



Public Service Commission

Annual Report 2011



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FOREWORD

I am pleased to present the Annual Report of the Public Service Commission for the Year 2011.

The report for 2011 does not depart noticeably from the report for 2010 pursuant to the constitutional mandate of the Commission. It is important however, to consider the report in conjunction with an action plan which the Commission proposed to pursue in 2011 in the context of its medium-term strategic objectives for 2011 to 2013. The Action Plan and the Medium-Term Strategic Objectives 2011/2013 of the Public Service Commission is included as Appendix I.

Many of the challenges faced by the Commission administratively, managerially and institutionally have continued. However, significant progress has been made in engaging the wider stakeholder agencies in working towards their resolution. The Commission is optimistic that a structural, collaborative approach to finding a solution to these challenges will provide for more expeditious

performance in the near future. Indeed, several positive measures have been embarked upon in this regard.

I thank the Deputy Chairman of the Commission, Mrs Zaida Rajnauth, for her very valuable contribution to the Commission. I also take this opportunity to welcome the new member of the Commission Mrs Parvatee Anmolsingh Mahabir, who brings to the Commission a wealth of Parliamentary experience.

I also express my gratitude to the Director of Personnel Administration, Mrs. Gloria Edwards-Joseph and her staff for their invaluable support and cooperation during the year.

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




Christopher R. Thomas
Chairman

EXECUTIVE SUMMARY

The Report outlines the performance of the Public Service Commission in respect of its constitutional mandate. During the year under review, the Commission sought to fulfil its ongoing functions as well as meet its specific objectives articulated in its Action Plan and Medium-Term Strategic Objectives 2011/2012, attached at Appendix 1. Some of the achievements for the year 2011 included:

- The establishment of three (3) Standing Selection Boards to expedite the Selection Process for the filling of outstanding vacancies in the Public Service;
- The completion of preliminary work towards the implementation of a Document Management System to facilitate streamlining operations and data sharing among internal business units;
- Commencement of a review of existing legislation relevant to areas such as:
 - the inclusion of Assessment Centre methodology in the selection process;
 - the inclusion of case management in dealing with disciplinary matters;
 - the consideration of seniority as a selection criterion only when all other things are equal;
 - the issue of advertisements with respect to recruitment within and outside the Public Service
- Establishment of a Committee to review the existing Integrated Human Resource Information System (IhRIS) and to submit recommendations for the full use of the system;
- The establishment and application of the point system for promoting Prison Officers within the First Division of the Prison Service;
- The review and establishment of the Recruitment Policy for:
 - the office of Clerk 1; and
 - other offices within the Clerical Class

The Commission has made significant progress in achieving its targets set for 2011. Some of the projects earmarked for the year 2012 are as follows:

- Drafting of relevant legislation based on a review of PSC Regulations;
- Review of the existing disciplinary procedure;
- Implementation of a new structure for the Service Commissions Department;
- Collaboration on succession planning for senior management; and
- Restructuring of the administrative machinery for filling outstanding vacancies in the Public Service.

1.0 INTRODUCTION

The Annual Report of the Public Service Commission for the year 2011 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 ROLE AND FUNCTION OF THE PUBLIC SERVICE COMMISSION

The role and function of the Public Service Commission are prescribed in Section 121 of the Constitution of the Republic of Trinidad and Tobago. The Commission, subject to the provisions of the Constitution, is empowered to appoint persons to hold or act in offices to which that section applies, 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.

3.0 REGULATORY FRAMEWORK

The Commission in the conduct of its business is guided by the values and principles as laid down in the Constitution of the Republic of Trinidad and Tobago and other relevant legislation, policies and precedents which have been established over the years as indicated:

- Public Service Commission Regulations (1966)
- Civil Service Act 1965 Chapter 23:01

- Fire Service Act Chapter 35:50 formerly Act 31 of 1965
- Prison Service Act (1965) Chapter 13:01
- Code of Conduct (1996) Chapter 23:01
- Judicial Review Act (2000)
- Freedom of Information Act (1999)

4.0 MEMBERSHIP

The Commission is an independent body established under Sections 120 and 121 of the Constitution of the Republic of Trinidad and Tobago. It comprises a Chairman, Deputy Chairman and no less than two (2) and no more than four (4) members, appointed by the President after consultation with the Prime Minister and the Leader of the Opposition.

During the year 2011, the membership of the Commission comprised:-

Mr. Christopher R. Thomas, C.M.T, LLD
Chairman

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

Mr. Neil Rolingson
Member

Ms Jeanne Roseman
Member

Prof Kenneth Ramchand, C.M.T.
Member

Ms Sushelia Maharaj
Member (until 08/04/11)

Mrs Parvatee Anmolsingh Mahabir
Member (with effect from 20/05/11)

Public Service Commission 2011



Seated left to right: Ms Zaida Rajnauth,
Chairman Christopher R. Thomas and Mr Neil Rolingson.

Standing left to right: Ms Suzette Lynch (Secretary),
Ms Jeanne Roseman, Prof. Kenneth Ramchand and Director
of Personnel Administration, Mrs Gloria Edwards-Joseph.

Mrs Parvatee Anmolsingh-Mahabir is pictured at left.

4.1 Secretariat/Service Commissions Department

The Public Service Commission is serviced by a Secretariat headed by the Director of Personnel Administration who is the principal adviser to the Commission. The Secretariat through its various business units provides support services to enable the Public Service Commission to discharge its constitutional responsibilities in relation to those aspects of the human resource management functions that fall under its mandate with respect to public officers.

5.0 METHOD OF FUNCTIONING AND EXERCISE OF POWERS

5.1 Delegation of Powers

In the exercise of its mandate, the Commission in 2006, pursuant to Section 127 of the Constitution, delegated some of its functions to Permanent Secretaries/Heads of Departments, the Chief Fire Officer, the Commissioner of Prisons, the Chief Administrator, Tobago House of Assembly and other senior officials in the Public Service. These delegated functions are outlined in Appendix II.

The Commission has delegated to the Chief Fire Officer and the Commissioner of Prisons, the promotion/appointment of officers in the Second Division of the Fire and the Prison Services as shown below.

The Public Service Commission has retained all other functions of its mandate as follows:

- First permanent appointment
- Promotion
- First appointment on a temporary basis
- Acting appointment in offices that require consultation with the Prime Minister
- First temporary/acting appointment where an Order of Merit List exists
- Disciplinary control over matters that can attract the penalty of dismissal
- Transfer between Ministries/Departments

(i)	Chief Fire Officer	Fire Sub-Station Officer Fire Sub Officer
(ii)	Commissioner of Prisons	Prison Officer II

5.2 Monitoring, Auditing and Oversight Unit

In order to ensure that the functions delegated to Permanent Secretaries/Heads of Departments and other senior public officers are properly exercised, the Director of Personnel Administration in consultation with the Commission, established in 2006, a Monitoring, Auditing and Oversight Unit. The Unit also provides training and consultancy services to the Human Resource officers who perform the delegation functions on behalf of the Commission.

5.3 Review of the Performance of Ministries and Departments under Delegated Authority

A review of the performance of Permanent Secretaries and Heads of Departments under delegated authority for 2011 indicates that of the total of twenty-six thousand, eight hundred and twenty-seven (26,827) matters, twenty-one thousand, eight hundred and thirty-eight (21,838) matters were in compliance as indicated in Figure 1.

Permanent Secretaries and Heads of Departments with the exception of the Permanent Secretary, Ministry of Health, have been reluctant to exercise the delegated function of establishing one-man tribunals with respect to disciplinary matters. The Service Commissions Department has embarked on a further round of training in this regard.

In 2011, the Chief Fire Officer promoted twenty-nine (29) officers in the Second Division and did not make any first permanent appointments. The Commissioner of Prisons on the other hand, made one hundred and eighty-four (184) first permanent appointments in the Second Division. However, no promotions were made to offices in the Second Division, given that the point system for promotion had not yet been finalised.

Figures 1 below and 2 on the next page depict the performance of Permanent Secretaries and Heads of Departments under delegated authority for the year 2011 and the period 2007 to 2011 respectively.

Figure 1
Compliance with Delegated Function 2011

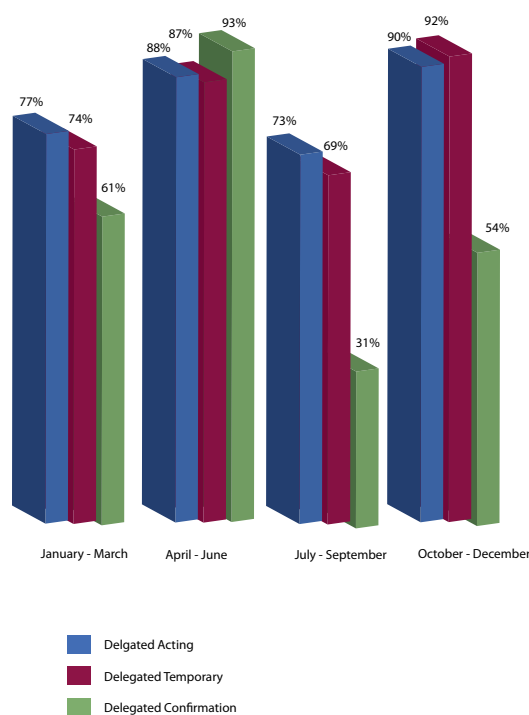
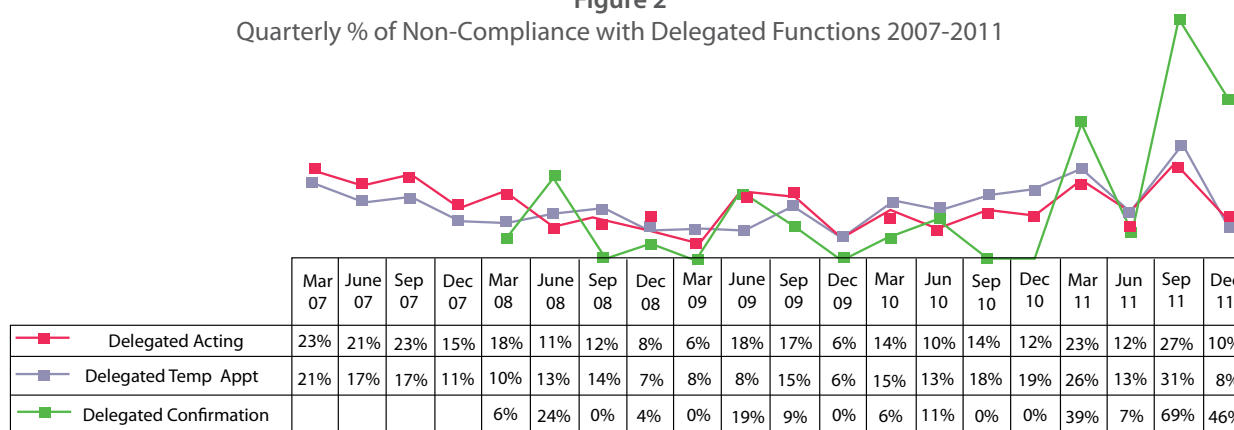


Figure 2
Quarterly % of Non-Compliance with Delegated Functions 2007-2011



6.0 TARGETED PLAN FOR 2011

For the year 2011, the Commission established the following goals and objectives in fulfillment of its constitutional mandate:

- The establishment of Standing Selection Boards;
- The implementation of a Document Management System;
- Review of existing regulations and proposed new regulations; and
- A review of Integrated Human Resource Information System (IhRIS)

Standing Selection Boards

Cabinet by Minute No. 1019 of April 21, 2011, agreed to the provision of funding for the establishment of three (3) Standing Selection Boards for a period of two (2) years with effect from July 1, 2011 to expedite the Selection Process for the filling of vacancies in the Public Service. The Boards, each comprising three

(3) persons, were drawn from public officers/private sector personnel. The establishment of these Boards was meant to reduce the backlog of interviews in the Service Commissions Department as a result of offices advertised. The Selection Boards are supported by resource persons from the Service Commissions Department and operations commenced from July 11, 2011.

Document Management System

The Electronic Data Management System (EDMS) is a computer-generated system used to track and store electronic documents and/or images of paper documents that will allow the organisation to streamline operations and share information.

As at December 31, 2011 the Service Commissions Department had secured funds through the Ministry of Public Administration under the Inter-American Development Bank and is awaiting the procurement of a consulting firm to assist with the design of the system.

The successful consulting firm will be responsible for the delivery of the following components:

1. Information Management Needs Assessment and Gap Analysis;
2. Functional requirements and specifications for an Electronic System;
3. Project planning and support;
4. Preparation of Terms-of-Reference (TORs), Requests for Proposals (REPs) and the technical support with tender evaluation for procurement of an EDMS Solution.

The EDMS project is expected to span approximately five (5) years. Once implemented, this system will expedite the work of the Service Commissions Department and by extension, the Public Service Commission. The Central Tenders Board is in the process of selecting a consulting firm to complete the project.

Regulations

The Commission is in the process of reviewing its existing regulations and a number of changes have been proposed. The Legal Unit of the SCD has been given the mandate to undertake the exercise of reviewing the relevant legislation. Four (4) areas of the regulations initially under review are as follows:-

1. Inclusion of an Assessment Centre Methodology in selection procedures;
2. Seniority to be considered as a selection criterion only when all things are equal;
3. The issue of advertisements with respect to recruitment within and outside the Public Service;
4. Discipline – changing the regulation in keeping with court decisions and including case management as a more timely procedure in treating with relevant matters.

The comprehensive review of the Regulations is to be undertaken in 2012 through a consultancy.

Integrated Human Resource Information System (IhRIS)

A Committee was established to review the existing Integrated Human Resource Information System (IhRIS) system and submit recommendations for its full use. IhRIS was intended to be a basic tool to enable a responsive and effective Public Service. Data was captured from 2002 onward and the system was expected to manage data for all Public Officers, thereby facilitating the development of Human Resource Management in the Public Service.

Fourteen (14) Modules were implemented. However, only four (4) modules are used in all Ministries/Departments. These are:

- Workforce Administration
- Salary and Benefits
- Administration Payroll
- Position Management

These four (4) modules are based on the Public Service Payroll system and as such Ministries/Departments were mandated to use these Modules.

A request for approval to incur expenditure to upgrade and renew licences that would allow for the upgrading, maintenance and support of the People Soft Application (IhRIS) was submitted by the Minister of Public Administration to Cabinet. A Steering Committee has been appointed by the Minister to review the system and submit recommendations for the full use of the system. The Committee has been holding meetings with representatives of the Central

Agencies and the Ministry of Finance with a view to finding a solution for the full implementation of IhRIS in the Public Service.

Recruitment Policy for the Clerical Class

In July 2011, the Commission undertook a review of its Recruitment Policy for offices in the Clerical Class and established two (2) policies: one for the office of Clerk I; and another policy for other offices in the Clerical Class. Some of the features of the Policy include:-

- 1) Positions will be advertised for employment on a temporary basis, every two (2) years and an Order of Merit List will be established on the basis of an appropriate multiple choice examination.
- 2) Candidates on the Order of Merit List who are not employed within that period are expected to reapply when the office is re-advertised.
- 3) The onus will be on persons who have changed their address/contact information to inform the Service Commissions Department accordingly. Persons who cannot be contacted or from whom no response is received will be removed from the List.

This policy was published in the print media for the information of the general public in 2011.

7.0 OPERATIONAL WORK OF THE COMMISSION 2011

The Commission held forty-seven (47) Statutory Meetings, two (2) Special Meetings, and seven (7) Meetings with Permanent Secretaries/Heads of Departments.

The Commission considered one thousand nine hundred and sixty (1,960) matters in its deliberations in 2011, as compared to one thousand, eight hundred and twenty (1,820) matters in 2010. This represents an increase by 8% (140 matters) over the 2010 figure.

8.0 RECRUITMENT AND SELECTION

In 2011, there was an improvement in various areas of the recruitment and selection process. Eighty-two (82) offices were advertised, representing an increase of 28% (18) offices over the 2010 figure. The Standing Selection Boards and the Recruitment Unit conducted interviews for thirty-one (31) offices during the period January to December 2011. The following appointments and promotions were made:

Table I

Description	Appointments	Promotions
Standing Selection Board	27	13
Recruitment Unit	75	43
TOTAL	102	56

Clerk I

In January 2011, applications were invited from suitably qualified persons for temporary appointment to the office of Clerk I in the Public Service. A total of four thousand, two hundred and forty-eight (4,248) applications were received, of which three thousand, one hundred and twelve (3,112) persons were qualified. Examinations were held for the office of Clerk I in June 2011 and a supplemental examination in August 2011. One thousand, eight hundred and eighty-four (1,884) candidates were successful. These persons have now been placed on a Pass List that will be used to recruit persons for employment in the Public Service.

In September 2011, the Commission decided that a Notice of Vacancy be given in Tobago for employment as Clerk I in the Tobago House of Assembly and Tobago Development since it was noted that only a limited number of persons who passed the examinations resided in Tobago. A total of two hundred and twenty (220) applications were received, of which one hundred and eighty-one persons (181) were qualified. The examination for the office of Clerk I in Tobago will be held there in 2012.

Secretarial Class

In December 2011, the offices of Clerk Stenographer I/II and Clerk Typist I were advertised in the daily newspaper. Seventy-eight (78) persons responded to the advertisement for Clerk Stenographer I/II; while four hundred and fifty-nine (459) persons responded to the advertisement for Clerk Typist I. From these applicants, twenty (20) persons were qualified for the office of Clerk Stenographer I/II; while one hundred and seventy-eight (178) persons were qualified for the office of Clerk Typist I.

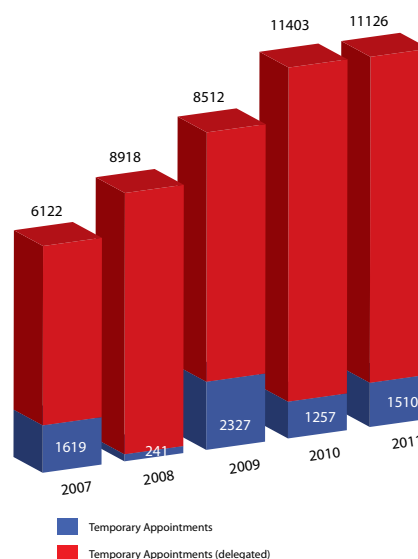
While efforts were being made by the Commission to fill vacancies in a timely manner, there was a dearth of suitably qualified persons for the respective positions of Clerk Stenographer I/II and Clerk Typist I. The Commission was therefore not able to meet all the requests from Permanent Secretaries/ Heads of Departments for those officers. The offices of Clerk Stenographers I/II and Clerk Typists I will be re-advertised in 2012.

9.0 TEMPORARY APPOINTMENTS

In 2011 the Commission made one thousand, five hundred and ten (1,510) temporary appointments. From this total, two hundred and seventy-seven (277) temporary appointments were made due to the realignment of Ministries or the creation of new Ministries.

Ministries/Departments made eleven thousand, one hundred and twenty-six (11,126) further temporary appointments under delegation over the period under review. (See Figure 3 below).

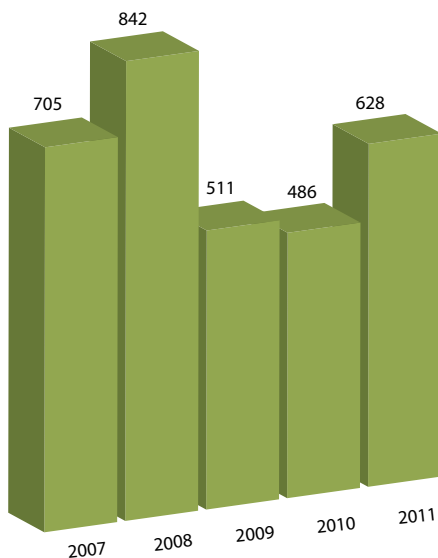
Figure 3
Temporary Appointments 2007-2011



10.0 PERMANENT APPOINTMENTS

Figure 4 indicates that there was an increase by 29% (142 matters) in the number of permanent appointments made in 2011 when compared to 2010. The Commission made four hundred and forty-four (444) permanent appointments, while the Commissioner of Prisons made one hundred and eight-four (184) appointments under delegated authority, totalling six hundred and twenty eight (628) permanent appointments.

Figure 4
Permanent Appointments 2007-2012

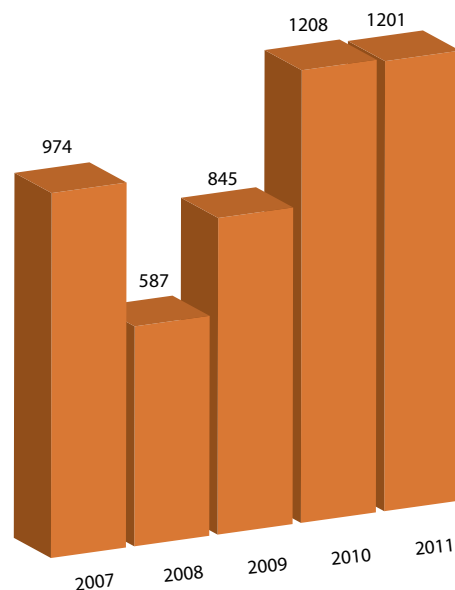


11.0 PROMOTIONS

In 2011, the Commission made one thousand, two hundred and one (1,201) promotions (see Figure 5). This Figure represents a slight decrease over the promotions made in 2010. Some of the ongoing challenges for promoting officers to the vacant positions include the matters of:

- Outstanding Performance Appraisal Reports (PARs);
- A dearth of qualified officers to fill some vacant offices, such as some professional offices in the Ministry of Health;
- The suppression of offices by Cabinet.

Figure 5
Promotions 2007 - 2011



11.1 Point System for the Prison Service

In accordance with Regulation No:172 of the Public Service Commission Regulations, in March 2011, the Public Service Commission implemented a point system for promoting Prison Officers within:-

- a) First (1st) Division and
- b) From the Second (2nd) Division to the First (1st) Division.

With respect to promotion within the Second Division, in July 2011, the Director of Personnel Administration, on the directive of the Commission, hosted a Consultative Workshop with members of the Prison Service at the request of the Prison Officers' Association of Trinidad and Tobago (Second Division). At the workshop, it was agreed that a total of one hundred (100) points for the office of Prisons Supervisor and one hundred and five (105) points for the office of Prisons Officer II would be awarded using the following criteria as laid down in Regulation 172 of the Public Service Commission Regulations.

- General Fitness;
- Position on the Seniority List;
- Examination;
- Special Qualifications;
- Special Courses;
- Performance Appraisal Report;
- Commendation and devotion to duty;
- Knowledge of duty;

- Recommendation from the Permanent Secretary;
- Disciplinary Report.

It was also agreed that the officers who scored sixty (60) points and over would be considered for promotion on the basis of the aforementioned criteria.

The Commission decided that the point system, as agreed, be used to evaluate officers for promotion within the Second Division. The Commission also established Selection Panels comprising officers from the Service Commissions Department, the Ministry of National Security and the Prison Service to assess officers for promotion.

In December 2011, the Commission accepted the Report of the Assessment Panels which assessed officers for promotion as Prisons Officer II (Grade 2) and Prisons Supervisor (Grade 3) Prison Service, Ministry of National Security. The Commission decided that promotion to the offices be processed pending the outcome of any representations made by the officers who were bypassed for promotion.

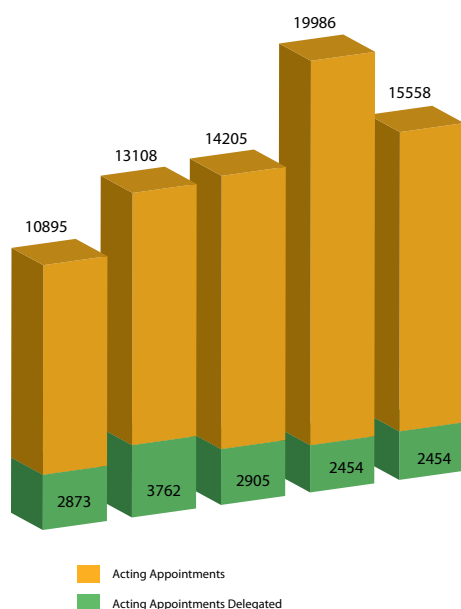
By December 2011, a total of two hundred and seventeen (217) officers made representations for the office of Prisons Officer II, while forty-one (41) officers made representations for the office of Prisons Supervisor. The Commission directed the Assessment Panels to reconvene in 2012 to consider the representations submitted.

12.0 ACTING APPOINTMENT

In 2011, the Commission made two thousand, five hundred and twenty-four (2,524) acting appointments, and under delegation of authority fifteen thousand, five hundred and fifty-eight (15,558) were made.

Figure 6 shows that in 2011 there was a decrease by 22% (4,428 matters) in the acting appointments made under Delegated Authority by Permanent Secretaries/Heads of Departments.

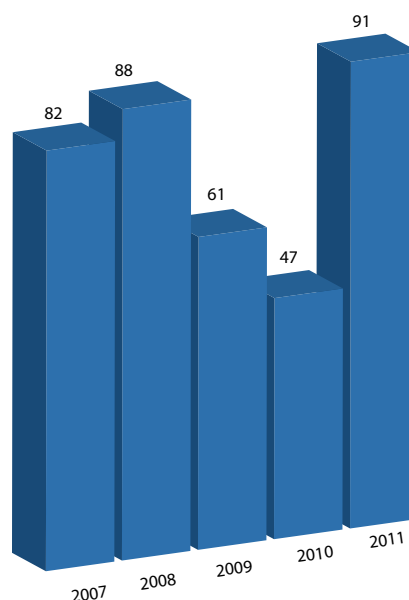
Figure 6
Acting Appointments 2007 - 2011



13.0 SECONDMENT

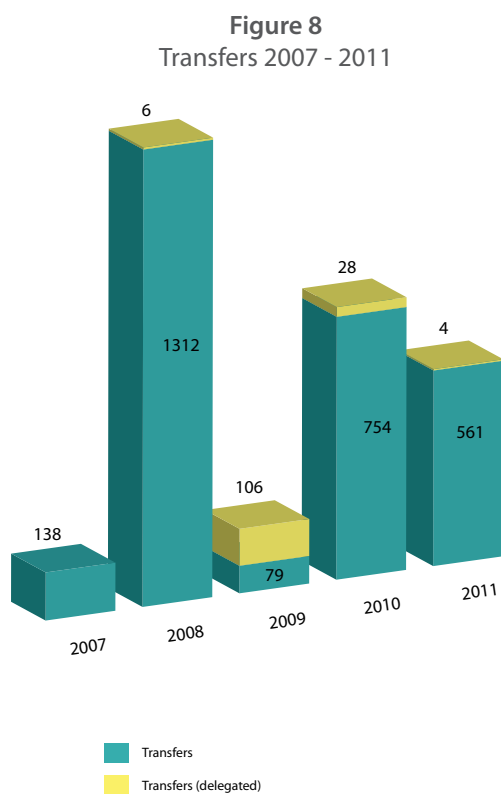
In 2011, of a total of ninety-one (91) officers, the Commission released twenty (20) officers for appointment on secondment to other Service Commissions and agencies and appointed seventy one (71) officers on secondment to the Public Service. There was an increase by 93% (44 matters) in the appointments of secondment made in 2011 as compared with 2010 (See Figure 7).

Figure 7
Secondment 2007 - 2011



14.0 TRANSFERS

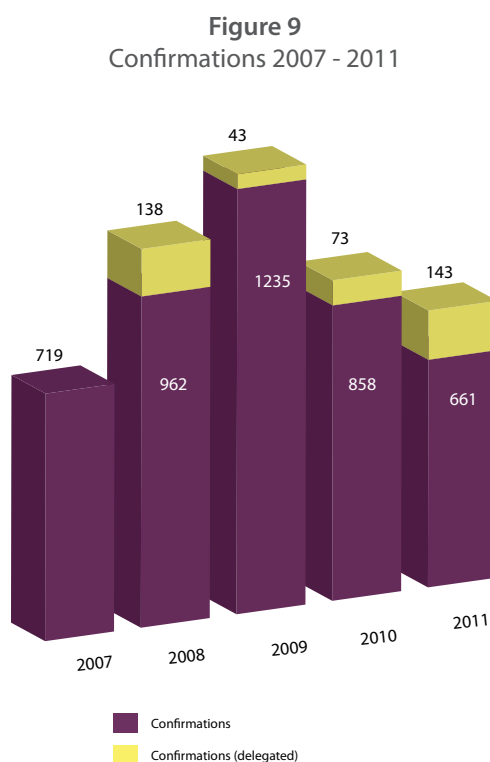
During the year 2011, the Commission made five hundred and sixty-one (561) transfers, of these four hundred and eighty-seven (487) were as a result of the re-alignment of Ministerial Portfolios, whereby the staff had to be transferred to new and re-designated Ministries. Permanent Secretaries and Heads of Departments made four (4) transfers under delegated authority. See Figure 8 below.



15.0 CONFIRMATION OF APPOINTMENT

The delegation of the confirmation of appointment was given to Permanent Secretaries and Heads of Departments on 24th May 2006. The Commission continues to confirm appointments prior to this date. The Commission confirmed six hundred and sixty-one (661) appointments in 2011. Under delegated authority, Permanent Secretaries and Heads of Departments confirmed one hundred and forty-three (143) appointments.

Figure 9 indicates that when compared to the year 2010, in 2011 there was an increase by 96% (70 matters) of confirmation of appointments under delegated authority.



16.0 RESIGNATIONS/RETIREMENTS/ TERMINATION OF APPOINTMENTS

Public Service Commission Regulations provide for public officers to be separated or removed from offices in the public service by resignation, retirement and termination of appointment.

During the year under review, public officers have separated from the Public Service as seen in Table 2:

Table 2

	Statutory Meetings	Ministries/ Departments	Total
Resignations	3	130	133
Abandonment of office	18	-	18
Termination of Employment	1	-	1
Reason: The officer's Temporary Appointment was terminated in accordance with the provision of Regulation 123 of Public Service Commission Regulations			
Compulsory Retirement	3	477	480
Voluntary Retirement	2	113	115
Permission to Retire	1	24	25
Retirement in the Public Interest	2	-	2
Grounds of Marriage	4	-	4
Medical Board	26	-	26
Death	2	24	26

17.0 DISCIPLINE

Table 3 gives a statistical representation of disciplinary proceedings against public officers in 2011:

In 2011, penalties were imposed against nine (9) Public Officers. The nature of these penalties is indicated in Table 4 below.

Table 3

	Civil	Fire	Prison	Total
No. of officers suspended	0	0	0	0
No. of officers on interdiction/re-interdiction	5	3	8	16
No. of disciplinary tribunals appointed to hear matters	10	1	4	15
No. of matters completed by Tribunals during the year of review	6	1	2	9
No. of officers on disciplinary charge	10	2	5	17
No. of officers found guilty of disciplinary charge	5	2	0	7
No. of withdrawals of disciplinary charge	4	0	1	5
No. of persons found guilty in court	2	1	1	4
No. of officers found not guilty in court due to non-appearance of police officers	1	2	0	3
No. of matters discontinued	13	2	1	16
No. of One-Man-Tribunals	30	-	-	30

Table 4

	Civil	Fire	Prison	Total
Dismissal	1	0	2	3
Reprimanded	2	1	1	4
Fined	0	1	0	1
Reduction in Rank	0	0	0	1

17.1 Public Service Appeal Board

In February 2011, the Commission found an officer guilty of conduct prejudicial to the efficient conduct of the Service and imposed, in accordance with Regulation 110 1(b) of the Public Service Commission Regulations, a penalty of a reduction in rank that is, removal to another grade with immediate reduction in salary. The officer filed an appeal with the Public Service Appeal Board in February 2011. This matter is still pending before the Board.

Outcomes of the Public Service Appeal Board Matters

In 2011, seven officers filed appeals and appeared before the Public Service Appeal Board. Two matters were concluded in favour of the claimants and five matters remained outstanding as at December 31, 2011.

Particulars of the two matters that were concluded in favour of the claimants were as follows:

1. No. 2738 Firefighter McAllister DOUGLAS, Fire Service, Ministry of National Security

ONE-MAN TRIBUNAL

Charge I: Perpetration of an act prejudicial to the efficient conduct of the Service, or which tends to bring discredit on the reputation of the Service in contravention of Regulation 119 (1(d) of the Fire Service (Terms & Conditions of Employment) Regulations 1998.

Charges II and III: Disobedience to orders contrary to Regulation 119 (2)(c) of the Fire Service (Terms and Conditions of Employment) Regulations 1998.

Decision of One-Man Tribunal

Mr Douglas was found guilty and the Public Service Commission fined him three days' pay.

PUBLIC SERVICE APPEAL No. 5 of 2009

Date of Judgement: 19th October 2010

Outcome of Judgement

The Public Service Appeal Board allowed the Appeal filed by Firefighter Douglas and set aside the decision of the Disciplinary Tribunal including the penalty for the following reasons:

- i. The Disciplinary Tribunal in the matter gave no reasons for its decision.
- ii. The Disciplinary Tribunal had a duty to produce a judgement or a written report giving a clear explanation as to how it arrived at its decision.
- iii. The Disciplinary Tribunal did not explain at the conclusion of the matter, why one party won and the other party lost.
- iv. The Disciplinary Tribunal failed to analyse the facts of the case and to state which evidence it accepted or which evidence it had rejected.

The Board, in concluding the matter, strongly recommended that the manual entitled "Guidelines and Procedures for the Exercise of Delegated Functions" (designed by the Public Service Commission) be embraced and followed by Permanent Secretaries, Heads of Departments and One-Man Tribunals when performing functions delegated to them by the Public Service Commission.

2. No. 1651 Fire Sub Station Officer Carl Mohammed, Fire Service, Ministry of National Security

ONE-MAN TRIBUNAL

Charge: 'DISCREDITABLE CONDUCT' contrary to Regulation 119 (2) (a) of the Fire Service (Terms and Conditions of Employment) Regulations, 1998.

Decision of One-Man Tribunal

Mr Mohammed was found guilty and the Public Service Commission dismissed him from the Fire Service.

Outcome of Judgement

- (i) The Board allowed the Appeal filed by Mr. Mohammed and set aside the penalty imposed by the Commission. The Board also gave the following reasons with respect to allowing the Appeal:
 - a. The Board was of the opinion that evidence heard by the Tribunal was not sufficient in arriving at the decision to find Mr. Mohammed guilty.
 - b. Counsel for Mr. Mohammed was not present at the hearing when the officer was giving evidence and the Tribunal should have thus granted the officer an adjournment.
 - c. The notes of evidence transcript did not reveal that the officer charged was informed by the Tribunal of his right to call witnesses on his behalf.

- d. The officer charged was not afforded the opportunity to make a closing address in the matter.
- e. The Prosecution failed to bring forward a crucial witness to corroborate its case.

The Board therefore concluded that the Tribunal's decision in this matter could not stand. Additionally, the Board was of the view that the Tribunal's decision was unsafe and unsatisfactory.

As a result, the appeal was allowed, and the order of dismissal from the Public Service made by the PSC against Carl Mohammed (#1651 Fire Substation Officer) was set aside by the Board.

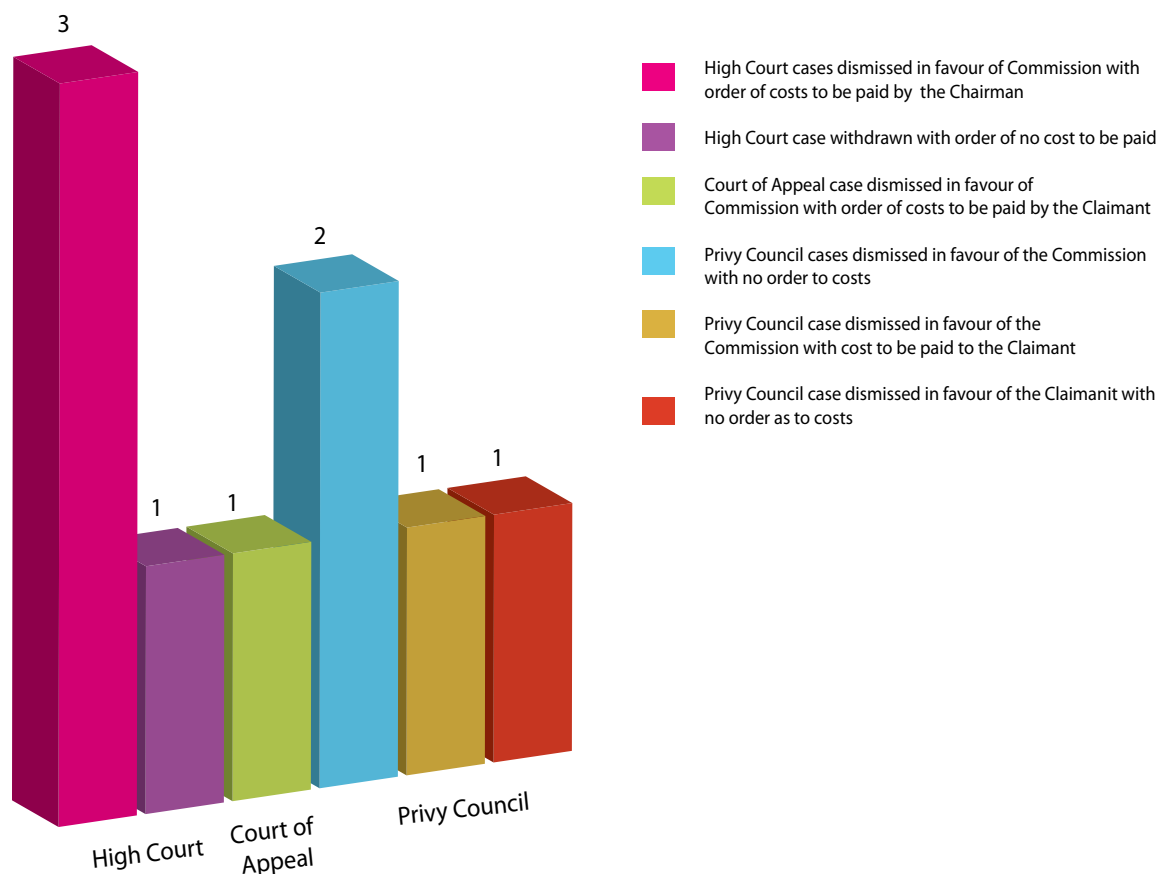
Mr. Mohammed resumed duty on 11th May, 2011.

**18.0 HIGH COURT/COURT OF APPEAL/
PRIVY COUNCIL MATTERS**

In 2011, nine (9) Court Matters were completed. Seven (7) matters were concluded in favour of the Commission, one (1) matter in favour of the Claimant and one (1) matter was withdrawn by the Claimant. Of the nine (9) Court Matters, there were four (4) High Court matters, one (1) Court of Appeal matter and four (4) Privy Council matters. Details of the High Court/Court of Appeal/Privy Council matters are attached at Appendix III.

Figure 10 opposite page shows the statistics with regard to the nine (9) Court Matters.

Figure 10
High Court/Court of Appeal/Privy Council Matters 2011



In 2010, two Privy Council Appeals were filed against the Public Service Commission regarding the legitimacy of the Commission's 2003-2005 use of Assessment Centre Exercise (ACE) mechanisms in the process of determining who should be promoted to the office of Deputy Permanent Secretary.

In August 2011, Privy Council Judgement on the matter was delivered. The judgement stated that Regulation 18 sets out "criteria for considering the eligibility of officers for promotion" while Regulation 14 "contemplates a process of competition for appointments being made within the Service". The word "eligibility" was made equivalent to that of "suitability" and

relates to the final decision whether or not to promote. Otherwise, the Regulations would contain no criteria at all regarding the basis for final decisions whether or not to promote.

The Board therefore agreed with the Court of Appeal that Regulations 14 and 18 must be read together. Where a promotion is to be made from within the Public Service, it should be made by competition, but the decision regarding which of the competitors to promote should be made by taking into consideration the criteria set out in Regulation 18.

The Privy Council dismissed the Appeals on the main issue of principle, the legitimacy of

the Commission's use of the ACE to short-list candidates having regard to the requirements of Public Service Regulation 18, as well as on all the other issues.

The Privy Council therefore cleared the way for the Commission to continue to use ACE mechanisms to assess persons for promotion in the Public Service.

19.0 COMPLAINTS/REPRESENTATIONS

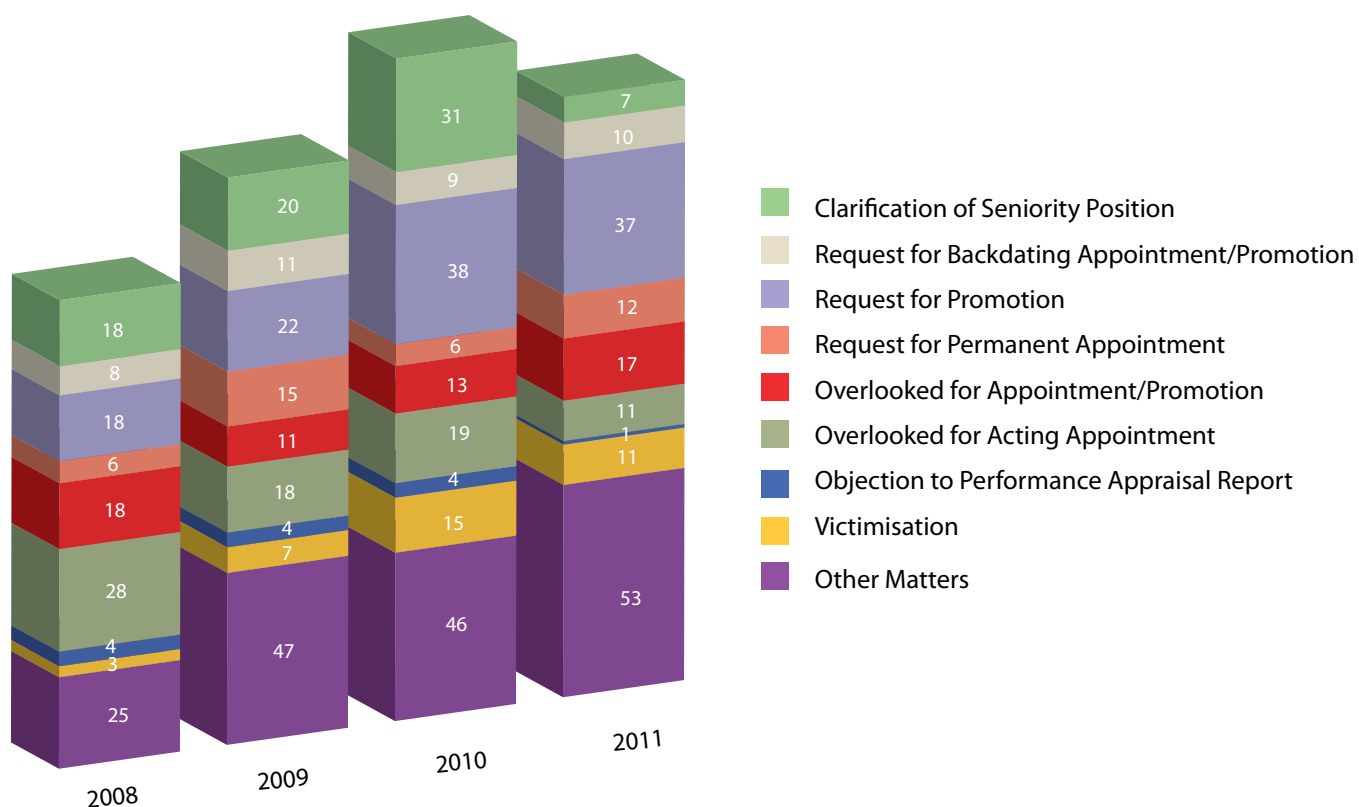
In 2011, one hundred and fifty-nine (159) complaints were received from public officers concerning myriad matters. Figure 11 gives the number and nature of representations

submitted by Public Officers over the years 2008 - 2011. There has been a decrease of 22 representations received over the same period.

The figure shows the main areas in which there was a noticeable increase in the number of representations regarding officers being overlooked for permanent appointment/promotion. The main areas in which there was a decrease in the number of representations submitted were:

- Being overlooked for Acting/Temporary Appointment; and
- Clarification of seniority position.

Figure 11
Nature of Representations Received 2008 - 2011



One hundred and twenty-eight (128) matters were completed in 2011. Of these, thirteen (13) matters were determined in favour of the complainants for reasons such as:

- Bypassed for acting appointments
- Request for transfer
- Request for acting appointment
- Request for promotion
- Request for temporary appointment
- Request for employment
- Request for exemption for sitting examinations
- Clarification of acting appointments
- Clarification/regularisation of seniority

The one hundred and fifteen (115) matters which were determined in favour of the Commission were as a result of the following reasons:

- Officers were not overlooked for acting appointments
- Request for transfers were not granted due to limited vacancies in the southern region
- Officers were not in line for acting appointment
- Officers were not in line for promotion
- Persons were not eligible for employment/temporary appointment
- Officers were not eligible to be exempted from sitting examinations
- The question of remuneration is not under the purview of the Public Service Commission

20.0 REQUESTS UNDER THE FREEDOM OF INFORMATION ACT

The Freedom of Information (FOI) Act No. 26 of 1999 gives members of the public a general right (with exceptions) of access to official documents of public authorities and for matters thereto.

In 2011, requests for information were made under the FOI Act as follows:

- Two hundred and thirteen (213) from officers in the Civil Service
- Fifteen (15) from officers in the Fire Service
- One hundred and fifteen (115) from officers in the Prison Service

Table 5 gives the breakdown of the requests for information made to the Fire, Prison and Civil Services under the FOI Act:

Table 5

Department	Received	Finalised
Fire Service	15	3
Prison Service	115	81
Civil Service	213	19
TOTAL	343	103

Of the total of three hundred and forty-three (343) requests received under the FOI Act, a total of one hundred and three (103) requests were finalised with an outstanding total of two hundred and forty (240) requests at the end of 2011. The outstanding requests were largely due to the onerous work involved in processing the requests: the organisational impact in diverting the resources from other operations; locating the records within the filing system in particular, archival and secondary storage, and

collating and compiling the data to respond to the requests.

A breakdown of the nature of the Freedom of Information (FOI) requests is seen in Table 6 below:

Table 6
NATURE OF REQUESTS Civil <ul style="list-style-type: none"> • Position on Seniority/Order of Merit List • View Confidential File • Results from Examinations • Organisational Chart
Fire <ul style="list-style-type: none"> • Date of appointment of officers • Qualifications of officers • Results of Examinations/Practical • List of persons interviewed for the office of Divisional Fire Officer and Assistant Divisional Fire Officer
Prison <ul style="list-style-type: none"> • Examination Scripts • Copies of Examination Booklets

21.0 REQUESTS UNDER THE EQUAL OPPORTUNITY ACT

The Equal Opportunity Act No. 69 of 2000 seeks to prohibit certain kinds of discrimination and promotes equality of opportunity between persons of different status. In addition, the Act provides for the establishment of an Equal Opportunity Commission and an Equal Opportunity Tribunal and for matters connected thereto.

Section 8 of the Act states:

8. *An employer or a prospective employer shall not discriminate against a person:-*

- (a) *in the arrangements he makes for the purpose of determining who should be offered employment;*
- (b) *in the terms and conditions on which employment is offered; or*
- (c) *by refusing or deliberately omitting to offer employment*

The Public Service Commission does not fall within Section 8 as it is not the employer of public officers (Endell Thomas vs Attorney General). The Commission is therefore not authorised to respond to the complaints. The Act needs to be amended to provide for an employer, prospective employer or a *Service Commission*, to permit the Commission to fall within the ambit of the Equal Opportunity Act. The Commission is willing to fulfil all its legislative obligations as soon as the appropriate amendment has been made to the Equal Opportunity Act.

In May 2011, the Director of Personnel Administration was informed that the matter was referred to the Attorney General's Office for clarification as to whether under the Equal Opportunity Act 2000, the Service Commissions Department can be considered the complainant's employer. To date, the matter has not yet been finalised.

22.0 SERVICE COMMISSIONS DEPARTMENT (TOBAGO)

In 2011, the Director of Personnel Administration and team continued their monthly visits to the Tobago arm of the Service Commission Department to meet with members of the public. Visits were intended to treat with concerns of public officers as well as to offer other related services mandated by the Tobago House of Assembly Act 40 of 1996.

Matters dealt with included:

- Acting appointment;
- Temporary Appointment;
- Permanent Appointment; and
- Interviews for positions in Tobago.

Between September and November 2011, training was conducted in Tobago for officers in the Tobago House of Assembly and the Ministry of Tobago Development as an ongoing process to equip them with the necessary skills to perform their duties under delegated functions.

23.0 CHALLENGES TO THE COMMISSION IN 2011

In 2011, the Commission continued to face a number of challenges to the efficient discharge of its mandate. These challenges might be classified as Environmental/Accommodation, Operational and Institutional Strengthening.

23.1 Environmental/Accommodation

In the period under review, there has been some improvement in the physical environment of the Service Commissions Department (SCD). However, there are still some challenges as

officers continue to function in a cramped working environment. Attempts have been made by the Director of Personnel Administration to improve the working environment with continued consultation with the Property Management and Real Estate Services Division, Ministry of Housing and Settlement.

Some attempts made in 2011 to acquire alternative accommodations for the staff of the SCD in Port of Spain included:

- 1) A building space at One Woodbrook Place;
- 2) Tower D, Waterfront Complex;
- 3) No. 3 Alexandra Street, St Clair.

Some of the challenges in acquiring the office space included:-

- No designated parking for the staff of the SCD;
- Concern over the integrity of the flooring to carry the weight of files, equipment and print material.

Consideration is still being given to securing a building at Alexandra Street, Port of Spain, with the assistance from the Property Management and Real Estate Services Division, Ministry of Housing and Settlement.

23.2 Operational

Work performance/productivity continues to be affected by the use of manual systems in the SCD. However, as at December 31, 2011, the SCD secured funds through the Ministry of Public Administration under the Inter-American Development Bank (IADB) for the procurement of an electronic document management system, through use of a consulting firm, to assist with the design of the system.

23.3 Institutional Strengthening

23.3.1 Clerk Typist and Clerk Stenographer

The Commission has been unable to make appointments to vacant offices of Clerk Typist I and Clerk Stenographers I/II for a number of years. By Legal Notice No. 255 of 1st December, 2011 Regulations 6 and 7 were amended to remove the examination requirement from the Civil Service Regulations for both the offices of Clerk Stenographer and Clerk Typist. The removal of the examination requirement will allow the Commission in 2012 to appoint/promote temporary Clerk Typists and Clerk Stenographers, some of whom have been employed on a temporary basis for over twenty (20) years.

23.3.2 Clerk I

In 2011, ninety-six (96) officers were appointed as Clerk I. There are three thousand, six hundred and sixty-four (3,664) Temporary Clerks I to be permanently appointed, many of whom have served in the position for over ten (10) years. At the end of 2011, a data compilation exercise commenced to enable the filling of the vacant offices of Clerk I in the Public Service in 2012.

23.3.3. Vacancies at the Level of Administrative Assistant

Regulation 9 (3) of the Civil Service Regulations, Chapter 23:01 provides that an officer in the clerical grade must hold an appointment of Clerk IV and must have passed the Clerk IV examination for promotion to the Administrative Class or be in possession of a Certificate in Public Administration before consideration can be given to promotion as an Administrative Assistant.

At present, there are ninety-four (94) vacant offices of Administrative Assistant. There are two hundred and thirty-one (231) offices of Clerk IV and seventy-six (76) appointed Clerks IV. Of the appointed officers, twenty-seven (27) are qualified to act or be appointed as Administrative Assistant. The remaining forty-nine (49) officers do not hold the necessary qualifications for appointment into the Administrative Grade and because of their age profile (55-59 years old) it seems unlikely that they will obtain such qualifications before retirement.

There are also six (6) Auditing Assistants and one (1) Accountant who are qualified to be promoted to the office of Administrative Assistant. Furthermore, it is expected that twenty-seven (27) Accounting Assistants will qualify for promotion to the office of Administrative Assistant, on the basis of their promotion to the office of Accountant I in 2012.

An amendment to Regulation 9 (3) of the Civil Service Regulation would allow for the appointments of suitably qualified officers as Administrative Assistants. This will resolve the untenable situation where the Public Service Commission has had to resort to placing qualified officers holding positions of Clerks I, II and III to act as Administrative Assistants.

These issues are outside of the ambit of the Public Service Commission and have been drawn to the attention of the relevant authorities. It was agreed that a Committee of representatives from the Central Agencies would meet to address the issue.

24.0 FRAGMENTED NATURE OF HUMAN RESOURCE MANAGEMENT IN THE PUBLIC SERVICE

In 2011 discussions were held among the Central Agencies for the establishment of a Committee to treat with the issues relevant to effectively managing the human resources within the Public Service. The Committee is expected to meet in January 2012 as part of the thrust towards an integrated approach in human resource management.

25.0 PROJECTIONS FOR 2012

The Commission, in the continuation of its work, proposes the following strategic objectives in 2012:

- A review of the existing disciplinary procedure;
- Collaboration on a design of performance appraisal for senior and middle executives;
- Implementation of the Electronic Establishment Book;
- Facilitate improved coordination of human resource management within the Public Service through collaboration with the Ministry of Public Administration, Personnel Department, Ministry of Finance and the Service Commissions Department;
- A comprehensive review of the Public Service Commission Regulations; and
- A dedicated drive to reduce the number of vacancies in the Public Service.



APPENDICES

APPENDIX I

**Action Plan and Medium-Term Strategic Objectives 2011-2013
by the Public Service Commission**

Action	Deadline	Responsibility
Standing Selection Panels	July 2011	PSC
Implement Document Management System	December 2011	PSC
Propose new regulations for discussion and implementation	December 2011	PSC
Electronic database for handling requests for transfers of public officers	June 2012	PSC/Public Administration
Review IHRIS	June 2012	PSC/Public Administration/Other Stakeholders
Implement new SCD structure	June 2012	PSC/SCD/PMCD
Review of the existing disciplinary procedure	September 2012	PSC
Delegation of the process to Heads of Departments for Ministry Specific positions	October 2012	Collaboration with the PSC/Public Administration
Collaboration on a design of performance appraisal for senior and middle executives	October 2012	PSC in collaboration with the Personnel Department
Collaboration on Succession Planning for Senior Management	October 2012	PSC/Public Administration/Personnel Department
Full Assessment Centre Methodology and advanced scientific methods of selection	October 2012	PSC
Implement Electronic Establishment Book	October 2012	PSC
Lobby for improved training for HR professionals with respect to delegation of the process to Heads of Departments for Ministry Specific positions	May 2013	Collaboration with the PSC/Public Administration and other Ministries and Department
Lobby for urgent consideration and collaboration with the CPO for an urgent review of all Job Specifications/Descriptions	May 2013	PSC in collaboration with the DPA and the Personnel Department
Work with Public Administration, Personnel, Finance, SCD to facilitate improved coordination of HR Management	Continuous	PSC/SCD/Finance/Public Administration/Personnel Department

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LEGAL NOTICE NO. 105

REPUBLIC OF TRINIDAD AND TOBAGO

THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD
AND TOBAGO, CHAP. 1:01

ORDER

MADE BY THE PUBLIC SERVICE COMMISSION WITH THE APPROVAL OF
THE PRIME MINISTER PURSUANT TO SECTION 127 OF THE CONSTITUTION

THE PUBLIC SERVICE COMMISSION (DELEGATION OF
POWERS) (AMENDMENT) ORDER, 2006

1. This Order may be cited as the Public Service Commission Citation
(Delegation of Powers) (Amendment) Order, 2006.

2. In this Order, “a reference to” “the Regulations” means, the Interpretation
Public Service Commission Regulations. G.N.132 of
1966

3. Subject to the provisions set out in the Schedule, the Public Delegation
Service Commission (hereinafter called “the Commission”), with the
approval of the Prime Minister, hereby delegates to the authorities in
the First and Second Schedules the powers specified therein in relation Schedule
to the said authorities, respectively.

4. The Public Service Commission (Delegation of Powers) Order is L.N.60. of
amended by revoking the First and Second Schedules and substituting 1999 First
the following: and Second
Schedules
Chap. 1:01
232/1990
27/1991
103/1994

“FIRST SCHEDULE

PART I

CHAIRMAN AND DEPUTY CHAIRMAN, PUBLIC SERVICE COMMISSION

1. The Chairman and the Deputy Chairman of the Commission are hereby delegated Powers
the power to appoint persons on recruitment from outside the particular Service in the delegated
public service on a temporary basis in any public office other than the public offices, the
appointment to which is subject to consultation with the Prime Minister. Acting
appointments

2. The power delegated under paragraph 1, is in respect of the public offices specified Chap. 23:01
in the Classification of Offices set out in the First Schedule to the Civil Service Act, 1965 Chap. 35:50
the Third Schedule to the Fire Service Act, the First Schedule to the Prison Service Act. Chap. 13:02
Chap. 39:01
158/1966

PUBLIC SERVICE COMMISSION ANNUAL REPORT 2011

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PART II

PERMANENT SECRETARIES AND HEADS OF DEPARTMENTS

Powers delegated	1. The powers delegated to Permanent Secretaries and Heads of Department are as follows:
Acting appointments	(a) to appoint a public officer to act in the public office in the Civil Service up to and including Salary Range 68 for periods up to six months in exercise of which power, the Permanent Secretary shall apply the principles of selection prescribed in regulations 18 and 26 and the provisions of regulation 25 of the Regulations;
Transfers	(b) to transfer a public officer from an office in a grade in the Ministry or Department to which such an officer is assigned to a similar office in that grade in the same Ministry with no alteration in remuneration up to and including Salary Range 68 and this power shall be exercised subject to the provisions of regulation 29 of the Regulations which requires notice to be given to such officer and to the right of such officer and to make representations to the Commission;
Further temporary appointment	(c) to appoint persons temporarily to offices in the public service for periods not exceeding six months at a time where such persons have already been appointed temporarily by the Public Service Commission for a fixed period;
Confirmation	(d) to confirm the appointment of a public officer to a public office after consideration of all performance appraisal reports and medical reports on the officer, where applicable during the probationary period if satisfied that the service of the officer on probation has been satisfactory.
Application	2. The powers delegated in this Part are in respect of public officers in the Ministry under his supervision who hold the public offices specified in Salary Ranges Nos. 1 to 68 of the Classification of Offices set out in the First Schedule to the Civil Service Act, except that the power to confirm appointments to public offices applies to all offices within the Ministry or Department.
Chap. 23:01	
Application	3. The powers delegated in this Part do not apply to offices, the appointment or promotion to which is subject to consultation with the Prime Minister.
Report to Commission	4. A Permanent Secretary or Head of Department shall submit to the Commission once in every quarter a report of the exercise of the powers delegated to him.

PART III

DEPUTY PERMANENT SECRETARIES

Powers delegated	1. The powers delegated to Deputy Permanent Secretaries are as follows:
Acting appointments	(a) to appoint a public officer to act in a public office in the Civil Service in Salary Ranges up to and including Salary Range 45 for periods up to six months, in the exercise of which power the Deputy Permanent Secretary shall apply the principles of selection prescribed in regulations 18 and 26 and the provisions of regulation 25 of the Regulations;
Further temporary appointment	(b) to appoint persons temporarily to offices in Salary Ranges up to and including Salary Range 45 in the Public Service for periods not exceeding six months at a time where such persons have already been appointed temporarily by the Public Service Commission for a fixed period;
Confirmation	(c) to confirm the appointment of a public officer to a public office in Salary Ranges up to and including Salary Range 45 after consideration of all performance appraisal reports and medical reports on the officer where applicable during the probationary period if satisfied that the service of the officer on probation has been satisfactory.

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*Public Service Commission (Delegation of Powers) (Amendment)
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2. The powers hereby delegated are in respect of public officers in the Ministry under Application the supervision of the Deputy Permanent Secretary who hold the public offices specified in Salary Ranges up to and including Salary Range 45 of the Classification of Offices set out in the First Schedule to the Civil Service Act.

3. The powers hereby delegated do not apply to offices the appointment or promotion Application to which is subject to consultation with the Prime Minister.

4. A Deputy Permanent Secretary shall submit to the Commission once in every Report to quarter through the Permanent Secretary a report on the exercise of the power delegated Commission to him.

PART IV

DIRECTORS, HUMAN RESOURCES

1. The powers delegated to Directors, Human Resources are as follows:

Powers
delegated

- (a) to appoint a public officer to act in a public office in the Civil Service up to and including Salary Range 34 for periods up to six months, in the exercise of Acting which power delegated the Directors, Human Resources shall apply the appointment principles of selection prescribed in regulations 18 and 26 and the provisions of regulation 25 of the Regulations;
- (b) to appoint persons temporarily to offices up to and including Salary Range 34 Further in the Public Service for periods not exceeding six months at a time where temporary such persons have already been appointed temporarily by the Public Service appointment Commission for a fixed period;
- (c) to confirm the appointment of a public officer to a public office up to and Confirmation including Salary Range 34 after consideration of all performance appraisal reports and medical reports on the officer where applicable during the probationary period if satisfied that the service of the officer on probation has been satisfactory.

2. The powers delegated in this Part are in respect of public officers in the Ministry Application under the supervision of the Director, Human Resources, who hold the public offices specified in Salary Ranges Nos. 1 to 34 of the Classification of Offices set out in the First Schedule to the Civil Service Act.

3. The powers hereby delegated do not apply to offices the appointment or promotion Application to which is subject to consultation with the Prime Minister.

4. A Director, Human Resource shall submit to the Commission once in every quarter Report to through the Permanent Secretary a report on the exercise of its powers delegated to him. Commission

PART V

PERMANENT SECRETARY, MINISTRY OF HEALTH

1. The Permanent Secretary, Ministry of Health is delegated the powers to appoint Powers persons temporarily to the offices of Clinical Instructor and Nursing Instructor. delegated

2. The Permanent Secretary, Ministry of Health, shall submit to the Commission Report to once in every quarter, a report of the exercise of the powers delegated to him under this Commission Part.

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PART VI

THE DIRECTOR OF STATISTICS, CENTRAL STATISTICAL OFFICE,
MINISTRY OF PLANNING AND DEVELOPMENT

- Powers delegated 1. (1) The powers delegated to the Director of Statistics, Central Statistical Office, Ministry of Planning and Development are as follows:
- (a) to appoint persons to the temporary posts of—
 - (i) Field Interviewer;
 - (ii) Clerical Assistant;
 - (iii) Statistical Assistant;
 in the Central Statistical Office.
 - (b) to remove and exercise disciplinary control over any person appointed under and in exercise of the power of appointment delegated under paragraph (a).
- (2) All appointments made under this Part shall be on a temporary basis.
- Report to Commission (3) The Director of Statistics shall submit to the Commission once in every quarter, a report of the exercise of any of the powers delegated under this Part.

PART VII

THE COMMISSIONER OF PRISONS

- Powers delegated 1. The powers delegated to the Commissioner of Prisons are as follows:
- (a) the power to appoint persons and prison officers on promotion to offices in the Prison Service below the rank of Prison Supervisor and to confirm the appointment of Prison Officers to such offices in accordance with the regulations, but the power hereby delegated shall not include the power to terminate an appointment on probation or extend a period of probation under regulation 44 of the Regulations;
 - (b) in the case of a person recruited for training to serve as a prison officer below the rank of Prison Supervisor, the power to terminate the appointment at any time on the ground of unsuitability arising from any cause;
 - (c) the power to appoint prison officers to act in offices in the Prison Service below the office of Prison Supervisor and in the exercise of this power the Commissioner shall apply the principles of selection prescribed in regulation 172 of the Regulations;
 - (d) the power to transfer prison officers from one Prison to another;
 - (e) the power to direct a prison officer to cease to report for duty in accordance with regulation 88 of the Regulations and the Commissioner shall report the exercise of this power forthwith to the Commission;
 - (f) the functions of the Commission under regulation 48 of the Regulations in respect of a prison officer in an office in the Prison Service below the office of Prison Supervisor.
- Appointment
- Acting appointment
- Transfers
- Suspension
- Resignation
2. In the exercise of the powers delegated under paragraph 1 of this Part to the Commissioner of Prisons to appoint persons and prison officers to offices specified therein, the reference to the Director in regulation 166 shall be construed as reference to the Commissioner.
- Report to Commission 3. The Commissioner shall submit to the Commission, once in every quarter, a report of the exercise of any of the powers delegated to the Commissioner and to any other prison officer.

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*Public Service Commission (Delegation of Powers) (Amendment)
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PART VIII

THE CHIEF FIRE OFFICER

1. The powers delegated to the Chief Fire Officer are as follows: Powers delegated
- (a) the power to appoint persons and fire officers on promotion to offices in the Second Division of the Fire Service below the office of Fire Station Officer and to confirm the appointment of Fire Officers to such offices in accordance with the Regulations, but the power hereby delegated shall not include power to terminate an appointment on probation or extend a period of probation under regulation 44 of the Regulations; Appointment
 - (b) in the case of a person recruited for training to serve as a fire officer below the office of Fire Station Officer, the power to terminate the appointment at any time on the ground of unsuitability arising from the cause;
 - (c) the power to appoint fire officers to act in offices in the Second Division of the Acting Fire Service below the office of Fire Station Officer and in the exercise of this appointments power the Chief Fire Officer shall apply the principles of selection prescribed in regulations 154, 157 and 158, and the provisions of regulations 154 and 155 of the Regulations;
 - (d) the power to transfer Fire Officers from one Division or District or Branch in the Fire Service to another such Division or District or Branch; Transfers
 - (e) the power to direct a fire officer to cease to report for duty in accordance with Suspension Regulation 88 of the Regulations and the Chief Fire Officer shall report the exercise of this power forthwith to the Commission;
 - (f) The functions of the Commission under regulation 164 of the Regulations in Resignation respect of a fire officer in an office in the Second Division of the Fire Service below the office of Fire Station Officer.

2. The Chief Fire Officer shall submit to the Commission, once in every quarter, a Report to report of the exercise of any of the powers delegated to the Chief Fire Officer and to any Commission other fire officer.

PART IX

CHIEF ADMINISTRATOR, TOBAGO HOUSE OF ASSEMBLY, TOBAGO

1. The powers delegated to the Chief Administrator, Tobago House of Assembly, Appointments Tobago are as follows:
- (a) to appoint persons on recruitment from outside the Civil Service in a temporary capacity to an office in the Tobago House of Assembly, subject to section 26(1) and the Sixth Schedule of the Tobago House of Assembly Act, No. 40 of 1996 which powers are in respect of the public offices specified in the classification of offices set out in the First Schedule to the Civil Service Act, 1965 and which are regarded as the basic normal entry points to the general clerical, secretarial and manipulative classes;
 - (b) to appoint a public officer to act in a public office in the Civil Service, Tobago Acting House of Assembly, for periods up to six months whether such acting Appointment appointment is in a vacant office or not except that where an acting appointment is made in a vacant office the officer must be informed that such acting appointment would not give him any prior claim to eventual permanent appointment thereto and in respect of such power the Chief Administrator shall apply the principles of selection prescribed in regulations 18, 24 and 26 and the provisions of regulation 25 of the Regulations;

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Order, 2006*

Transfers

- (c) to transfer a public officer from an office in a grade in the Tobago House of Assembly, to which such an officer is assigned to a similar office in that grade within the Tobago House of Assembly, with no alteration in his remuneration which power shall be exercised by the Chief Administrator subject to the provisions of regulation 29.
- (d) to direct a public officer assigned to an office in the Tobago House of Assembly, to cease to report for duty in accordance with regulation 88 of the Regulations and the Chief Administrator, Tobago House of Assembly, shall report the exercise of this power forthwith to the Commission;
- (e) to exercise disciplinary control in respect of any alleged act of misconduct or indiscipline described in Column 1 of the Second Schedule being a breach of a regulation in respect of the Civil Service as specified in Column 2.

2. In the exercise of the powers delegated under paragraph 1(e), the Chief Administrator shall—

- (a) exercise the powers of the Commission under regulation 90(6) and (7);
- (b) assign a public officer of a grade higher than that of the officer charged with misconduct or indiscipline, but in no case of a grade lower than that of the Clerk IV to be a disciplinary tribunal and that officer shall hear the facts and make a report thereon to the Chief Administrator in accordance with the provisions respecting the function and duties of a Disciplinary Tribunal as prescribed in the regulations;
- (c) any fine which the Chief Administrator imposes under paragraph (e) shall not exceed an amount calculated on four days pay per month to a maximum of three months.

Report

3. The Chief Administrator shall submit to the Commission once in every quarter, a report on the exercise of powers delegated to him in this Part.

Application

4. The powers and functions delegated in this Part are in respect of public officers who hold any of the public offices specified in Salary Ranges Nos. 1 to 68 inclusive of the Classification of Offices set out in the First Schedule to the Civil Service Act, 1965, except that the powers delegated do not apply to offices the appointment or promotion to which is subject to consultation with the Prime Minister.

PART X

THE SENIOR PUBLIC OFFICER, HIGH COMMISSIONS, MISSIONS AND EMBASSIES
OF TRINIDAD AND TOBAGOPowers
delegated

1. The powers delegated to the Senior Public Officer, High Commissions, Missions, and Embassies of Trinidad and Tobago are as follows:

- (a) the power to appoint, on a temporary basis only persons resident in the jurisdiction where the particular High Commission, Mission or Embassy is situated to the non-representational staff of the said High Commission, Mission or Embassy that is to say to any office of the grade of Clerk IV and under;
- (b) the power to remove and exercise disciplinary control over any person appointed under and in exercise of the power of appointment delegated under subparagraph (a).

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*Public Service Commission (Delegation of Powers) (Amendment)
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PART XI

THE PERMANENT SECRETARY, CENTRAL ADMINISTRATIVE SERVICES, TOBAGO

1. The powers delegated to the Permanent Secretary, Central Administrative Services, Tobago, are as follows: Powers delegated

- (a) to appoint persons on recruitment from outside the Civil Service in a temporary capacity to an office in a Ministry or Department or in a Division of a Ministry or Department located in Tobago (exclusive of offices in the Prison and Fire Services) which power is in respect of the public offices specified in the Classification of Offices set out in the First Schedule to the Civil Service Act, 1965 and which are regarded as the basic normal entry Chap: 23:01 points to the general clerical, secretarial and manipulative classes;
- (b) to appoint a public officer to act in a public office in the Civil Service and located in the Department of Central Administrative Services, Tobago, for periods up to six months whether such acting appointment is in a vacant post or not except that where an acting appointment is made in a vacant post, the officer must be informed that such acting appointment would not give him any prior claim to eventual permanent appointment thereto, in respect of which power the Permanent Secretary shall apply the principles of selection prescribed in regulations 18, 24 and 26 and the provisions of regulation 25 of the Regulations;
- (c) to transfer a public officer from an office in a grade in the Department of Transfers Central Administrative Services, Tobago to which such an officer is assigned to a similar office in that grade in the same Department of Central Administrative Services, Tobago, with no alteration in his remuneration, which power shall be exercised by the Permanent Secretary subject to the provisions of regulation 29 of the Regulations, which require notice to be given to such officer and which preserves the right of such officer to make representations to the Commission;
- (d) to direct a public officer assigned to an office in the Department of Central Administrative Services, Tobago, to cease to report for duty in accordance with Regulation 88 of the Regulations, and the Permanent Secretary, Central Administrative Services, Tobago shall report the exercise of this power forthwith to the Commission.
- (e) to exercise disciplinary control in respect of any alleged act of misconduct or indiscipline described in column 1 of the Second Schedule being a breach of a regulation in respect of the Civil Service as specified in Column 2.

(2) In exercise of the power delegated under paragraph 1(e) the Permanent Secretary shall—

- (a) exercise the powers of the Commission under regulation 90(6) and (7).
- (b) assign a public officer of a grade higher than that of the officer charged with misconduct or indiscipline but in no case of a grade lower than that of a Clerk IV to be a disciplinary tribunal, and that officer shall hear the evidence, find the facts and make a report thereon to the Permanent Secretary in accordance with the provisions respecting the functions and duties of a Disciplinary Tribunal as prescribed in the Regulations;

(3) Any fine which the Permanent Secretary imposes under paragraph 1(e) shall not exceed an amount calculated on four days pay per month to a maximum of three months.

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Order, 2006*

3. The Permanent Secretary shall submit to the Commission, once in every quarter, a report of the exercise of any powers delegated to him.

Chap: 23:01 4. The powers and functions hereby delegated under this Part are in respect of public officers who hold any of the public offices specified in Salary Ranges Nos. 1 to 68 inclusive of the Classification of Offices set out in the First Schedule to the Civil Service Act, 1965 except where such offices require the holders to perform as Heads or Deputy Heads of Ministries/Departments/Divisions and in respect of which offices consultation with the Prime Minister is required by the Commission.

“SECOND SCHEDULE

DISCIPLINARY POWERS DELEGATED

For the purposes of regulation 85 of the Regulations, an act of misconduct or indiscipline which the Permanent Secretary or Head of Department has jurisdiction to hear and determine under that regulation is an act of misconduct or indiscipline described in Column 1 of the following Table being a breach of a regulation:

- (a) in respect of officers in the Civil Service, in Chapter XI of the Civil Service Regulations;
- (b) in respect of officers in the Fire Service, in Chapter VII of the Fire Service (Terms and Conditions of Employment) Regulations, 1998;
- (c) in respect of officers in the Prison Service, in Chapter II of the Prison Service (Code of Conduct) Regulations, 1990,

as specified in Columns 2, 3 and 4 of that Table in respect of the Civil Service, the Fire Service, and the Prison Service, respectively.

APPENDIX II

*Public Service Commission (Delegation of Powers) (Amendment)
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SECOND SCHEDULE—CONTINUED

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4
<i>Description of Misconduct</i>	CIVIL SERVICE <i>Reference to Regulation of Civil Service Regulations</i>	FIRE SERVICE <i>Reference to Regulation of Fire Service (Terms and Conditions of Employment) Regulations, 1998</i>	PRISON SERVICE <i>Reference to Regulation of Fire Prison Service (Code of Conduct) Regulations, 1990</i>
Failure to attend to matters promptly within scope of office	Regulation 135(1)	Regulation 101(1)	Regulation 4(1)
Lack of courtesy to a member of the public or member of the: (a) Civil Service; (b) Fire Service; (c) Prison Service	Regulation 135(2)	Regulation 101(5)	Regulation 4(2)
Wilful failure to perform duties	Regulation 135(3)		
Absence without leave or reasonable excuse	Regulation 136(1)	Regulation 103(1)	
Failure to report absence from country	Regulation 136(2)	Regulation 103(2) and (3)	
Failure to disclose activities outside Service	Regulation 137(2)	Regulation 104(1)(b)(2)	Regulation 6(1)(d)
Breach of rules relating to broadcast	Regulation 140	Regulation 110	Regulation 12
Act of indebtedness to the extent it impairs efficiency, etc.	Regulation 141	Regulation 111	Regulation 13(1)

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SECOND SCHEDULE—CONTINUED

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4
<i>Description of Misconduct</i>	CIVIL SERVICE <i>Reference to Regulation of Civil Service Regulations</i>	FIRE SERVICE <i>Reference to Regulation of Fire Service (Terms and Conditions of Employment) Regulations, 1998</i>	PRISON SERVICE <i>Reference to Regulation of Prison Service (Code of Conduct) Regulations, 1990</i>
Failure to notify of bankruptcy proceedings	Regulation 142	Regulation 112	Regulation 14
Failure to perform duty in a proper manner	Regulation 149(1)(a)	Regulation 119(1)(a)	Regulation 20(1)(a)
Contravention of the:			
(a) Civil Service Regulations and other written law;	Regulation 149(1)(b)		
(b) Fire Service (Terms and Conditions of Employment) Regulations, 1998 and other written law;	Regulation 149(1)(c)	Regulation 119(1)(b)	
(c) Prison Service (Code of C o n d u c t) Regulations, 1990.		Regulation 119(1)(c)	Regulation 20(1)(b)
Act that is prejudicial to, or discredits reputation of the Service	Regulation 149(1)(d)	Regulation 119(1)(d)	Regulation 20(1)(c) Regulation 20(1)(d)
Disobedience to orders	Regulation 149(2)(b)	Regulation 119(2)(c)	Regulation 20(2)(c)
Neglect of duty	Regulations 149(2)(d) and (f)	Regulation 119(2)(d)	Regulation 20(2)(d)
Unlawful or unnecessary exercise of duty	Regulation 149(2)(g)	Regulation 119(2)(h)	Regulation 20(2)(l)

APPENDIX II

*Public Service Commission (Delegation of Powers) (Amendment)
Order, 2006*

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SECOND SCHEDULE—CONTINUED

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4
<i>Description of Misconduct</i>	<i>CIVIL SERVICE Reference to Regulation of Civil Service Regulations</i>	<i>FIRE SERVICE Reference to Regulation of Fire Service (Terms and Conditions of Employment, Regulations, 1998</i>	<i>PRISON SERVICE Reference to Regulation of Prison Service (Code of Conduct) Regulations, 1990</i>
Malingering	Regulation 149(2)(a)	Regulation 119(2)(i)	Regulation 20(2)(m)
Absence without leave or being late for duty	Regulation 149(2)(a)	Regulation 119(2)(j)	Regulation 20(2)(n)
Persistently unpunctual			
Damage of clothing supplied		Regulation 119(2)(l)	Regulation 20(2)(p)
Unfit for duty through drunkenness	Regulation 149(2)(c)	Regulation 119(2)(m)	Regulation 20(2)(q)
Drinking on duty or soliciting drink		Regulation 119(2)(n)	Regulation 20(2)(r)
Entering licensed premises		Regulation 119(2)(o)	Regulation 20(2)(s)."

Dated this 19th day of April, 2006.

C. THOMAS
Chairman of the
Public Service Commission

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Order, 2006

A. TIM POW
Deputy Chairman of the
Public Service Commission

S. SEEMUNGAL
Member of the
Public Service Commission

N. ROLINGSON
Member of the
Public Service Commission

P. BENSON
Member of the
Public Service Commission

S. MAHARAJ
Member of the
Public Service Commission

Approved.

P. MANNING
Prime Minister

Dated this 30th day of April, 2006.

APPENDIX III

DETAILS OF HIGH COURT/ COURT OF APPEAL/ PRIVY COUNCIL MATTERS COMPLETED IN 2011

Decisions Made	Name of Claimant	Court	No. of Cases
Cases dismissed in favour of Commission with order of costs to be paid by the Claimant	1) Ann Evelyn – Trainee Fire Fighter 2) John Gilalta – Trainee Fire Fighter 3) Sahatoo Samoorath – Road Officer II	High Court High Court High Court	3
Case withdrawn with order of no cost to be paid	4) Dhanpaul Singh - Estate Sergeant	High Court	1
Case dismissed in favour of Commission with order of costs to be paid by the Claimant	5) Sumair Mohan – Fire Sub Office	Court of Appeal	1
Cases dismissed in favour of the Commission with no order to costs	6) Ashford Sankar and others 7) Hermia Tyson-Cuffie	Privy Council Privy Council	2
Case dismissed in favour of Commission with cost to be paid to the Claimant	8) Kissoon Ganga Persad – Assistant Commissioner of Valuations	Privy Council	1
Case dismissed in favour of the Claimant with no order as to costs	9) Winston Gibson	Privy Council	1

Details of the cases are attached at Nos. 1 to 9.

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Nos. 1 & 2

Ann EVELYN and John GILALTA – Trainee Fire Fighter vs Public Service Commission

HCA#/ Date filed: CV 2006-00678 - 31st March 2006

HCA#/Date Filed: CV 2006-00679 - 31st March 2006

Judicial Review of

1. Order of Certiorari to remove into this Honourable Court and to quash the decisions of the Chief Fire Officer dated the 24th day of February 2006 terminating the Claimant's induction training with effects from the 28th February on account of indiscipline behaviour.
2. A declaration that the Claimant was denied opportunity to challenge the allegations preferred against them.
3. A declaration that the Claimant was denied their right to be heard before disciplinary action is taken.
4. A declaration that the Chief Fire Officer and the Public Service Commission under a Statutory Duty to comply with the Constitution and terms of the Public Service Regulations.
5. A declaration that the decision of the Chief Fire Officer was irrational unreasonable and procedurally improper.
6. A declaration that the Chief Fire Officer acted contrary to the principles of natural justice
7. An Order of Mandamus directing the Chief Fire Officer to re-consider the decision communicated to the Claimants dated the

24th day of February 2006 in accordance with due process.

8. Damages for breach of contract.
9. Costs.
10. Such further or other relief.

Date of Outcome: 12th April 2011

Order/Judgement

The Honourable Judge in closing gave the following orders:

1. The Second Defendant (PSC) is not a proper party to these actions and the claim against it in each action is dismissed with cost assessed in the sum of \$14,000.00 to be paid by each Claimant to the Second Defendant.
2. An Order of Certiorari is granted quashing the decisions of the First Defendant (CFO) dated 24.2.06 in each action terminating the Claimants' training.
3. These matters are remitted to the First Defendant for the reconsideration after applying the rules of natural justice and without bias.
4. The First Defendant to pay the cost of the Claimant in each action assessed in the sum of \$14,000.00 each.

APPENDIX III

No. 3

Sahatoo SAMOORATH – Road Officer II vs Public Service Commission

HCA#/Date filed: CV 2008-03218 – 22nd August 2008

Judicial Review of

1. A declaration that the Attorney General of Trinidad and Tobago has been guilty of unequal and discriminatory treatment of the Claimant in contravention of his right to equality of treatment from any public authority in exercise of any functions as enshrined in section 4(d) of the Constitution of Trinidad and Tobago.
2. Damages and/or compensation including aggravated and/or exemplary damage for the contravention of the Claimant's fundamental rights and freedom guaranteed by the Constitution of Trinidad and Tobago.
3. Any further and/or other relief as the court may think just and reasonable in the circumstances.
4. Costs.
5. All such further orders and directions as are necessary and appropriate to secure and enforce the fundamental rights and freedoms to which the Claimant is and was entitled at all material times.

Order/Judgement

The Honourable Judge Dean Armorer made the following order:

1. The claim herein is dismissed.
2. The Claimant to pay the Defendant the costs of this claim fit for advocate attorney-at-law, such costs to be quantified by the Registrar in default of agreement.

Date of Outcome: 16th December, 2011

APPENDIX III

No. 4

Dhanpaul SINGH – Estate Sergeant vs Public Service Commission

HCA#/Date filed: CV 2010-05114 – 13th December 2010

Judicial Review of

- i. An Order of Certiorari to remove into this Honourable Court and quash the decision of the Respondent to dismiss the Applicant from the Public Service on the ground of his having been convicted in the Magistrate's Court.
- ii. A declaration that the failure of the Respondent to reconsider the said decision is unlawful, null, void and of no effect.
- iii. A declaration that the Applicant's said conviction has been declared null and void and is null and void.
- iv. An order that the Respondent reinstate the Applicant to his former position.
- v. Damages
- vi. Costs;
- vii. Such further orders, directions, writs or other reliefs as the Court may render just and as the circumstances warrant.

Order/Judgement

By letter dated 26th May, 2011, Mr. Russell Martineau, S.C., who was retained to seek the interest of the Commission in the matter, wrote:

I attended Court today and Counsel for the Claimant showed me a copy of a letter from your Commission dated April 21, 2011 rescinding its decision to dismiss him. In the circumstances the Claimant said that he was withdrawing the proceedings with no order as to costs. I agreed to that and the Court was so informed.

Date of Outcome: 26th May. 2011

APPENDIX III

No.5

Sumair MOHAN – Fire Sub Officer vs Public Service Commission

HCA#/Date filed: CV 2007-03336 – 10th September 2007

Judicial Review of

1. An order increasing the time for the filing of this application for leave to apply for Judicial Review.
2. 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 bypassed (sic) him in accordance with the said Regulation 160.
3. 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.
4. A decision that the Claimant's right under Regulation 160 of the Public Service Commission (Amendment) (No. 2) Regulations 1998 were infringed ("PSCR").
5. Alternatively, a declaration that the failure of the Commissioner (sic) to recommend the Claimant for promotion is illegal, unlawful and/or unreasonable.
6. A declaration that the Claimant was treated unfairly in breach of the principles of natural justice.
7. A declaration that the Chief Fire Officer acted illegally, arbitrarily, and/or unfairly and in breach of the rules of actual (sic) justice and/or in contravention of the PSCR.
8. An Order directing the Chief Fire Officer to consider and/or reconsider the Claimant's suitability for promotion in accordance with the PSCR and submit the result of such consideration to the Public Service Commission within 7 days.
9. An Order directing the Chief Fire Officer to provide a statement of reasons of the Claimant pursuant to Section 16 of the Judicial Review Act explaining why the (sic) he was not recommended for promotion and/or denied for promotion to the rank of Fire Sub-Station Officer.
10. Costs.
11. Such further or other reliefs including all such order, writ and directions as may be appropriate for enforcing or securing the enforcement of the rights and (sic) of the Claimant and as the nature and justice of the case may require.

Date of Outcome: 6th May 2008

Order/Judgement

The Honourable Madam Justice Dean-Armorer ordered as follows:-

It is ordered, by consent, that:

1. Leave be and is hereby granted to the Claimant to withdraw the fixed date Claim dated and filed herein on 8th October, 2007; and

APPENDIX III

2. Costs be hereby quantified in the sum of thirty-four thousand dollars, payable by the Defendant to the Claimant.

That the said order be and is hereby amended as follows:

- (a) Firstly, by deleting the words "BY CONSENT" appearing in the heading in the order and;
- (b) Secondly, by inserting the words "by consent" between the figure "1." and the words "Leave be and is hereby granted";

COURT OF APPEAL

Court of Appeal#/Date filed:
Court of Appeal No. 45 of 2008 –
25th September 2008

Date of Outcome: 16th November 2011

Order/Judgement

The Court of Appeal allowed the appeal of the Commission revoking the Order of the judge for costs to be paid in the sum of \$34,000.00 to Mr. Mohan and ordered instead that there be no order as to costs but that Mr. Mohan must pay the costs of the Appeal in the sum of \$9,324.00.

APPENDIX III

No. 6

Ashford SANKAR and others vs Public Service Commission

HCA#/Date filed: CV 2005-00616 – 15th December 2005

Judicial Review of

1. A declaration that the policy of the PSC to use the assessment conducted by the Canadian Public Service Commission for the purpose of preparing a shortlist from which public officers would be selected for promotion to the offices of Deputy Permanent Secretary and or Permanent Secretary is illegal, ultra vires, null and void and of no legal effect.
2. A declaration that the Claimants have been unlawfully deprived of their legitimate expectation to be considered for promotion in accordance with the policy adopted by the PSC as contained in the last annual report laid in Parliament.
3. A declaration that the Claimants are entitled to be considered for promotion to the said offices upon completion of two years acting appointment in the absence of any adverse comments or staff reports in accordance with the policy outlined by the Defendant in its 2003 annual report laid in Parliament in 2005.
4. A declaration that the policy and or decision of the PSC which makes the passing of the said assessment a precondition for promotion and or a ground of disqualification for promotion is illegal and ultra vires.
5. A declaration that the failure in the said assessment does not disqualify a public officer from being considered for promotion to the said office or render him/her ineligible for consideration for promotion to the said office.
6. A declaration that the PSC was obliged to consider all eligible officers for promotion to the said offices in accordance with the criteria and procedures set out in Regulation 20 of the PSCR.
7. A declaration that the Claimants have been treated unfairly, contrary to the principles of natural justice.
8. An order remitting the issue of the Claimants' promotion to the PSC for it to reconsider same within 14 days in accordance with the findings of this court.
9. Costs.
10. Such further relief or other relief including all such order, writ and directions as may be appropriate for enforcing the rights of the Claimants.

Date of Outcome: 13th December 2006

Order/Judgement

The Honourable Madam Justice Carol Gobin ruled in favour of the Claimants with costs of \$200,000.00

APPENDIX III

COURT OF APPEAL

Court of Appeal #/Date Filed:
Court of Appeal No 163 of 2006 -
19th December 2006

Court of Appeal of:
The Public Service Commission filed an appeal against the decision of Justice Gobin

Date of Outcome: 10th July 2009

Order/Judgement
An excerpt of the Judgement is reproduced hereunder:

This is a joint judgement of the Court. These two appeals were heard together with the agreement of all parties involved as they raise the same issues. Both appeals are concerned with the appellant's use of an Assessment Centre Exercise (ACE) to promote officers in the Public Service of Trinidad and Tobago, to vacant posts of Deputy Permanent Secretary. ACE is based on pre-determined criteria, designed to reveal to an employer, an employee's employment and promotion potential.

We conclude that the learned judge erred when she quashed the Commission's decision and remitted the matters to the Commission for further consideration.

Procedural unfairness

This issue was directed towards the introduction of a fundamental change by the use of ACE, which the judge described as "alien to the public service culture".

There was however ample evidence that the respondents knew of the Commission's intention to introduce ACE since the year 2002. They were also privy to a memorandum of 13th December 2002 to that effect.

Further, when the 2002 Report was laid in Parliament in the year 2005 it was, by then in the public domain. As discussed above, counsel's concession would dilute the respondents' case, based on this ground.

We have not, therefore, found any procedural unfairness in the introduction of ACE or that there were representations made by the Commission, which would have caused the respondents to nurture any legitimate expectation.

...as senior officers in the public service, they would have been expected to lend support to their employer in the introduction of ACE. The exercise had itself, been beset by unforeseen problems and could not be commended for time-efficiency. The respondents would therefore have been presented with hard choices, so that we have favoured a resolution of all the substantive issues.

We would therefore allow the appeal and set aside the orders of the judge in both cases. The respondents will pay the appellant's costs of the respective appeals and trials below.

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PRIVY COUNCIL APPEAL

Privy Council Appeal #/Date filed: Privy Council Appeal No. 45 of 2010 – 5th October 2009

Date of Outcome: 9th August 2011

Order/Judgement

In the result, the Board dismisses these appeals on the main issue of principle, the legitimacy of the Commission's use of the ACE to shortlist candidates having regard to the requirements of Regulation 18, as well as on all other issues. It is unnecessary in these circumstances to consider what, if any, relief might have been appropriate if the appeals had succeeded on any aspect, or whether the appellants' delay in seeking relief in respect of their elimination from the ACE process until November 2005 (or, in Mrs Tyson-Cuffie's case, February 2006) might have operated to make any relief inappropriate in any event.

APPENDIX III

No. 7

Hermia TYSON-CUFFIE vs Public Service Commission

HCA#/Date filed: CV 2006-00157 – 20th January 2006

Judicial Review of

1. A declaration that the policy of the PSC to use the assessment conducted by the Canadian Public Service Commission for the purpose of preparing a shortlist from which public officers would be selected for promotion to the offices of Deputy Permanent Secretary and or Permanent Secretary is illegal, ultra vires, null and void and of no legal effect.
2. A declaration that the Claimants have been unlawfully deprived of their legitimate expectation to be considered for promotion in accordance with the policy adopted by the PSC as contained in the last annual report laid in Parliament.
3. A declaration that the Claimants are entitled to be considered for promotion to the said offices upon completion of two years acting appointment in the absence of any adverse comments or staff reports in accordance with the policy outlined by the Defendant in its 2003 annual report laid in Parliament in 2005.
4. A declaration that the policy and or decision of the PSC which makes the passing of the said assessment a precondition for promotion and or a ground of disqualification for promotion is illegal and ultra vires.
5. A declaration that the failure in the said assessment does not disqualify a public officer from being considered for promotion

to the said office or render him/her ineligible for consideration for promotion to the said office.

6. A declaration that the PSC was obliged to consider all eligible officers for promotion to the said offices in accordance with the criteria and procedures set out in Regulation 20 of the PSCR.
7. A declaration that the Claimants have been treated unfairly, contrary to the principles of natural justice.
8. An order remitting the issue of the Claimants' promotion to the PSC for it to reconsider same within 14 days in accordance with the findings of this court.
9. Costs.
10. Such further relief or other relief including all such order, writ and directions as may be appropriate for enforcing the rights of the Claimants.

Date of Outcome: 13th December 2006

Order/Judgement

The Honourable Madam Justice Carol Gobin ruled in favour of the Claimants with costs of \$200,000.00

APPENDIX III

COURT OF APPEAL

Court of Appeal #/Date Filed:
Court of Appeal No 162 of 2006 –
19th December 2006

Court of Appeal of:
The Public Service Commission filed an appeal
against the decision of Justice Gobin

Date of Outcome: 10th July 2009

Order/Judgement

An excerpt of the Judgement is reproduced
hereunder:

This is a joint judgement of the Court. These two appeals were heard together with the agreement of all parties involved as they raise the same issues. Both appeals are concerned with the appellant's use of an Assessment Centre Exercise (ACE) to promote officers in the Public Service of Trinidad and Tobago, to vacant posts of Deputy Permanent Secretary. ACE is based on pre-determined criteria, designed to reveal to an employer an employee's employment and promotion potential.

We conclude that the learned judge erred when she quashed the Commission's decision and remitted the matters to the Commission for further consideration.

Procedural unfairness

This issue was directed towards the introduction of a fundamental change by the use of ACE, which the judge described as "alien to the public service culture".

There was however ample evidence that the respondents knew of the Commission's intention to introduce ACE since the year 2002. They were also privy to a memorandum of 13th December 2002 to that effect.

Further, when the 2002 Report was laid in Parliament in the year 2005 it was, by then in the public domain. As discussed above, counsel's concession would dilute the respondents' case, based on this ground.

We have not, therefore, found any procedural unfairness in the introduction of ACE or that there were representations made by the Commission, which would have caused the respondents to nurture any legitimate expectation.

...as senior officers in the public service, they would have been expected to lend support to their employer in the introduction of ACE. The exercise had itself, been beset by unforeseen problems and could not be commended for time-efficiency. The respondents would therefore have been presented with hard choices, so that we have favoured a resolution of all the substantive issues.

We would therefore allow the appeal and set aside the orders of the judge in both cases. The respondents will pay the appellant's costs of the respective appeals and trials below.

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PRIVY COUNCIL APPEAL

Privy Council Appeal #/Date filed:
Privy Council Appeal No. 74 of 2010 –
5th October 2009

Date of Outcome: 9th August 2011

Order/Judgement

In the result, the Board dismisses these appeals on the main issue of principle, the legitimacy

of the Commission's use of the ACE to shortlist candidates having regard to the requirements of Regulation 18, as well as on all other issues. It is unnecessary in these circumstances to consider what, if any, relief might have been appropriate if the appeals had succeeded on any aspect, or whether the appellants' delay in seeking relief in respect of their elimination from the ACE process until November 2005 (or, in Mrs Tyson-Cuffie's case, February 2006) might have operated to make any relief inappropriate in any event.

APPENDIX III

No. 8

Ganga Persad KISSOON – Assistant Commissioner of Valuations vs Public Service Commission

HCA#/Date filed: 2005-CA S-261 of 2005 – 18th February, 2005

Judicial Review of

- i. An application by Mr Ganga-Persad Kissoon, Assistant Commissioner of Valuations of No. 188 Anna Street, Point Pleasant Park, Cunupia for leave to apply for Judicial Review pursuant to the Judicial Review Act 2000.
- ii. The right to apply for Judicial Review pursuant to Section 39 of the Freedom of Information Act ("FOIA").
- iii. The discriminatory, arbitrary, unreasonable and/or illegal decision by the Honourable Prime Minister to object to and/or block or veto the applicant's promotion to the office of Commissioner of State Lands.
- iv. The discriminatory and/or unfair treatment of the applicant by the Honourable Prime Minister.
- v. The failure of and/or refusal by the Public Service Commission ("PSC") of the applicant's request for certain information under the provisions of the Freedom of Information Act 1999.
- vi. The unreasonable delay on the part of the PSC in granting the applicant's request for certain information pursuant to and under the provisions of the FOIA and/or in providing the requested information to the applicant.
- vii. The unfair and/or illegal treatment of the applicant by the PSC in bypassing him for the said promotion.

Date of Outcome: 20th February 2006

Order/Judgement

The Honourable Justice Myers ordered that:-

1. The Applicant's Notice of Motion filed herein on the 18th day of February 2005, as amended by the Order of Myers J of 9th May, 2005, be dismissed, and the leave granted by Narine J on 18th February 2005 set aside.
2. The Applicant shall pay the first respondent, former Prime Minister Patrick Manning and the second respondents, the Public Service Commission, their costs of this action certified fit for Senior and Junior Counsel.

COURT OF APPEAL

**Court of Appeal#/Date filed:
Court of Appeal No. 22
of 2006 – 24th February 2006**

Court of Appeal of
Mr Kissoon filed Court of Appeal against the
decision of the High Court.

Date of Outcome: 8th July 2009

APPENDIX III

Order/Judgement

The Judgement of the Court of Appeal reads in part:

56. So far as the relief that ought to be granted to the Appellant is concerned, Counsel for the Appellant indicated that he is not at this stage pursuing an order of certiorari in view of the time that has elapsed since the exercise of the veto, and the appointment of Mrs Elder-Alexander and the proximity to retirement of the Appellant. He indicated that the Appellant would be satisfied with a declaration that the decision was made contrary to the rules of natural justice and an order as to damages. In my judgement the Appellant is entitled to a declaration and I am prepared to make a declaration that the Prime Minister acted contrary to the rules of natural justice by making a decision to object to the Appellant's promotion without informing him of the factors that militate against him and affording him the opportunity to make representations in his favour. On the question of damages however, there is no claim for damages as is required by section 8(4) of the Judicial Review Act and I therefore decline to make an order as to damages.

57. The first Respondent, the Prime Minister, shall pay to the Appellant the costs of the appeal as well as the costs in the Court below to be taxed. There shall be no order as to costs as between the Commission and the Appellant.

PRIVY COUNCIL APPEAL

Privy Council Appeal #/Date Filed:

Privy Council Appeal No. 37 of 2010 – 24th July 2009

Date of Outcome: 18th July 2011

Order/Judgement

The Judgement of the Privy Council reads in part:

49. In the result the Board would dismiss the Prime Minister's appeal in this case..., save only to the extent of varying the declaration granted by the Court of Appeal.....to read:

"In the circumstances of this case the respondent was treated unfairly by the Prime Minister's failure to exercise his power of veto rationally or at least to provide a rational explanation for excusing it against the respondent's appointment."

50. As for Mr Kissoon's appeals against the Court of Appeal's refusal of further relief respectively against the Prime Minister and the PSC, these too must be dismissed.... The claim for damages against the Prime Minister failed below on the ground that "there is no claim for damages as is required by Section 8(4) of the Judicial Review Act" (para 56 of Mendonca JA's judgement)... .Mr. Kissoon's insurmountable difficulty in this regard is that his claim for damages was (and could only have been) based solely on his allegation that he was unequally treated – a claim struck out by the unappealed order of the trial judge on 9 May 2005... . No damages claim thereafter survived.

APPENDIX III

No. 9

Winston Gibson – Chief Technical Officer vs Public Service Commission

HCA#/Date filed: CV No. 2005-00308 - 26th October, 2005

Judicial Review of

An interim injunction restraining the PSC from implementing the decision to promote persons other than the Applicant to the offices of Deputy Permanent Secretary and Permanent Secretary in the Ministry of Agriculture, Land and Marine Resources pending the hearing and determination of this matter.

An Order of Certiorari to remove into this Honourable Court and quash the decision of the Public Service Commission to bypass the Applicant for promotion to the said offices.

Date of Outcome: 28th April 2006

Order/Judgement

The Honourable Mr Justice Nolan Breaux, dismissed the application and ordered Mr Gibson to pay cost fit for one Senior Counsel and one Junior Counsel.

COURT OF APPEAL

Court of Appeal #/Date filed: Court of Appeal No. 56 of 2006 – 9th May 2006

Court of Appeal of

Mr. Gibson filed Civil Appeal against the judgement that was delivered by the Honourable Mr. Justice Nolan Breaux.

Date of Outcome: 10th July 2009

Order/Judgement

Chief Justice Ivor Archie dismissed Civil Appeal No. 56 of 2006 which was filed by Mr. Gibson.

PRIVY COUNCIL APPEAL

Privy Council Appeal #/Date filed: Privy Council Appeal No. 40 of 2010 – 5th October 2009

Date of Outcome: 9th August, 2011

Order/Judgement

The Privy Council delivered its judgement which reads in part:

12. ...Be all that as it may, Mr. Gibson ended up (at this stage) with a declaration that he was eligible to be considered for appointment to or to act in the post of Permanent Secretary (which went significantly further than counsel's concession). In her written judgement (delivered on 14 December 2005) the judge expanded the declaration that had been made in her oral judgment by specifying that Mr. Gibson was eligible also for appointment to or to act in the post of Deputy Permanent Secretary.

29. The declaration that Mr. Gibson was eligible for appointment imposed a legal obligation on the PSC to treat him as such. It did not do so. Instead it proceeded to make appointments to both posts without considering the appellant. That was a course that simply was not open to the PSC. Mr Gibson is therefore entitled

APPENDIX III

to a declaration that he was entitled to be considered for appointment to both posts, not because he had any legitimate expectation of being considered eligible but because he had an order of a competent court which pronounced that he was eligible.

30. The Board will allow the appeal and order that a declaration should be made in the appellant's favour that he ought to have been treated as eligible for appointment to Permanent Secretary or Deputy Permanent Secretary in the Ministry of Agriculture in the appointments process that culminated in the appointments to those posts in October 2005.

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