated some positive outcomes of the delegation to the Permanent Secretaries and Heads of Departments.

Figure 4 depicts acting appointments made over the period 2004 - 2008 as well as acting appointments made under delegated authority for the years 2006 - 2008.

The Public Service Commission will continue to strive to fill all vacancies in accordance with its Regulations in order to reduce the incidence of long-term acting appointments.

FIGURE 4
Acting Appointments 2004 - 2008



5.5 Promotions

The Commission was unable to meet its target of 1,500 promotions in 2008. Only 587 promotions, a mere 39% of the stated objective, were made.

The factors contributing to this shortfall were:-

- Difficulty in the identification of vacancies
- Late receipt of recommendations from Permanent Secretaries and Heads of Department
- Absence of Performance Appraisal Reports for officers to be promoted
- Need for consultation with Chief Personnel Officer to assess the qualification of officers to be promoted

5.5 Promotions (continued)

In some instances, Permanent Secretaries and Heads of Department have been diligently submitting Performance Appraisal Reports. In other cases, the Commission has had to inform Permanent Secretaries/Department Heads as well as the officer to be promoted that despite its proposal to promote, the Commission was unable to do so on account of an outstanding Performance Appraisal Report. In such cases, the Permanent Secretary or Department Head was given seven days to rectify the situation. To a large extent, this initiative has been successful as Permanent Secretaries and Heads of Department have been submitting the reports within the specified timeframe.

Recommendations from Ministries/Departments for positions unique to that Ministry/Department remain woefully outstanding despite Permanent Secretaries/Department Heads being directed to submit such recommendations in accordance with Regulation 13 of the Public Service Commission's regulations.

Among the promotions of 2008, was the promotion of 14 officers to the executive post of Deputy Permanent Secretary at various Ministries.

Figure 5 depicts details of promotion indicators for the years 2004 to 2008.

FIGURE 5
Promotions 2004 - 2008

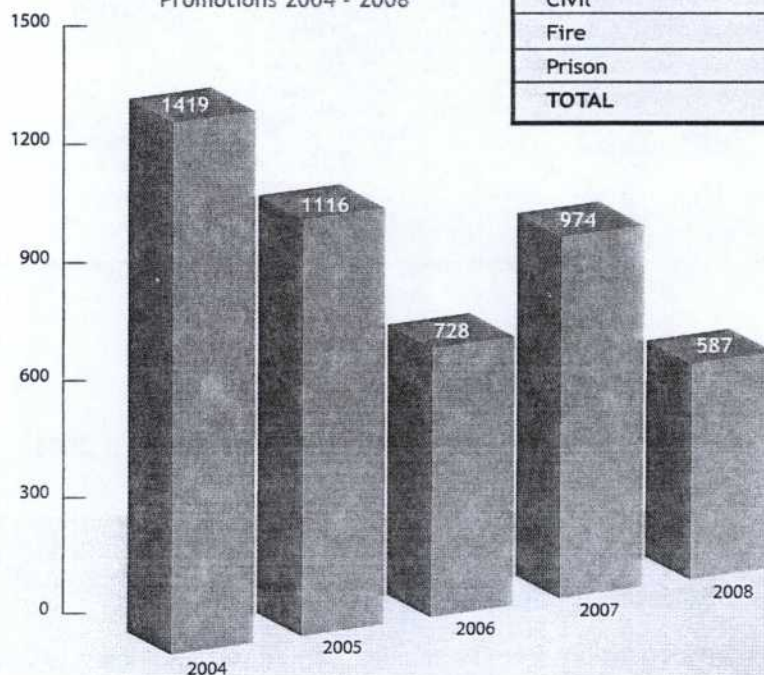


TABLE 2
No. of Promotions across the Public Service 2007-2008

Service	Appointments	
	2007	2008
Civil	787	513
Fire	157	7
Prison	30	67
TOTAL	974	587

Promotions to the Office of Deputy Permanent Secretaries at Various Ministries.

12





5.6 Transfers

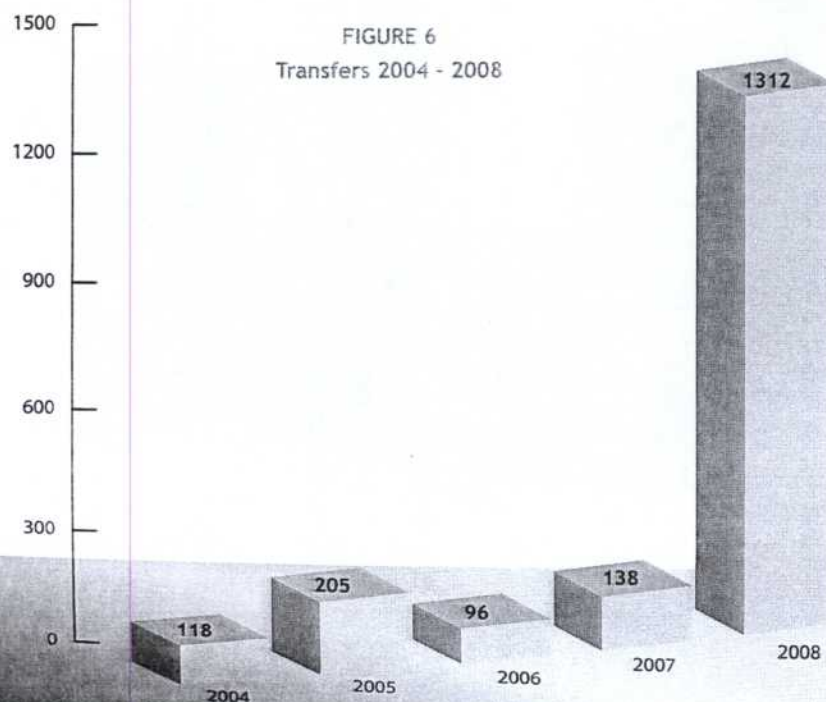
In 2008, 1,312 transfers were effected. This figure is significantly more than that of the corresponding period last year (2007:138). However, this figure includes officers from the Ministry of Health who, when given the option to make use of the Voluntary Separation of Employment Programme (VSEP) or remain in Public Service in accordance with the RHA Act 5 of 1994 (see Appendix I), opted to remain in the Public Service and were transferred to other Ministries/Departments.

The figure also includes the transfer of officers from the Ministry of Public Administration and Information. This Ministry was separated into two distinct entities in 2008 and officers were transferred into either the new Ministry of Public Administration or the Ministry of Information.

Of the typical transfers, the ever-increasing challenge of the daily commute has been cited as the primary reason for the requests as Public officers wish to be transferred to locations nearer to their residences.

Opportunities for such transfers remain severely limited given the concentration of Ministries and Departments in Port of Spain. Permanent Secretaries and Heads of Departments have been delegated powers to transfer officers within their Ministries. Transfers are made by the Public Service Commission from one Ministry to another where vacancies exist or between Ministries when two officers of the same rank in different Ministries indicate in writing that they wish to be transferred and their Permanent Secretaries have no objection to their release.

Figure 6 depicts details of transfers made during the period 2004 - 2008.



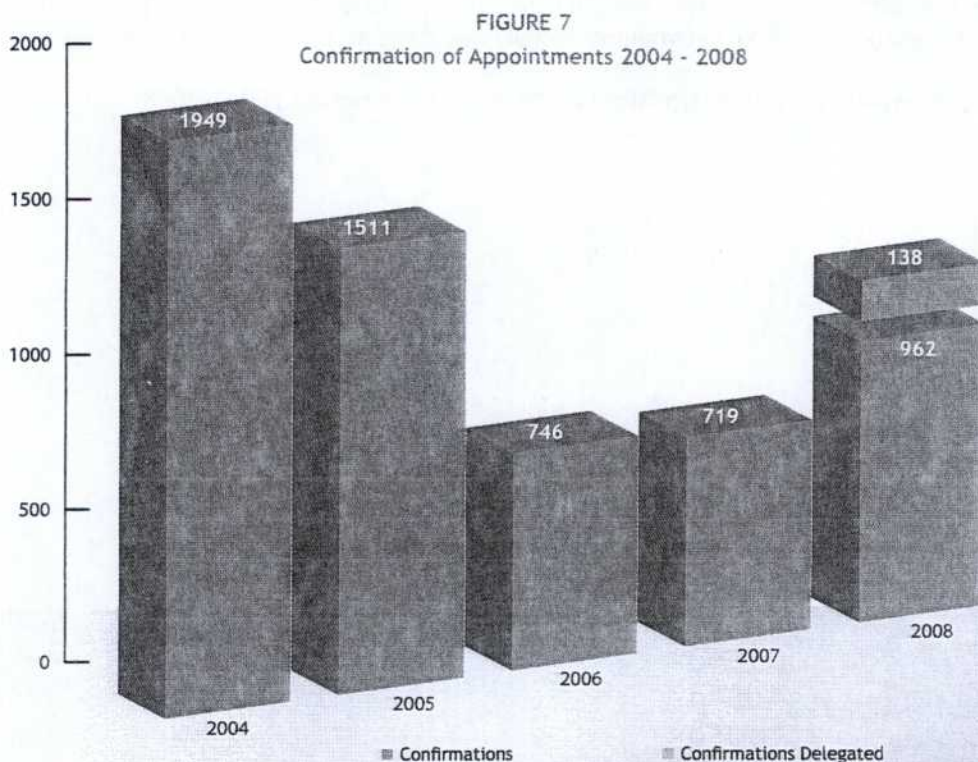
5.7 Confirmations

At the end of 2007, the Commission stated as one of its key objectives the desire to confirm a minimum of 2,000 appointments in the Public Service in 2008. This has not been achieved.

Despite its best efforts, in 2008 only 1,100 appointments of officers (55% of stated target) were confirmed following the receipt of satisfactory performance appraisal reports and where required, medical reports. This is however 53% higher than 2007 (719).

The untimely manner in which performance appraisal reports and recommendations for confirmation were submitted severely hindered the Commission's ability to confirm appointments. The Commission once more urges all Permanent Secretaries/Heads of Departments to consider how the tardy submission of such reports and recommendations impact not only on the ability of the Commission to perform its functions but also on the lives of hundreds of public officers.

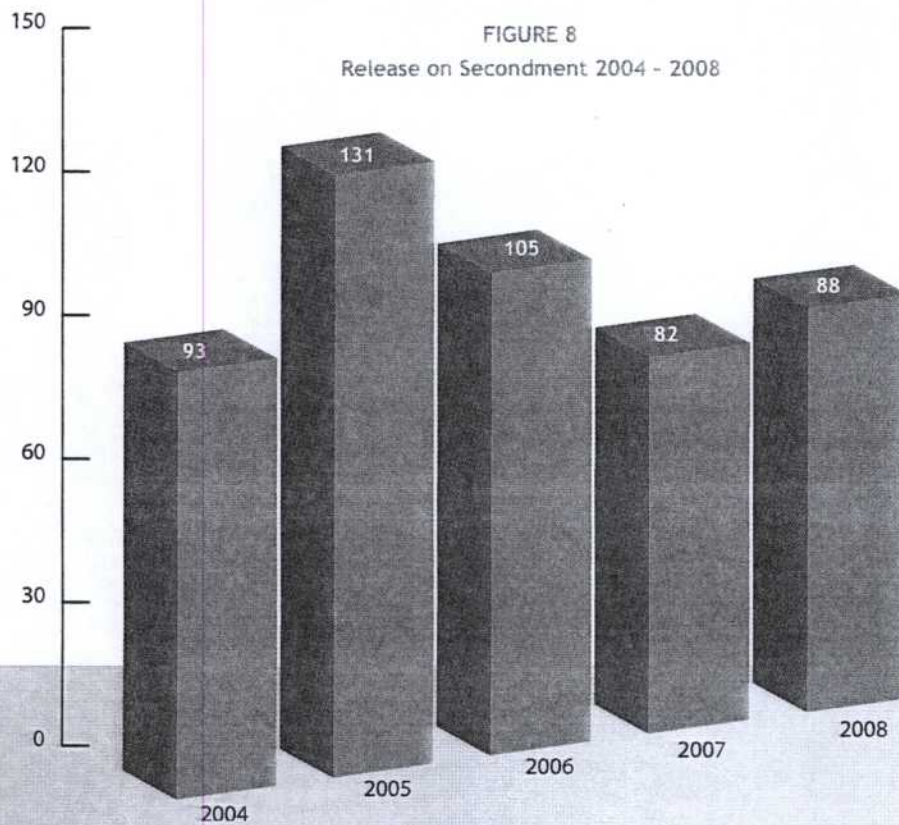
Figure 7 depicts details of confirmations made during the period 2004 - 2008.



5.8 Secondment

There was a marginal increase of officers released from the Public Service on secondment to other agencies in 2008. A total of 88 officers were released (2007:82).

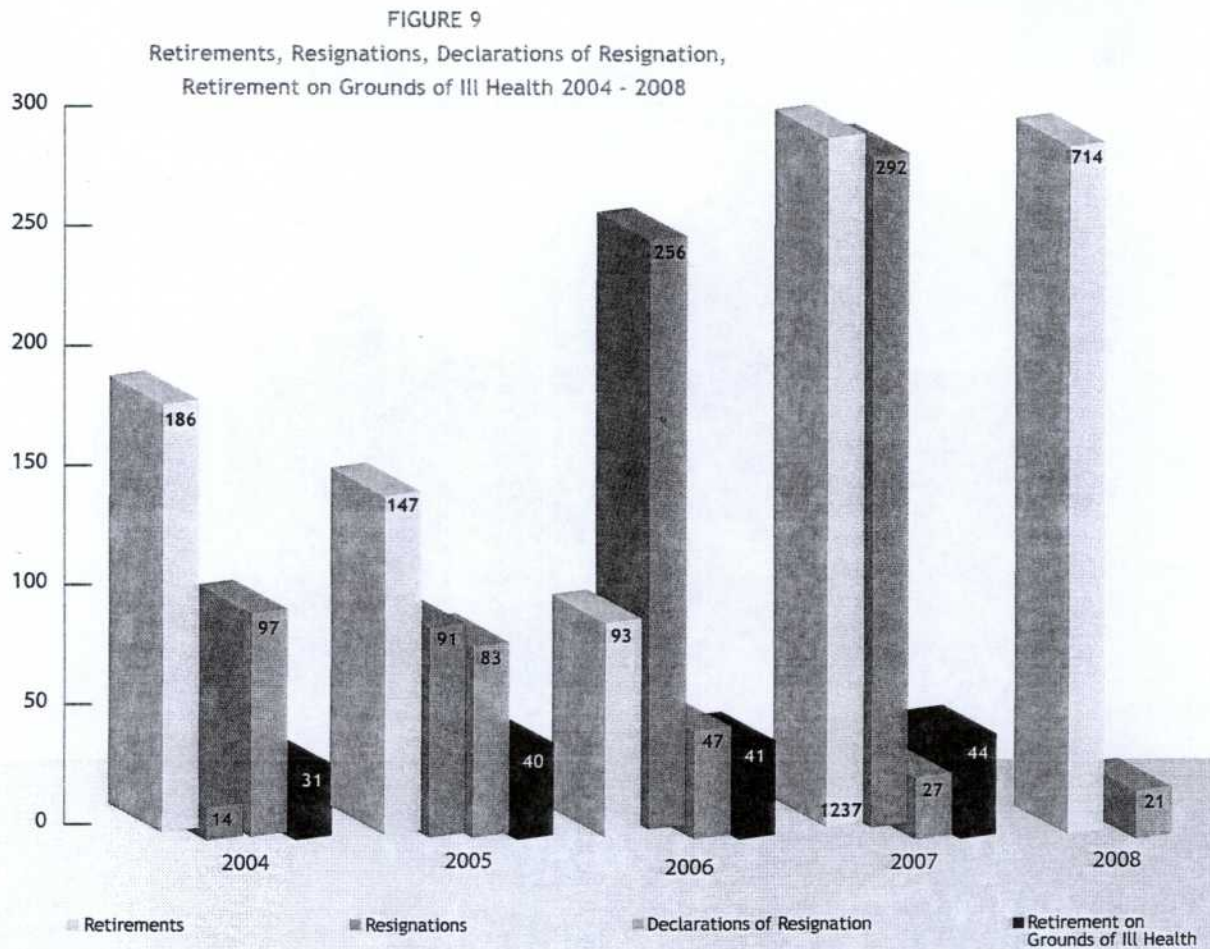
Figure 8 depicts indicators of release on secondment during the period 2004 to 2008.



5.9 Separation from the Public Service

In 2008, Permanent Secretaries/Heads of Departments noted that 714 officers retired and 21 officers were declared to have resigned their offices. In the Ministry of Health, 623 officers separated voluntarily under VSEP.

Figure 9 gives indicators of separation from the Public Service during the period 2004 to 2008.



6.0 EXERCISE OF DISCIPLINARY CONTROL

The disciplinary process ensures equity and fairness and allows public officers to have the option of appealing with the Public Service Appeal Board, the Commission's imposition of a penalty. This emphasis on fairness and equity has resulted in a lengthy but fair system that has stood the test of time. The Commission continues to examine its systems and procedures for opportunities to improve.

The Commission appointed 29 Tribunals in 2008.

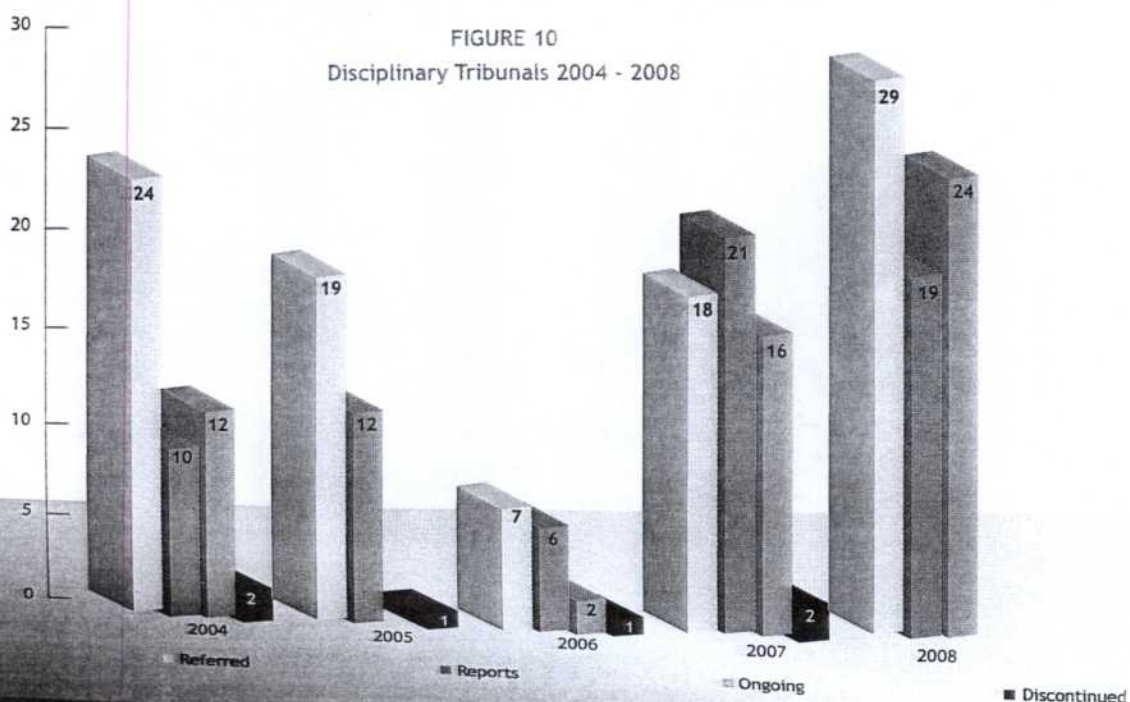
Nineteen (19) matters were concluded before Disciplinary Tribunals in 2008 with the following results:-

- Two officers were exonerated because of insufficient evidence;
- No further action was taken in eight matters:-
 - Six were due to insufficient evidence
 - One was due to the disciplinary charges being of a delegated nature
 - One was due to the age of the matter, in light of the High Court judgment in *Anthony Leach v The Public Service Commission* (matters pending for over five years).
- Nine officers were found guilty of disciplinary charges and penalties were imposed on seven* as at December 31st, 2008 as indicated below:
 - Two officers were dismissed
 - Five officers were fined

*The remaining two matters were deferred and will be concluded in 2009.

At the end of 2008, 24 disciplinary matters were still pending before Disciplinary Tribunals.

Figure 10 gives indicators of Disciplinary Tribunals during the period 2004 to 2008.



6.1 Wider Disciplinary Issues

Several charges relating to alleged offences committed by Public Officers fall outside the parameters of their jobs and the Code of Conduct prescribed in the Civil Service Regulations. In such cases the Commission has to await the outcome of the court proceedings before addressing any related disciplinary action. Court proceedings are generally very protracted and many such matters have had to be eventually abandoned on the grounds of abuse of process.

The Commission notes that in 2008, four officers had their matters dismissed in court because of the non-appearance of Police Officers. Correspondence highlighting this unfortunate occurrence has been sent to the Commissioner of Police on several occasions. It is hoped that there will be an improvement in this area in 2009.

In 2008, as a result of the dismissal of court charges against officers, orders of interdiction imposed on six officers and orders of suspension imposed on eight officers were lifted. As a consequence of being convicted of court charges, penalties were imposed on 10 officers:

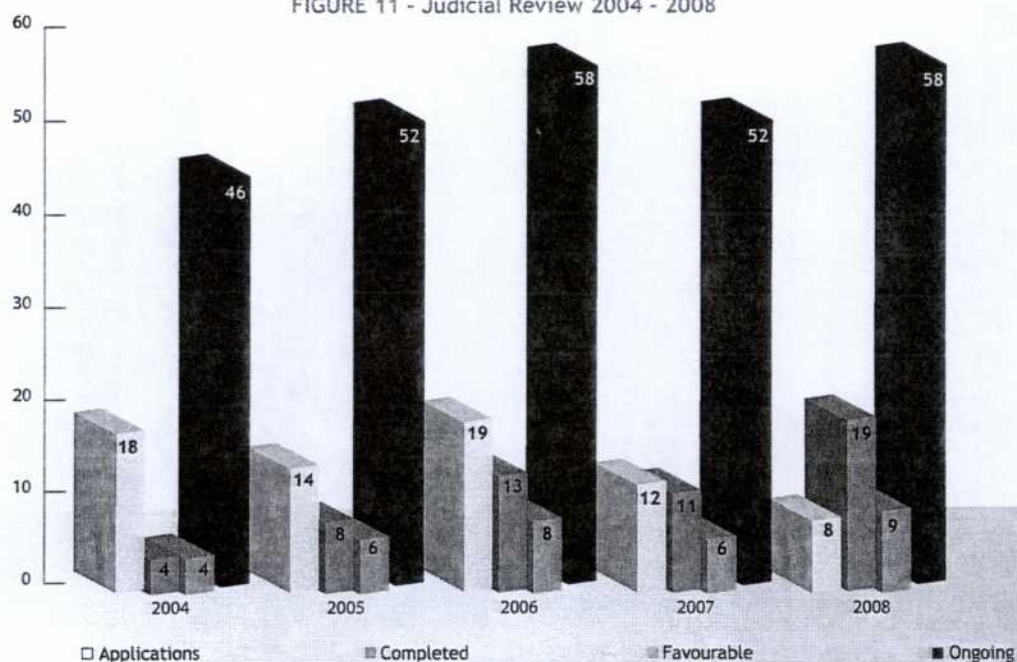
- Six were dismissed
- One was reprimanded
- Three were fined

6.2 High Court Action/Judicial Review

The Commission began 2008 with 58 ongoing High Court Action matters. For the year under review, eight High Court matters were filed against the Commission. In 2008, 19 matters were concluded. Of these, nine were concluded in favour of the Commission and six were concluded in favour of the Claimant; four matters were withdrawn by the Claimant with no decision as to costs.

Details of the determination of the cases are set out at Appendix II. Figure 11 gives indicators of Judicial Review during the period 2004 to 2008.

FIGURE 11 - Judicial Review 2004 - 2008



Section 3 - Institutional Policy Matters

7.0 REPRESENTATIONS/COMPLAINTS

When a Public Officer is aggrieved with regard to a decision made by the Commission, Permanent Secretary or Head of Department, and in instances where such decisions directly relate to the exercise of the delegated function, the officer can make representation to the Commission for a review of the decision.

Figure 12 displays graphically the number of representations for the period 2006-2008.

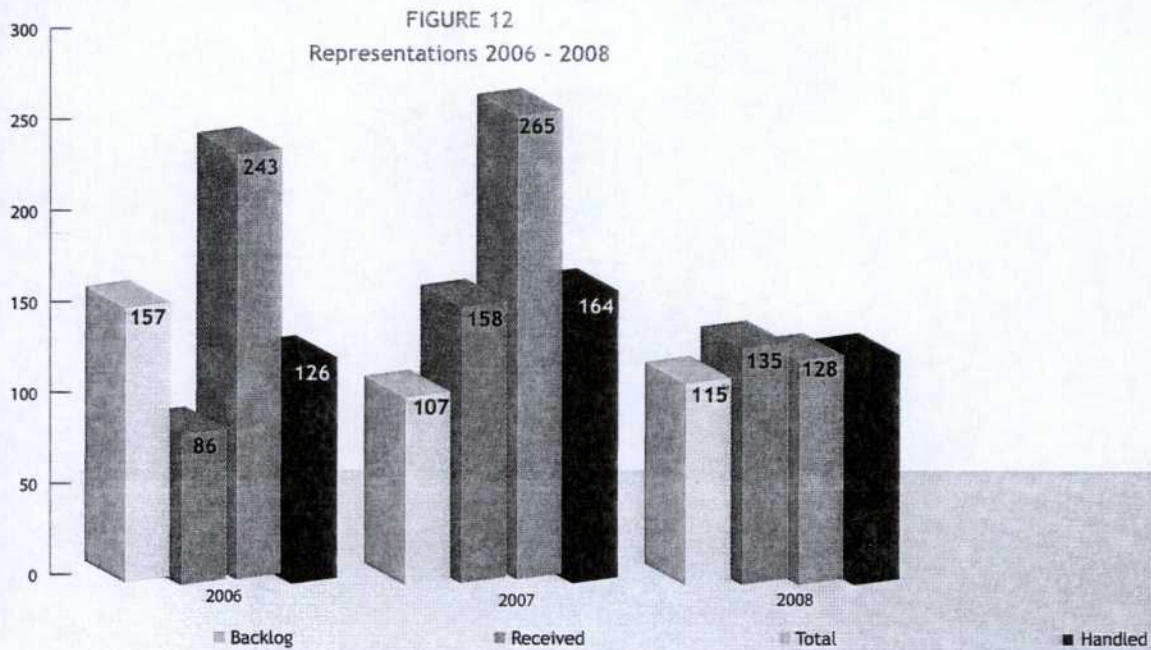
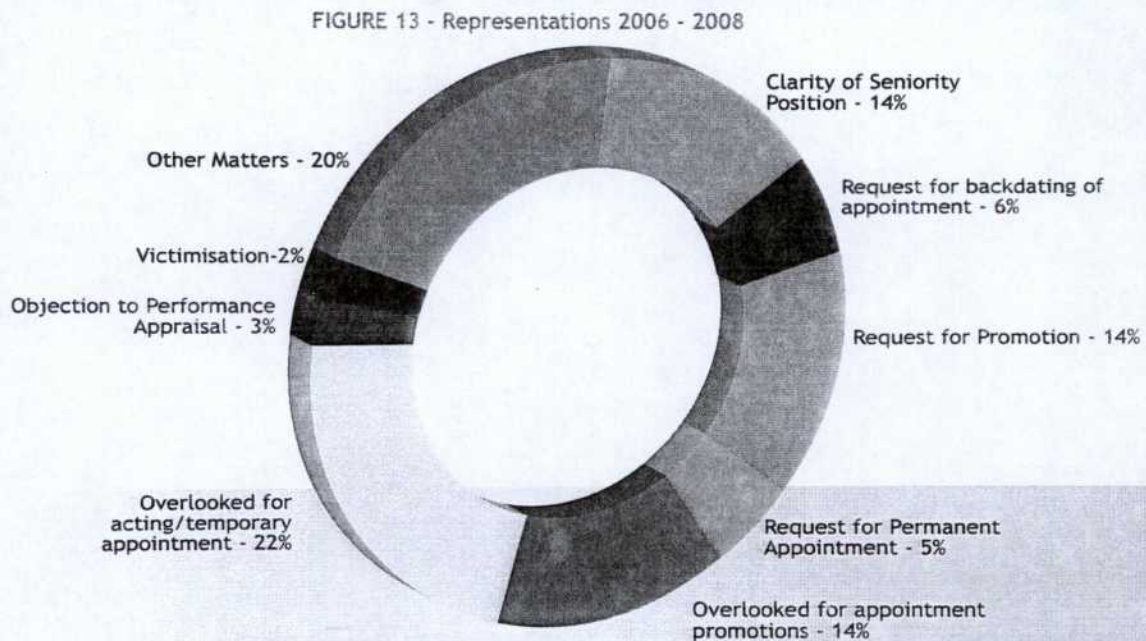


Figure 13 shows a breakdown of the reasons representations are made by public officers.



7.1 Delegation of Authority

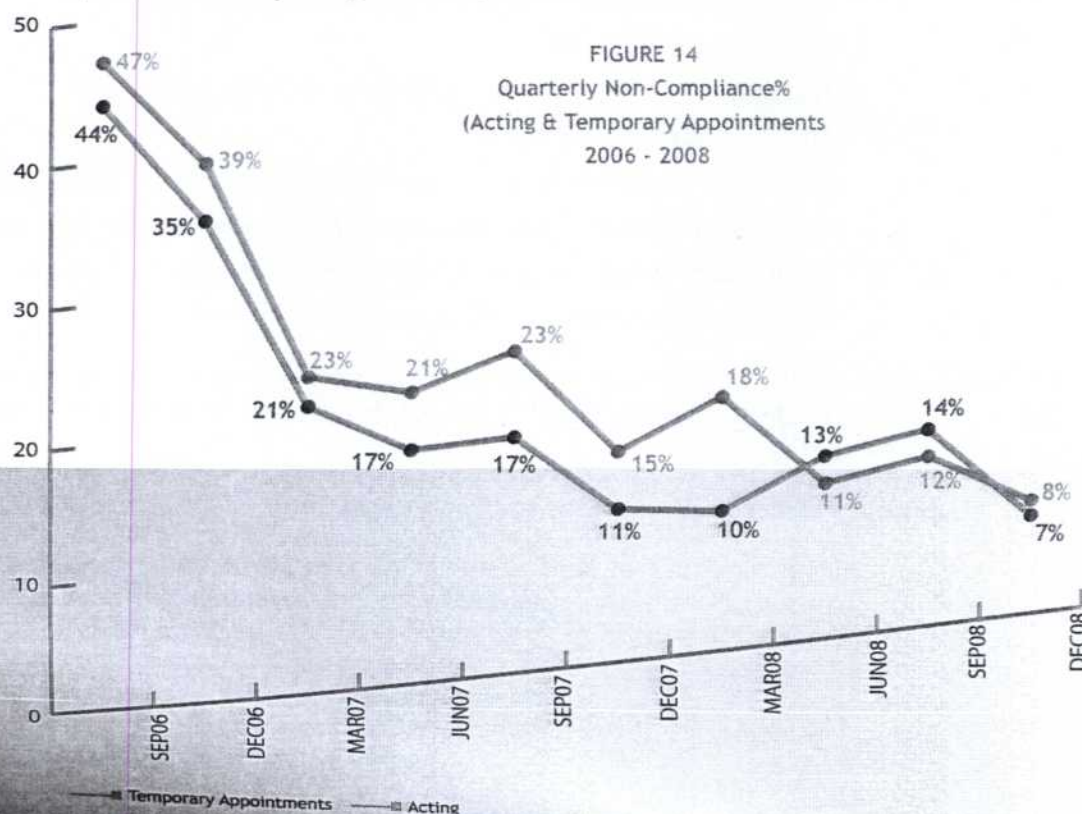
The Delegation of Powers (Amendment) Order, 2006, Legal Notice No. 105 dated 24th May, 2006 provided for the following functions to be delegated to Permanent Secretaries and Heads of Departments:

- Acting Appointments
- Further Temporary Appointments
- Confirmations
- Transfers within Ministries
- Disciplinary Matters as They Relate to Minor Infractions

Training of staff in the Human Resource units of various Ministries/Departments continued in 2008 in order to ensure compliance with the delegated authority and the relevant Regulations.

In 2006, the Commission established Monitoring and Evaluation mechanisms to gauge the compliance of Permanent Secretaries and Heads of Departments with the execution of the functions delegated to them. To this end, the Director of Personnel Administration assigned Human Resource Adviser IIs to Ministries/Departments. These officers were requested to submit quarterly reports on the delegated functions and have been diligently doing so.

Figure 14 gives indicators of the level of non-compliance by Permanent Secretaries and Heads of Departments in exercising the delegated functions.



7.1 Delegation of Authority (continued)

Although there is still some level of non-compliance, these graphs show steady improvement in the administration of the delegated functions by the Permanent Secretaries and Heads of Department and are an indication that further delegation of administrative functions to these senior officers is indeed a viable option. The Commission hopes to implement such delegation before the end of 2009.

A breakdown of the reason for the non-compliance is shown hereunder:

7.1.1. *Temporary Appointments*

- Vacancy not clearly defined;
- Period of last approved temporary appointment not indicated;
- Approval of first temporary appointment by the Public Service Commission not indicated;
- Period of performance appraisal and assessment not indicated;
- Allegations of misconduct or court charges not indicated;
- Return form not signed or dated by the appropriate authorised officer; and
- Letter(s) of appointment not attached to return form.

7.1.2. *Acting Appointments*

- Eligibility/seniority of officer not indicated;
- Vacancy not clearly defined;
- Principles and procedures of regulations 18-24 not adhered to;
- Eligible officers not notified;
- Reasons for the passing over of qualified officers not solicited or stated
- Period of Performance Appraisal report and Assessment not indicated;
- Return form not signed or dated by appropriate authorised officer; and
- Letters of appointment not attached to return form.

The Human Resource Advisers II of the Monitoring and Evaluation Unit of the Service Commissions Department have made the under mentioned recommendations for improving quality and reducing the number of breaches of the delegation order:

- (i) Continuous monitoring of Ministries and Departments;
- (ii) Regular training/retraining of staff of the Human Resource Units, including officers likely to carry out the delegation exercise in the Human Resource Units (twice yearly, April and October);

7.1 Delegation of Authority (continued)

- (iii) Training of Human Resource Units staff in the areas of the Public Service Commission Regulations and maintenance of Establishment Books and Seniority Lists;
- (iv) A resensitization/training to be facilitated for Permanent Secretaries, Heads of Departments, Deputy Permanent Secretaries and Directors, Human Resources especially in areas of non-compliance to ensure that returns submitted meet the standards outlined in the Delegation Order;
- (v) Review sessions on the audited returns to be conducted with staff of the Human Resource Unit;
- (vi) Additional staff for the Monitoring and Oversight Unit;
- (vii) Timely submissions of returns of the delegation exercise, with reasons for late submissions signed off by the respective Permanent Secretaries and Heads of Departments

The Public Service Commission has adopted all of these recommendations for immediate implementation by all parties concerned.

7.2 Selection Procedures

As the Public Service Commission examines new modalities for Recruitment and Selection and in the interest of increased efficiency and timeliness, more practical mechanisms must be devised for the delivery of this service.

To this end, the steady improvement in the exercise of the delegated functions by the Permanent Secretaries and Heads of Department indicates to the Commission that senior officers are in good stead to undertake further delegation. In terms of offices that are peculiar to a Ministry or Department, the Commission believes that the advertisement, shortlisting and interviews for such positions can now fall under the delegated function, provided that such functions are conducted within clear guidelines and that a representative of the Commission or Service Commissions Department sits on the interviewing panel. The Commission will endeavour to make this a reality in 2009.

The Commission is cognizant that before embarking on this exercise, it must ensure that all the necessary safeguards are in place and the existing delegated functions are being efficiently executed.

7.3 Tobago

In 2008, the Service Commission Department was able to treat with all residual matters regarding the regularization of persons employed as Clerical Relief for the Central Administrative Services and the Tobago House of Assembly. 245 clerical reliefs were appointed as Clerks I with no loss of service.

The Director of Personnel Administration was mandated by the Commission to visit Tobago twice a month to address issues relevant to the Commission and the exercise of its functions. The Director or her representative visited Tobago 59 times during 2008. Meetings were also held with the Chief Administrator and Permanent Secretary, Central Administrative Services which resulted in the regularisation of the clerical officers.

7.4 Succession Planning

The Commission remains concerned about the lack of planning for succession in the Public Service. Under the current system, it can only recommend the following approach be adopted immediately so that a continuous cadre of trained professionals is available to continue the efficient and effective management of the Public Service:

- Age profiles of officers holding the top 10 administrative offices of the Public Service be completed;
- The re-introduction of the Administrative Cadet initiative;
- The existing training capabilities at the University of the West Indies and the University of Trinidad and Tobago be utilised.

The Commission for its part will continue to introduce methodology for assessing competency thus ensuring that only professional and competent individuals attain the top positions the Public Service.

8.0 SUMMARY AND CONCLUSIONS

The above review of the Commission's activities for 2008 reveals that there has been significant movement forward in meeting the vision and mission of the Public Service Commission as stated in the Annual Report 2007.

In its report of 2006, the Commission stated that its mission, detailed in the Constitution of Trinidad and Tobago, is to ***"appoint persons to hold or act in offices in the Public Service including the power to make appointments on promotion and transfer and to confirm appointments, and to remove and exercise disciplinary control over persons holding or acting in such offices and to enforce standards of conduct on such officers."***

The vision of the Commission was stated as expediting this mission ***'in a fair, transparent and timely manner, so that matters within the purview of the Public Service are conducted in an efficient and effective manner to the satisfaction of the citizens of Trinidad and Tobago.'***

With these two (2) over-arching objectives in mind, the Commission continues on this ***'work in progress'***, mindful of the legal framework within which it must work as well as the principles of excellent Human Resource practices.

The Commission continues to insist on best practices in this regard, whether in terms of getting appropriate legal advice from Senior Counsel prior to finalising its decision-making, or in terms of references to the tried and proven methodologies of other jurisdictions.

Enlightened public opinion whether positive or negative has also impacted in the decision-making process.

9.0 GOALS FOR 2009 AND BEYOND

Some of the key objectives of the Public Service Commission for 2008 and beyond are:

I. *Recruitment & Selection*

- (i) Implementation of a competency based methodology for recruitment and selection in senior managerial offices in the Public Service;
- (ii) Implementation of a new recruitment and selection policy for temporary appointments in the Civil Service with special focus on the Clerical and Manipulative Classes.

II. *Appointments*

Making a minimum of one thousand (1,000) permanent appointments in the Public Service annually.

III. *Promotions*

Making one thousand, five hundred (1,500) promotions in the Public Service.

IV. *Confirmations*

Making two thousand (2,000) confirmations in the Public Service.

V. *Discipline*

- (i) Processing at least fifty (50) disciplinary reports; and
- (ii) Exploring the possibility of introducing Alternative Dispute Resolution (ADR) as part of the disciplinary process in the Public Service.

VI. *IT Concerns*

The Commission, in consultation with the Director of Personnel Administration, believes that the following initiatives will enhance the operations of the Commission as they allow for greater efficiency at the Service Commissions Department:-

- Upgrade of internet facility;
- Email access for all of the Department's officers;
- Creation of in-house databases to capture data in the various sections;
- Installation of share drives throughout the various sections to facilitate sharing of documents. Access to be restricted based on privileges outlined by the respective section heads;
- Implementation of an Electronic Document Management System to manage the records of the Service Commissions Department. Such a system would give users faster and more efficient access to documents without having to retrieve and search paper files. Documents can be simultaneously accessed by various users which can significantly reduce the decision-making timeframe resulting in a more efficient and effective process.

Electronic access to documents by the various units of the Service Commissions Department and by extension, the four Commissions, will reduce their respective research time in gathering and reviewing recommendations and decisions. Consequently, the delivery of service to the wider public will be improved.

The system can also integrate with the IHRIS system currently implemented throughout the public service and further authenticate the data already captured in IHRIS.

Appendix 1

EXCERPT OF REGIONAL HEALTH AUTHORITIES ACT NO. 5 OF 1994

27. (1) An officer in the public service or in a statutory authority may, with the approval of the appropriate Service Commission or such statutory authority, consent to be appointed on transfer to the service of an Authority upon such terms and conditions as are acceptable to him or his trade union and the Authority.
- (2) The officer shall, upon transfer, have preserved his superannuation and pension rights accruing at the time of transfer.
- (3) Subsections (1) and (2) apply to transfers of the employees of an Authority to the public service or to a statutory authority as they do to transfers of officers from the public service or a statutory authority to the Authority.
29. (1) An officer in the public service, who on the commencement of this Act is employed at a health care facility, may—
- (a) With the approval of the appropriate Service Commission and the Regional Health Authority in which the health care facility is vested consent to be appointed on transfer to the service of the Authority upon such terms and conditions as are acceptable to him or his trade union and the Authority;
- (b) With the approval of the appropriate Service Commission consent to be seconded to the Service of an Authority;
- (c) Remain in the public service.
- (4) Subject to subsection (4) an officer shall, immediately at the end of the period of secondment, exercise one of the following options:
- (a) Be appointed on transfer to the service of an Authority, subject to the approval of the appropriate Service Commission, on such terms and conditions as are acceptable to him or his trade union and the Authority;
- (b) Remain in the public service;
- (c) Retire voluntarily on such terms and conditions as are agreed upon between the person who exercises this option or his trade union and the Chief Personnel Officer.
- (5) Where an officer opts to be appointed on transfer to the service of an Authority under subsection (1)(a) or (5)(a) the provisions of section 27 shall apply.

Appendix 2

High Court Matters Concluded 2008

For the year under review, 19 High Court matters were concluded. Of these, nine were concluded in favour of the Commission, six were concluded in favour of the Claimant and four were withdrawn.

Details of these are outlined below:-

Decisions in Favour of the Public Service Commission

JAMES, Conrad - Fire Station Officer, Ministry of National Security

HCA#/Date filed: CV 2007 - 1054

Judicial Review of

A declaration that the continued failure and/or neglect and/or refusal and/or omission of the Public Service Commission to consider or fairly consider the Intended Claimant for promotion to the rank of Assistant Divisional Fire Officer is illegal, irrational, procedurally improper, null and void and of no effect.

Date of Outcome: 25th April, 2008

Order/Judgement

The Judge granted leave to the Claimant to withdraw his claim. The Claimant to pay the Defendant's costs in default of agreement."

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MOHAMMED, Ashouk - Ag. Prisons Supervisor No. 1224, Ministry of National Security

HCA#/Date filed: CV 2007 - 02652

Judicial Review of

An Order of Certiorari to remove into this Honourable Court and quash the decision of the Commissioner of Prisons instructing the Claimant to report for and assume duties as a Acting Prisons Supervisor on the basis that he is fit to resume services on a permanent basis.

Date of Outcome: 18th July, 2008

Order/Judgement

The Honourable Mr Justice Stollmeyer ordered:

1. The Claimant's claim is hereby discontinued;
2. The Claimant do pay the defendant's costs;
3. Costs be assessed;
4. The Defendant's bill of costs be filed together with written submissions in support thereof by 31st July, 2008;
5. Cost was assessed in the sum of Forty-five thousand seven Hundred and thirty-seven dollars (\$45,737.00).

(13th October, 2008)

Costs appealed; leave granted for Mr. Mohammed to withdraw his Notice of Appeal that was filed on 14th August, 2008 with no order as to costs.

Decisions in Favour of the Public Service Commission *(continued)*

PRECILLA, Chester Prisons Officer I, Ministry of National Security	
<p>HCA#/Date filed: 01072 - 2008</p> <p>Judicial Review of A Declaration that the Commission, having charged the Claimant with the disciplinary offences and appointed the disciplinary tribunal to hear evidence and find facts with respect to the said charges, will contravene the claimant's fundamental rights to the protection of the law and a fair hearing in accordance with the principles of fundamental justice as guaranteed by Sections 4 (b) and 5 (2) (e) of the Constitution of Trinidad and Tobago.</p>	<p>Date of Outcome: 13th November, 2008</p> <p>Order/Judgement The Honourable Justice Stollmeyer ordered judgement for the Defendant and dismissed the Claimant's claim and awarded costs to the Defendant.</p>
PHILLIP, Silbert - Firefighter No. 1709, Ministry of National Security	
<p>HCA#/Date filed: 2236 of 2004</p> <p>Judicial Review of The decision by the Divisional Fire Officer to post the Applicant being contrary to the Laws and/or an abuse of power. The failure of the Chief Fire Officer to provide the Applicant with reasons for his non-assignment to duties as a Firefighter.</p>	<p>Date of Outcome: 18th July, 2008</p> <p>Order/Judgement The Honourable Mr Justice Hosein dismissed the matter with costs in favour of the Defendant to be taxed.</p>
RUSH-ROMEO, Jean - Cook I (Ag. Kitchen Supervisor), Ministry of Health	
<p>HCA#/Date filed: 1317 of 2004</p> <p>Judicial Review of The action and/or decision of the Public Service Commission made on or about the 21st June, 2004 and communicated to the Applicant on or about the 25th June, 2004 whereby the Applicant was informed that her acting appointment as a Kitchen Supervisor would be terminated with effect from 3rd August, 2004.</p>	<p>Date of Outcome: 10th November, 2008</p> <p>Order/Judgement The Judge gave the Applicant leave to withdraw the matter and ordered that 1/3 of the Respondent's costs be paid to be taxed in default of agreement.</p>
SHADE, Lennox - Trade Instructor, Ministry of Sport and Youth Affairs	
<p>HCA#/Date filed: CV 2008 - 00365</p> <p>Judicial Review of An order of certiorari to remove into this Honourable Court and to quash the decision of the DPA dated 4th October, 2007 concluding that the Claimant is ineligible for promotion as Youth Camp Director II.</p>	<p>Date of Outcome: 5th March, 2008</p> <p>Order/Judgement The Honourable Justice Rajnauth-Lee refused the application for Judicial Review. The amended notice of Application filed on 18th February, 2008 was dismissed with no order as to costs.</p>

Decisions in Favour of the Public Service Commission *(continued)*

PIERRE-BROOKS, Cheryl - Temporary Medical Officer I, Ministry of Health

HCA#/Date filed: CV 2005 - 00844

Judicial Review of

A declaration that the decision of the Public Service Commission declaring the Claimant to have resigned her office in the Public Service with effect from the 16th August, 2001 is null and void and of no effect.

Date of Outcome: 28th February, 2008

Order/Judgement

The Honourable Justice Stollmeyer made the following ruling:

1. The Commission did afford the Claimant the opportunity to respond to Mr Shah's letter dated June 9, 2005. The court further noted that the purpose of the said letter was to inform the Claimant of what the Commission proposed to do and what she was required to do. The court also noted that the Claimant was not entitled to an oral hearing.
2. The Commission's decision was not Wednesday unreasonable.
3. The Claimant to pay the Commission its costs of the proceedings.

The Defendant's cost was assessed in the amount of \$55,000.00.

SINGH, Balram - Motor Vehicle Officer I, Ministry of Works & Transport

HCA#/Date filed: CV 2007-01256

Judicial Review of

A declaration that the policy and/or decision of the Public Service Commission to use the date of an officer's qualification for the office of Motor Vehicle Inspector I as the basis for making acting appointments to the said office is illegal and ultra vires to the Public Service Commission Regulations.

An order remitting this matter back to the Public Service Commission to consider and/or reconsider the decision to bypass the Claimant in favour of junior officers in accordance with the findings of the Court.

An order of certiorari to remove into this Honorable Court and quash the decision of the Public Service Commission to bypass the Claimant for acting appointment in favour of junior officers.

Date of Outcome: 17th December, 2008

Order/Judgement

The Honourable Madam Justice Pemberton ordered:

- 1) The Application for Judicial Review dated 30/04/07 is hereby dismissed.
- 2) Claimant to pay the Defendant's costs of the application to be assessed.

The issue of cost is still pending.

Decisions in Favour of the Public Service Commission *(continued)*

RAMNATH, Surendranath Daily Paid Worker & Others, Ministry of Local Government	
HCA#/Date filed: S-628 of 2004	Date of Outcome: 29th May, 2008
<p>Judicial Review Application in the matter of:</p> <p>(i) The refusal and/or failure of and/or the continuing refusal and/or failure of the Public Service Commission to appoint each of the applicants respectively to the substantive monthly paid post of Road Officer I (Rg 30) in the Civil Service (Technical Class) Ministry of Local Government, notwithstanding that the Applicants have been required to perform and have successfully performed the duties and functions of the holder of the post of Road Officers I while employed as permanent daily paid by the CEOs and Senior Technical Officers of such Regional Corporations for appointment to the substantive post of Road Officer I.</p> <p>(ii) The decision by the Public Service Commission to refuse to appoint the Applicants to the said post of Road Officer I, notwithstanding the request of the applicants by letter dated 9th February, 2004 that they so be appointed.</p>	<p>Order/Judgement</p> <p>The Honourable Justice Stollmeyer made the following ruling:</p> <ol style="list-style-type: none"> 1. The Commission did afford the Claimant the opportunity to respond to Mr Shah's letter dated June 9, 2005. The court further noted that the purpose of the said letter was to inform the Claimant of what the Commission proposed to do and what she was required to do. The court also noted that the Claimant was not entitled to an oral hearing. 2. The Commission's decision was not Wednesday unreasonable. 3. The Claimant to pay the Commission its costs of the proceedings. <p>The Defendant's cost was assessed in the amount of \$55,000.00.</p>

Decisions Against the Public Service Commission

BARRIMOND, Paula - Customs and Excise Officer I, Ministry of Finance

HCA#/Date filed: S-1301 of 2005

Judicial Review of

The decision of the Public Service Commission to appoint a Disciplinary Tribunal to hear and determine the under-mentioned disciplinary charges against the applicant:

STATEMENT OF CHARGE I

'Failure to perform required lawful duty in a proper manner contrary to Regulation 149 (1) (a) of the Civil Service Regulations as amended by the Civil Service (Amendment) Regulations, 1996.

PARTICULARS OF CHARGE I

That you Paula Barrimond, Acting Customs and Excise Officer II on July 21, 1999 at the Aeromarine Bond, Sea Lots, Port of Spain failed to perform your duties in a proper manner when you signed the Bill of Sight and Customs Entry documents relating to the importation of goods by Kent Guy without examining the relevant goods.

STATEMENT OF CHARGE II

'Failure to perform required lawful duty in a proper manner' contrary to Regulation 149 (1) (a) of the Civil Service Regulations as amended by the Civil Service (Amendment) Regulations, 1996.

PARTICULARS OF CHARGE II

That you Paula Barrimond, Acting Customs and Excise Officer II on July 21, 1999 at the Aeromarine Bond, Sea Lots, Port of Spain failed to perform your duties in a proper manner when you signed the Bill of Sight and Customs Entry documents relating to the importation of goods by Maurice Gonzales without examining the relevant goods.

STATEMENT OF CHARGE III

'Failure to perform required lawful duty in a proper manner' contrary to Regulation 149 (1) (a) of the Civil Service Regulations as amended by the Civil Service (Amendment) Regulations, 1996.

PARTICULARS OF CHARGE III

That you Paula Barrimond, Acting Customs and Excise Officer II on July 21, 1999 at the Aeromarine Bond, Sea Lots, Port of Spain failed to perform your duties in a proper manner when you signed the Bill of Sight and Customs Entry documents relating to the importation of goods by Cheryl Dipchand without examining the relevant goods.

Date of Outcome: 29th May, 2008

Order/Judgement

The Honourable Mr Justice Aboud ordered:

"that the applicant has been treated unfairly and I quash the decision of the PSC to prosecute or try the three disciplinary charges. The Judge ordered that the disciplinary proceedings be permanently stayed. The Respondent was ordered to pay the applicant's cost."

Decisions Against the Public Service Commission *(continued)*

JOSEPH, Alfred - Former Fireman, National Security

HCA#/Date filed: CV2006-00507

Judicial Review of

The failure and/or refusal of the Public Service Commission to permit the Applicant to challenge any allegation of misconduct/indiscipline pursuant to the Public Service Regulations by Cheryl Dipchand without examining the relevant goods.

Date of Outcome: 21st January, 2008

Order/Judgement

It is ordered that:

1. The decision of 25th August 1993 terminating the employment of the Claimant is quashed.
2. A declaration that the Respondent purporting to terminate the Claimant's employment is in violation of 4(a), 4(b) and 4(d) of the constitution.
3. Respondent to pay the Claimant his gratuity and pension to be calculated on the basis that the Claimant remained in office as a Fire Officer until the compulsory retirement age of fifty-five (55) years.
4. That the Respondent restore to the Claimant all outstanding salaries and other benefits that would have accrued as if the Claimant had remained in office until the compulsory retirement age of fifty-five (55) years.
5. The second Respondent to take all steps necessary to expedite the payment of damages to the Claimant and in any case to make an interim payment of at least One Hundred Thousand Dollars (\$100,000.00) on or before 1st day of March 2008.
6. Respondent to pay the Claimant's costs assessed in the sum of Twenty Five Thousand Dollars (\$25,000.00)

29th June 2009 memoranda sent to Solicitor General and Chief State Solicitor requesting explanation by 10th July 2009 why the Commission was unrepresented on 21st January 2008 when the matter was heard on said date. No responses received to date.

The trial of the said matters came to end on November 7, 2008. Judgment on both matters was also given on the same day.

Decisions Against the Public Service Commission *(continued)***CRICLOW, Keith - Firefighter No. 2304, Ministry of National Security****HCA#/Date filed: CV 2007 - 01633****Judicial Review of**

A declaration that the Chief Fire Officer was obligated to inform the Claimant that he was omitted from the list of persons recommended for promotion and the reasons for by passing him.

Date of Outcome: 23rd July, 2008**Order/Judgement**

It is ordered that:

The Honourable Mr Justice Smith noted that the applicant was subsequently promoted and the Claimant was awarded \$16,000.00 in costs.

The Honourable Mr Justice Stollmeyer ordered:

1. The Claimant's claim is hereby discontinued;
2. The Claimant do pay the defendant's costs;
3. Costs be assessed;
4. The Defendant's bill of costs be filed together with written submissions in support thereof by 31st July, 2008;
5. On 9th September, 2008 cost was assessed in the sum of \$45,737.00).

LEACH, Anthony - Prison Officer II, Ministry of National Security**HCA#/Date filed: 1002 of 2004****Judicial Review of**

The continuing omission and/or failure and/or refusal by the Public Service Commission to make a decision as to whether the applicant should be charged.

Date of Outcome: 21st April, 2008**Order/Judgement**

The Honourable Mr. Justice S. John J.A. ordered that leave is granted to withdraw the Appeal with costs.

MOHAN, Sumair - Fire Sub-Officer, National Security**HCA#/Date filed: CV 2007-03336****Judicial Review of**

(i) A declaration that the Chief Fire Officer was obliged to inform the claimant that he was omitted from the list of persons recommended for promotion and the reason for bypassing him.

(ii) An order of Certiorari to remove into this Honourable Court and quash the purported decision of the Chief Fire Officer not to recommend the Claimant for promotion.

Alternatively, a declaration that the failure of the Commissioner to recommend Claimant for promotion is illegal, unlawful and/or unreasonable.

Date of Outcome: 6th May 2008**Order/Judgement**

- 1) By consent leave be and is hereby granted to the Claimant to withdraw the fixed date Claim dated and filed herein on 8th October, 2007; and
- 2) Costs is hereby qualified in the sum of thirty-four thousand dollars, payable by the Defendant to the Claimant.

An appeal has been filed in the matter and is still pending before the court.

Decisions Against the Public Service Commission *(continued)*

HACKETT, Cynthia & WELCH, Sherwin - Field Auditor III, Ministry of Finance	
HCA#/Date filed: CV 2006-01483	Date of Outcome: 7th November, 2008
Judicial Review of A Declaration that the failure of the Public Service Commission to promote the Claimants to the office of Field Auditor IV, while promoting other officers similarly circumstanced to the said office, has contravened the Claimant's rights to the enjoyment of property and not to be deprived of except by due process of law, as guaranteed by Section 4(a) of the Constitution of Trinidad and Tobago and equality of treatment from a public authority in the exercise of a public function, as guaranteed by Section 4(d) of the said Constitution.	Order/Judgement <ol style="list-style-type: none"> 1. The memoranda dated August 23, 1998 and August 24, 1999 removed the waiver for promotion. The removal of the waiver was rescinded by letter dated May 16, 2007 on the erroneous assumption that no one was affected. The Claimants were directly affected. This representation led to a legitimate expectation. Declaration made that the withdrawal by the Chief Personnel Officer of the memoranda of August 23, 1998 and August 24, 1999 by memorandum dated May 16, 2007 was in breach of the legitimate expectation of Mr. Welch. 2. Declaration that the decision of the Chief Personnel Officer to withdraw the memoranda was in breach of the legitimate expectation of Mr. Welch and Ms. Hackett for promotion as provided for in section 5(3) (m) of the Judicial Review Act. 3. Mr. Welch to be considered for promotion to the office of Field Auditor IV. Damages to be assessed. 4. Ms. Hackett was affected from the period 1999-2003. The declaration is also for Ms. Hackett but no re-consideration and she is to be paid damages for that period. 5. Alternatively, with respect to procedural legitimate expectation, in this case there was no consultation made before withdrawal and therefore the same findings and same relief applies. <p>4th December, 2008 An appeal was filed in the matter. A date has not yet been fixed for hearing.</p>

High Court Action Withdrawn

GIBSON, Winston - Chief Technical Officer, Ministry of Agriculture, Land and Marine Resources

HCA#/Date filed: 687 of 2005

Judicial Review of

The unfair and or illegal bypassing of the applicant for the acting appointment of Deputy Permanent Secretary and/or Permanent Secretary, in the Ministry of Agriculture, Land and Marine Resources.

Date of Outcome: 31st May, 2005

Order/Judgement

Justice Dean Armorer ordered:

- The Applicant was eligible to be considered by the Public Service Commission for the acting appointment to the offices Permanent Secretary and Deputy Permanent Secretary from April 2005.
- The Public Service Commission is under a duty to reconsider the Applicant's claim to act from the present acting period.
- The Applicant has been treated unfairly in that his legitimate expectation that arose out of the undertaking contained in the letter dated January 14th 2005 from the Public Service Commission to the Applicant, that the post of Permanent Secretary will be filled by the end of March was frustrated.

The matter was appealed and the Appeal was withdrawn.

LALCHAN, Wilfred - Prison Officer I No. 1359, Ministry of National Security

HCA#/Date filed: CV 2006 - 02297

Judicial Review of

The decision of the Defendant whereby the Defendant declared the Applicant to have resigned his office in the Public Service with effect from 26th November, 2002.

Date of Outcome: 17th January, 2008

Order/Judgement

The Claimant withdrew the Judicial Review Action. The Judge read the submissions on the issue of costs and determined that there should be no order as to costs.

On 2nd July, 2008 the Judge ordered that there be no order as to cost.

High Court Action Withdrawn

RAMBALLY, Daniel - Temporary Clerk I, Ministry of National Security	
HCA#/Date filed: CV 2008 - 01641	Date of Outcome: 15th July, 2008
Judicial Review of An order certiorari to bring into the High Court of Justice and quash the decision of the named respondent dated 11th February, 2008 informing the Claimant/Applicant that he was ineligible to be considered for the post of Immigration Officer I.	Order/Judgement The Honourable Madam Justice Tiwary-Reddy granted leave to the Claimant to withdraw the action with no order as to costs.
SAGRAM, Kamaldaye - Temporary Clerk I, Ministry of Labour and Small and Micro Enterprise Development	
HCA#/Date filed: not provided	Date of Outcome: 26th May, 2008
Judicial Review of The delay and/or failure of the Public Service Commission to determine and advise the Applicant of the disciplinary charges pending against her following a decision to suspend her on 6th March, 2003.	Order/Judgement The Honourable Justice Rajnauth-Lee refused the application for Judicial Review. The amended notice of Application filed on 18th February, 2008 was dismissed with no order as to costs.

Notes

Notes



The Public Service Commission

52-58 Woodford Street, Port of Spain