

Public Administration Circular : 05/2024

My Number : MPA/HRD/ILO/Circular/01/2024
Ministry of Public Administration, Home Affairs,
Provincial Councils and Local Government
Independence Square
Colombo 07.

27.02.2024

Secretaries of Ministries
Secretaries of State Ministries
Chief Secretaries of Provincial Councils
Heads of Departments
District Secretaries/ Government Agents
Divisional Secretaries
Chairmen of State Corporations and Statutory Institutions

Introduction of a Dispute Prevention and Resolution Mechanism in the Public Service

This circular is issued for the purpose of implementing the proposed mechanism for preventing and resolving disputes in the public service through workplace cooperation with the aim of building a high-quality public service in Sri Lanka and delivering an excellent service to the public.

02. According to the existing legal provisions, a mechanism is available for a public employee to seek redress in the event of a violation of his rights. However, no formal mechanism exists in the public service for resolving interests disputes of an individual employee or a group of employees, as well as in cases where the rights of a group of employees are affected. Accordingly, approval has been granted by the Cabinet Decision CP No./23/2138/605/068 dated 20.11.2023 to implement the proposed mechanism for the prevention and resolution of disputes in the public service based on the methods of social dialogue, conciliation, mediation and arbitration in order to arrive at mutually acceptable solutions through discussions between two parties of public employees and management.

03. The new mechanism proposed by this circular is expected to be implemented in the entire public service, and it will be implemented at the three levels of Workplace, Sectoral and National. For this purpose, pilot projects at the workplace level are currently being implemented at several workplaces in the health and transport sectors with the technical and expert support of the International Labour Organization (ILO).

04. With the support of the International Labour Organization, the following measures are expected to be taken in other government institutions in coordination with this Ministry.

- (a) Formulation of legal provisions and institutional frameworks required for the establishment of **Workplace Forums** in the workplaces of public institutions, **Sectoral Forums** for each sectors, **National State Dialogue Forum** at the national level, nine (09) **Provincial Mediation Boards** at the provincial level and the

National Arbitration Panel under the Ministry of Public Administration, Home Affairs, Provincial Councils and Local Government

- (b) Establishment of **Workplace Forums** in public institutions and **Sectoral Forums** in each sector.
- (c) Establishment of the **National State Dialogue Forum** at the national level.
- (d) Establishment of nine (09) **Provincial Mediation Boards** at the provincial level.
- (e) Establishment of the **National Arbitration Panel** at the national level affiliated to the Ministry of Public Administration, Home Affairs, Provincial Councils and Local Government.
- (f) Maintenance of a **database** on disputes in the public service with the technical assistance of the Department of Census and Statistics.
- (g) Obtaining technical and expert support of the International Labour Organization to implement the above mechanism.

05. Through the implementation of this mechanism, it is expected to resolve employee disputes in public institutions, improve cooperation between the management, employees and representatives of trade unions, improve productivity and quality of the public service through workplace reforms, and thereby provide an excellent service to the public.

06. Until the introduction of the necessary legal provisions and institutional frameworks is completed, as indicated in paragraph 04 (a) above, the implementation of this mechanism will be carried out according to the agreement of the parties, including the top management, employees and representatives of trade unions of each institution. The relevant parties will implement the above forums outside the existing legal dispute resolution process.

07. Accordingly, the guidelines for implementing this mechanism in the entire public service are given in detail in the Schedule (Annex 01) of this circular. Inquiries can be made to the Human Resource Development Division of the Ministry of Public Administration, Home Affairs, Provincial Councils and Local Government for more information regarding this mechanism.

Sgd/ Pradeep Yasarathna
Secretary

Ministry of Public Administration, Home Affairs, Provincial Councils and Local Government

Telephone: 011 2698462

Email : pubadarbitration@gmail.com

Copies:

- | | | |
|-----|---------------------------------------|-------------------------------|
| 01. | Secretary to the President | - For necessary action please |
| 02. | Secretary to the Prime Minister | - For necessary action please |
| 03. | Secretary to the Cabinet of Ministers | - For necessary action please |
| 04. | Auditor General | - For necessary action please |

Schedule

Guidelines for the Introduction of a Dispute Prevention and Resolution Mechanism in the Public Service

1. Introduction

In the absence of a formal mechanism for the prevention and resolution of disputes, strikes occur quite often in the public service. The number of man-days lost for the economy due to this situation is very high. This brings a lot of suffering to the general public, as the production process in the country is affected adversely by this, and the quality of service delivery is also become inefficient. This mechanism, which is introduced as a solution to the problem, will allow for the improvement of cooperation between employees and the management in the public institutions and, thereby, build a social dialogue at the institutional level to resolve the disputes between the two parties. This mechanism, which is introduced for the prevention and resolution of disputes in the public service, is currently being implemented as a pilot project in several workplaces in the health and transport sectors, and those workplace forums have provided a positive contribution to the improvement of cooperation between employees and management. It is expected to establish workplace forums in other public institutions, applying the same structure for the prevention and resolution of employee disputes. Furthermore, the establishment of Sectoral Forums representing each sector to resolve disputes that cannot be resolved by the Workplace Forums, the National State Dialogue Forum to resolve disputes in the public service at the national level, the nine (09) Provincial Mediation Boards at the provincial level and a National Arbitration Panel are the other steps in this process.

According to the existing legal provisions, a mechanism is available for a public employee to seek redress in the event of a violation of his rights. However, no formal mechanism exists in the public service for resolving interests disputes of an individual employee or a group of employees, as well as in cases where the rights of a group of employees are affected. The proposed new mechanism for filling this gap will provide public employees with the opportunity of resolving issues through social dialogue, conciliation, mediation or arbitration between trade unions and management within the workplace itself, in addition to receiving solutions to issues that arise in respect of their rights and interests disputes.

In addition to preventing and resolving employee disputes in public institutions, it is expected to improve cooperation between the management, employees and representatives of trade unions, improve the productivity and quality of the public service through workplace reforms, and thereby provide excellent service to the public through the implementation of this mechanism.

In order to implement this mechanism in the entire public service, expertise, training and technical support will be obtained from the International Labour Organization at all stages.

2. Mechanism for Preventing and Resolving Disputes in the Public Service

2.1 Vision

Establishing a strong mechanism for dispute prevention and resolution in the public service to deliver a high-quality public service to the public.

2.2. Mission

Delivering an excellent service to the public by increasing the effectiveness, quality and employee satisfaction of the public service using the concepts of social dialogue and workplace cooperation.

2.3 Objectives

- i. Formulation of legal provisions and institutional frameworks required for the establishment of Workplace Forums, Sectoral Forums, the National State Dialogue Forum, Provincial Mediation Boards and the National Arbitration Panel for public employees, based on the lessons learned through the initial implementation of the new mechanism founded on social dialogue for preventing disputes in the public service as a pilot project in several workplaces.
- ii. Strengthening the pilot workplace forums which are currently in operation, and establishing workplace forums consisting of representatives of management, employees and trade unions in ministries, departments and public institutions.
- iii. Establishment of sectoral forums consisting of representatives of trade unions and management for each sector.
- iv. Establishment of the **National State Dialogue Forum**, consisting of representatives of trade unions and respective ministries representing each sectoral forum and authorities at the national level.
- v. Establishment of the nine (09) **Provincial Mediation Boards** at the provincial level for the settlement of disputes through mediation in the public service using provisions of the Mediation (Special Categories of Disputes) Act, No. 21 of 2003, in consultation with the Minister of Justice.
- vi. Establishment of a **National Arbitration Panel** at the national level affiliated to the Ministry in charge of the subject of Public Administration for the arbitration of disputes in the public service.
- vii. Preparing a comprehensive **database** on disputes in the public service by the ministry in charge of the subject of public administration with the technical assistance of the Department of Census and Statistics and maintaining the database with necessary updates.
- viii. Obtaining the technical and expert support of the International Labour Organization to implement this mechanism.

3. Manner in which the Mechanism for Prevention and Resolution of Disputes in the Public Service is Implemented

The mechanism for prevention and resolution of disputes in the public service is expected to be implemented in the entire public service, and it will be implemented at the three levels of Workplace, Sectoral and National. Furthermore, nine (09) Provincial Mediation Boards at the provincial level and the National Arbitration Panel at the national level affiliated to the Ministry of Public Administration, Home Affairs, Provincial Councils and Local Government will be established to implement the methods of mediation and arbitration, respectively, to resolve disputes.

3.1 Workplace Forums

In the proposed mechanism for prevention and resolution of disputes in the public service, the committees to be established at the ground level or workplace level are called “Workplace Forums”.

Examples of places where workplace forums can be set up:

- i. A hospital under the Ministry of Health
- ii. A school under the Ministry of Education
- iii. A railway station under the Ministry of Transport

These workplace forums shall consist of representatives of management and employees (trade union representatives or independent employees representing service categories may also be appointed as employee representatives by agreement of employees). It is advisable to limit the number of representatives of management and employees appointed for this purpose to 30-40 persons, considering the composition of the institution or the number of employees. (A Comprehensive handbook¹ provides details of all aspects of formation, functions and operation of a workplace forum including the model of a Constitution).

Employees, trade unions, groups of employees and managers can consult Workplace Forums concerning the prevention and resolution of disputes regarding their rights and interests.

The workplace forums shall be governed by a constitution for the workplace forum prepared by the members of the initial workplace forums by common agreement.

The basic approach here is for all parties in a workplace to meet and discuss issues and make an effort to solve problems through social dialogue and workplace cooperation based on dialogue, conciliation, mediation and arbitration before seeking solutions in formal courts or taking trade union actions.

Workplace Forums also contribute to increasing productivity in workplaces, improving processes, enhancing the quality of public service delivery, assisting the

¹ This handbook which has been prepared by the International Labour Organization is printed by three languages. The e-copies of this handbook can be obtained by the Human Resource Development Division of this Ministry

management in problem solving as a team, improving employee welfare, improving the working environment, etc.

3.1.1 The scope of Workplace Forums is as follows.

- i. Providing solutions or advices at the workplace level regarding employee disputes.
- ii. Sharing knowledge about the functioning and performance of the workplace.
- iii. Continuous improvement of workplace processes, improving efficiency and productivity.
- iv. Improving the quality of services.
 - v. Boosting employees' morale and sharing experiences.
 - vi. Improving various processes and restructuring tasks through new technology.
 - vii. Providing education and training
 - viii. Helping maintain a balance between work and personal life.
 - ix. Improving employee welfare
 - x. Acting on matters referred to by the Sectoral Councils.

In cases where solutions are not found in the workplace forums, the parties can come to an agreement on terms through the mediation process by referring the relevant issues to the Provincial Mediation Boards. If that is not possible, the relevant issue can be referred to an arbitrator of the National Arbitration Panel and a binding decision can be obtained. Otherwise, the issue can be referred to the sectoral forum of the sector to which the employee or the management parties belong or through that sectoral forum to the National State Dialogue Forum.

3.1.2 The steps for setting up workplace forums are as follows.

- i. Seeking further instructions from the secretary of the relevant line ministry or from the Human Resource Development Division of the Ministry of Public Administration, Home Affairs, Provincial Councils and Local Government by the head or the employee representatives of the workplace where a workplace forum is intended to be established.
- ii. Contacting officials of the Human Resource Development Division of the Ministry of Public Administration, Home Affairs, Provincial Councils and Local Government and representatives of the International Labour Organization for the coordination of the initial round of discussions and awareness and training programmes regarding the establishment of workplace forums as well as for obtaining the necessary instructions to establish a workplace cooperation unit in the respective institutions.
- iii. Informing the management and employee representatives of proposed workplaces and then appointing a steering committee consisting of the representatives of that workplace by the workplace cooperation unit of the Ministry.
- iv. Informing other employees of the workplaces by the steering committees.

- v. Preparing a model constitution for Workplace Forum for the relevant workplace, discussing it with management and employee representatives and reaching agreements regarding its provisions.

3.2 Sectoral Forums

The committee established to resolve disputes that cannot be resolved through workplace forums, as well as disputes arising at sectoral levels, are called sectoral forums. When providing solutions for disputes through these sectoral forums, it should be ensured that the solutions are compatible with the applicable public service policies and existing laws and regulations.

Examples of places where sectoral forums can be set up:

- i. Sectoral forum under the health sector
- ii. Sectoral forum under the education sector

A sectoral forum can be established for any sector, even though the establishment of workplace forums in the sector is not completed. The convener of the sectoral forum shall be the Secretary of the relevant ministry within the sector. The sectoral forum may consist of about 20-30 members representing the management and trade unions of the respective sector.

3.2.1 The scope of Sectoral Forums is as follows.

- i. Sectoral Forums can assist in solving employee disputes that could not be solved through Workplace Forums.
- ii. Providing solutions to disputes arising between several workplace forums or groups of employees in the respective sector.
- iii. Dealing with and proposing solutions for various disputes arising from actual or perceived anomalies and inequities in groups of employees in the sector in relation to appointments, promotions, transfers, demotions, grading, position descriptions, training opportunities, career opportunities, rewards and similar matters.
- iv. Discussing common disputes related to the sector and submitting agreements or recommendations related to them to the National State Dialogue Forum.
- v. Monitoring Workplace Forums.
- vi. Giving instructions to enhance the efficiency and increase the productivity of the public service.
- vii. Giving instructions on policies and practices when requested by Workplace Forums.
- viii. Monitoring the approaches and practices developed and implemented by workplace forums and disseminating better practices to other workplaces in the sector.

3.3. National State Dialogue Forum

The committee to be established to resolve disputes that cannot be resolved through sectoral forums as well as common disputes at the national level arising from public employees is called the National State Dialogue Forum. The convener of this forum shall be the Secretary of the Ministry of Public Administration, Home Affairs, Provincial Councils and Local Government. The functioning of this forum will be similar to that of the National Labour Advisory Council (NLAC) for the private sector.

The National State Dialogue Forum will consist of representatives of institutions such as the Public Service Commission, the Department of National Budget and the Department of Management Services, public officers at the national level such as the Director General of Establishments, as well as the representatives of the respective ministries, Sectoral Forums and principal trade unions at the national level.

3.3.1 The scope of the National State Dialogue Forum is as follows.

- i. Discussing and proposing solutions for disputes that fail to be resolved through sectoral forums.
- ii. Recommending solutions for disputes raised by public employees directly at the national level.

3.4 Provincial Mediation Boards

The purpose of setting up Provincial Mediation Boards is to apply the mediation process at the provincial level to resolve disputes in the public service. If the dispute cannot be resolved through dialogue between the parties at the initial stage of the dispute, mediation may be considered. Action will be taken in the future to establish special mediation boards at the provincial level, using the provisions of the Mediation (Special Categories of Disputes) Act, No. 21 of 2003, in consultation with the Minister of Justice.

3.5 National Arbitration Panel

The National Arbitration Panel of independent arbitrators established at the national level affiliated to the Ministry of Public Administration, Home Affairs, Provincial Councils and Local Government. A final decision will be taken by the arbitrator in respect of disputes referred to for arbitration. In respect of essential services, parties will be directed for compulsory arbitration by the Minister to whom the respective subject or function is assigned.

The Ministry of Public Administration, Home Affairs, Provincial Councils and Local Government will take further action in this regard.