

Complaint against the Judiciary - ill-manner of a Labour Tribunal officer, keeping a client waiting for an unduly long time, inappropriately arranging the client to be interviewed together with another client, and failing to timely inform the client that his attendance at the tribunal hearing was no longer required

The complainant approached the Labour Tribunal for assistance over a dispute with his employer. He claimed that while being interviewed by the Labour Tribunal officer handling his case, the latter was summoned to attend court duties for over an hour. When the complainant later found out that the Tribunal Officer had already returned to his office from court duties, he was received rudely by the Tribunal Officer who shouted at him that he should wait outside.

2. Later, the Tribunal Officer resumed the interview, but this time he was simultaneously interviewing the complainant and another client who was also seeking claims against the same employer. At the end of the interview, the Tribunal Officer told the complainant that if his employer would offer the compensation sought as an outside court settlement such that the scheduled proceedings would be called off, he would be informed accordingly. However, when the complainant attended the hearing on the scheduled morning, he was told by a Court Clerk that his employer had offered the claimed compensation three days ago, and hence he did not need to attend court that day.

3. Feeling aggrieved, the complainant complained against the Labour Tribunal for -

- (a) the ill manner displayed by the Tribunal Officer who had also kept him waiting for an unduly long time and inappropriately arranged for him to be interviewed together with another client; and
- (b) failing to timely inform him that he would no longer need to attend the scheduled tribunal proceedings, thereby causing him inconvenience.

4. Regarding complaint point (a), the allegation of ill manner was categorically denied by the Tribunal Officer. As the incident involved a one-on-one situation and in the absence of further evidence or third party corroboration, this Office is unable to substantiate the allegation.

5. The Judiciary Administrator commented that the Tribunal Officer had duly explained to the complainant the reason for suspending the interview before leaving for

the court. She further explained that it was impracticable to transfer the complainant's case to another officer meanwhile because the replacing officer would have to start from scratch to familiarize himself with the case. In addition, in order to save claimants the trouble of having to come to the Labour Tribunal on another day while at the same time ensuring that the case officer's time would be utilized fully, Labour Tribunal staff would attempt to complete the formalities required from a claimant on the same day as far as possible. This Office considers that if the complainant had been given an idea at least as to the duration he had to wait and given the option to return at a later time or date, he would better understand the situation and either got himself prepared for the waiting or occupied during the interim, or even decide to return some time later. Having regard to the circumstances, this Office considers the complainant's grievance in this respect is justified.

6. As regards the complainant's dissatisfaction with the joint interview, the Judiciary Administrator maintained that it had been conducted only with both parties' consent. Moreover, a joint interview in such cases was considered more efficient since it would save the time of the claimants and facilitate the extraction of relevant information which might assist in the case officer's investigation, as information provided by one claimant would supplement that given by another.

7. This Office considers that the Tribunal Officer, after spending part of his morning at the court, might have suggested a joint interview as a means to speed up the process so as to save the other claimant's waiting time. There was nothing to suggest that he was not acting in good faith. However, had he explained the reasons behind the joint interview, much of the unnecessary misunderstanding could have been dispelled. In the absence of more substantive evidence that would cast doubt on the competency of the Tribunal Officer in discharging his duties, this Office is unable to establish the claim that the complainant had received only substandard service from him.

8. Taking the above considerations, complaint point (a) is partially substantiated.

9. With regard to complaint point (b), this Office notes that although the complainant's employer had offered to settle the case three days before the scheduled hearing, the Presiding Officer of the Labour Tribunal had only approved the settlement late on the day immediately preceding the hearing. The Labour Tribunal was therefore

unable to notify the complainant in time that his case had been settled. On the other hand, as the hearing had not been vacated before the hearing date, in principle the complainant's attendance in court was necessary. According to the Judiciary Administrator, the Court Clerk who told the complainant that he did not need to attend court had only acted out of good will to save him from further waiting to see the Presiding Officer. Regardless of the intention of the Court Clerk, this Office considers that if the situation had been explained in greater detail to the complainant, much of the misunderstanding could have been avoided. The complainant had been unfortunately trapped in this case by the timing of the settlement. Having regard to the circumstances, complaint point (b) is considered unsubstantiated.

10. Overall, The Ombudsman concludes that this complaint is partially substantiated.

11. Having examined the appointment system of the Labour Tribunal in handling new claims cases, particularly with respect to the scheduling of appointment time, this Office considers that there may be room for improvement. The Ombudsman therefore recommends the Judiciary Administrator to -

- (a) review the present appointment system with a view to working out better arrangements to save its clients from unnecessary and avoidable waiting;
- (b) consider publicizing the appointment system in related information pamphlets, circulars, etc. in order that prospective claimants would have a better understanding on the procedures that may likely affect them; and
- (c) remind the Tribunal staff that if, in the course of interviewing their clients, they are called upon for other urgent matters, elaborate explanation should be given to the clients concerned as to the reasons, the expected duration of absence, and if appropriate the possible option for clients to return at an alternative time or date; and if a client decides to wait, arrange for him to be kept informed should the case officer is unable to return within the period expected.

12. The Judiciary Administrator accepted the recommendations in para. 11(b) and 11(c), and indicated that the present appointment system was not an area falling within her domain, but rather part of the practice and procedure of the Labour Tribunal under the

purview of the Chief Magistrate and the Principal Presiding Officer. Nevertheless, the Judiciary Administrator assured this Office that the appointment system was kept under review and further improvements would be introduced if and when necessary.

Office of the Ombudsman

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