



# OPPORTUNITY KNOCKS

Issue 006

Newsletter

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Independent &  
Accessible**

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## CASE DIGEST

# CLARISE JUPITER V PETROLEUM COMPANY OF TRINIDAD AND TOBAGO

In this decision the Equal Opportunity Tribunal of Trinidad and Tobago drew the attention of employers to the importance of clear, consistent, and equitable promotion policies to mitigate misunderstandings and reduce the risk of challenges based on allegations of discrimination or unfair labour practices. The decision also emphasised that objective evidence is required to demonstrate any impropriety in the promotion process

Dr. Clarise Jupiter, a Ph.D. holder in Petroleum Engineering, and a former employee, of Petroleum Company of Trinidad and Tobago (Petrotrin) alleged that victimisation by her supervisor under section 6 of the *Equal Opportunity Act*, Chap 22:03, due to a statement she made in 2003 regarding racial diversity in recruitment. She claimed this led to adverse employment actions, including a demotion, cessation of promotions and failure to complete her work appraisals in a timely manner.

### Key Findings

Dr. Jupiter's relied on notes that she took from a coaching session with her supervisor, which she claimed contained a 'confession' of victimisation. The date of the meeting and or the notes were uncertain, and the notes were disclosed for the first time more than a decade after the events in question. There was no evidence that these notes had been seen or validated by her supervisor. The Tribunal noted the lack of corroborative evidence, such as records of the meeting where the alleged statement was made in 2003 by Dr Jupiter, or independent witnesses, as well as inconsistencies in Dr. Jupiter's testimony. The Tribunal found that Dr. Jupiter failed to provide sufficient evidence to prove that the alleged statement was made or that her supervisor was offended by it.

### Performance Appraisals and Promotions

The Tribunal also examined Dr. Jupiter's claims regarding her performance appraisals and promotions. It found that her appraisals were completed up to 2007/2008, but she refused to sign 2008/2009 due to disagreements over the grades. The Tribunal noted that her appraisals were generally positive and aligned with previous evaluations prior to the alleged statement being made in 2003. Regarding promotions, the Tribunal found no evidence linking the supervisor to any undue influence over her promotional assessments.

### Conclusion

In conclusion, the Tribunal held that Dr. Jupiter did not meet the requisite burden of proof to establish her claim of victimisation under section 6 of the *Equal Opportunity Act*. Consequently, the Tribunal dismissed the complaint and in the peculiar circumstances of these proceedings ordered that each party bear their own costs.



# COURT SCHEDULE

OCT 1	E.O.T NO. 0001 OF 2017 RISHI PERSAD MAHARAJ V CASCADIA HOTEL LIMITED
OCT 8	E.O.T NO. 0006 OF 2020 DARYL DILLON V YARA TRINIDAD LIMITED
OCT 15	E.O.T NO. 0001 OF 2021 SAMUEL JOHNSON V TOBAGO REGIONAL HEALTH AUTHORITY
OCT 22	E.O.T. NO. 0011 OF 2017 NICOLE COWIE - V- EMPLOYERS CONSULTATIVE ASSOCIATION OF TRINIDAD & TOBAGO
OCT 22	E.O.T. NO. 0004 OF 2018 DONNA PATTERSON V THE WATER AND SEWERAGE AUTHORITY
OCT 29	EOT NO. 0002 OF 2022 KAMAL MANGAROO V TRINIDAD AND TOBAGO DEFENCE FORCE
OCT 29	E.O.T. NO. 0004 OF 2017 COREEN ISAAC V THE NORTH CENTRAL REGIONAL HEALTH AUTHORITY
NOV 5	E.O.T NO. 0001 OF 2022 EOT NO.0001 OF 2022 - CRYSTAL RAMPERSAD & ORS V PSAE
NOV 12	EOT 0001 OF 2019 RAYMOND RAMCHARITAR V THE UNIVERSITY OF THE WEST INDIES
NOV 19	E.O.T NO. 0001 OF 2014,0001 OF 2015 AFROZA BHANJI-V SUPERPHARM LIMITED 2015
NOV 19	E.O.T NO. 0005 OF 2020 PARASRAM HEERAH V TRINIDAD CEMENT LIMITED



**EQUAL OPPORTUNITY TRIBUNAL**  
Trinidad & Tobago

## International Day For Commemorating the Victims of Acts of Violence Based on Religion and Belief

The Equal Opportunity Act Chap. 22:03 promotes:

**Equality of treatment:** Emphasizing the right to equal treatment regardless of religion or belief.

**Respect for diversity:** Encouraging respect for the diverse religious beliefs within Trinidad and Tobago.

**Prohibition of religious discrimination:** Stressing the legal prohibition against any form of religious discrimination in public life

**Fair treatment in employment:** Reinforcing that employment decisions should not be influenced by religious beliefs.

**Equal protection under the law:** Emphasizing that the law protects everyone equally, regardless of their religion.

**Promotion of understanding and tolerance:** Advocating for initiatives that promote religious tolerance and understanding among all citizens.







**Photo:** Her Honour Madama Justice Donna Prowell-Rapahel, Chairman and Justice of the Equal Opportunity Tribunal

# **Engages the Law Association Membership on the Work of the Equal Opportunity Tribunal**

On May 22, 2024, Her Honour Donna Prowell-Raphael, Chairman of the Equal Opportunity Tribunal (EOT), had the privilege to engage with the membership of the Law Association of Trinidad and Tobago. Madame Prowell-Raphael, presented on the crucial role the Equal Opportunity Tribunal plays in safeguarding equality. She provided an overview of the Tribunal's mandate, operations, and the critical role it serves in upholding the tenets of equal opportunity under the law.

Her Honour began by providing the audience with a comprehensive overview of the Equal Opportunity Act. She highlighted that the Equal Opportunity Tribunal serves as a judicial body with a specific remit: to adjudicate matters of discrimination and promote equality in various sectors of society, including employment, education, and the provision of goods and services. Her Honour Prowell-Raphael then delved into the Tribunal's powers, as granted under the Equal Opportunity Act. She explained that the Tribunal has the authority to hear and determine complaints of discrimination that arise after the Equal Opportunity Commission (EOC) has investigated and referred the matter for judicial review.

She outlined the types of cases that the Tribunal has the power to adjudicate, including those involving discrimination in the workplace, educational institutions, and access to public facilities. Importantly, Her Honour also touched on the Tribunal's power to grant remedies, ranging from monetary compensation for emotional distress and loss of opportunity to more systemic orders aimed at reforming discriminatory practices in institutions.

The Tribunal's powers are not just punitive but also corrective. We aim to change the landscape of inequality in Trinidad and Tobago, ensuring that justice not only serves individuals but also promotes systemic change Her Honour noted.

She also delved deeper into what constitutes equal opportunity under the Equal Opportunity Act. She clarified that equal opportunity is about ensuring fairness in the access and distribution of opportunities in society. It is not about guaranteeing identical outcomes for all but rather making sure that everyone starts from the same place, without the barriers of discrimination or prejudice holding them back.

Her Honour Prowell-Raphael emphasized that equal opportunity is not just a legal concept but a fundamental human right. She encouraged the legal fraternity to not only advocate for those who face discrimination but to also be proactive in promoting policies and practices that foster inclusion and equality.

Her Honour also reviewed several key cases that have come before the Tribunal. These cases underscored the diversity of matters that the Tribunal addresses and encouraged participants to visit the Tribunal's website at [www.equalrightscourt.org](http://www.equalrightscourt.org) to learn more.

# Equal Opportunity Tribunal Kicks Off Transformation Journey with Staff Seminar



**Photo:** (Middle) Mr. Damian Gangerbissoon flanked by Mr. Ravi Singh (L) and Ms. Jeneve Roopnarine (R)

On Monday, June 24, 2024, the Equal Opportunity Tribunal (EOT) took a significant step forward in its ongoing transformation journey by hosting a dynamic staff seminar. This seminar is part of a broader initiative to sensitise key stakeholders on the Tribunal's evolving role, starting with its most valuable asset—its staff.

The event featured presentations from Management beginning with the Chair of the Tribunal, who passionately articulated the organisation's vision and mission. In doing so, the Chair outlined the Tribunal's commitment to enhancing access to justice, championing equality, and leading in innovative service delivery in line with the Tribunal's forward-thinking aspirations.

Following this, Ms. Kemba Dillon, Senior Corporate Communications Officer led a comprehensive session on "Who We Are and What We Do," giving staff a fresh perspective on the Tribunal's core functions and their vital contributions to its success. This presentation reinforced the Tribunal's commitment to fostering an inclusive society where every citizen's rights are safeguarded.

Tribunal's commitment to fostering an inclusive society where every citizen's rights are safeguarded.

An inspiring segment was delivered by Mr. Noel Inniss, Transformational Consultant who introduced the much-anticipated "Green Gavel: EOT's Sustainable Digital Future" initiative. As the Tribunal embarks on this project, Mr. Inniss shared insights on how the shift towards a digital court system aligns with both sustainability goals and improved access to justice, emphasizing the role that each staff member will play in this transformative process.

Rounding out the seminar, Ms. Jannel Naimool-Graham, Human Resource Officer II, who delivered a well-received presentation on staff satisfaction and rewards. She encouraged staff to voice their thoughts on fostering a positive work environment, highlighting the Tribunal's commitment to staff welfare as it navigates this new phase of growth.

Throughout the seminar, staff members were actively engaged, contributing feedback and sharing insights. Their participation not only added value to the discussions but also reinforced the Tribunal's dedication to a collaborative and inclusive transformation process.

The June 24 seminar marks the first in a series of engagements aimed at preparing the Tribunal for a future defined by innovation, sustainability, and justice for all.



**Photo (L-R):** Mr. Noel Inniss, Transformation Consultant presenting on the Tribunal's Green Gavel Project. Ms. Jannel Naimool-Graham, Ms. Bianca Cummings-Griffith and Ms. Victoria Benicourt during the staff Seminar.



# Let's Talk Transformation

## Equal Opportunity Tribunal Column



**Photo:** Her Honour Madame Justice Donna Prowell-Rapahel, Chairman and Judge of the Tribunal.

Many people often confuse the Equal Opportunity Tribunal (EOT) with the Equal Opportunity Commission (EOC). EOT Chairman and Judge Donna Prowell-Raphael note that these two organisations, despite their similar names, serve different purposes.

Established under Part VIII, Section 41 of the Equal Opportunity Act; the Tribunal functions as an independent judicial body. The EOT is a superior court of record with similar power and authority akin to the High Court. “The Tribunal has the authority to hear and determine complaints of discrimination, issue legally binding decisions and orders, and award remedies including compensation for loss, damages, and other appropriate reliefs. Its decisions can be appealed to the Court of Appeal. This judicial authority gives the Tribunal vast powers and a higher standing in terms of legal and adjudicative power.”

The EOC which was established under Part VI, Section 26 of the Equal Opportunity Act is primarily an investigative and conciliatory body. It receives, investigates, and attempts to conciliate complaints of discrimination. However, it does not have the power to issue legally binding decisions or award remedies. Instead, it refers unresolved matters with the consent of the Complainant to the Equal Opportunity Tribunal for adjudication.

### **Equal Opportunity Tribunal: Understanding Its Judicial Authority and Independence**

Another stark difference is that the Tribunal operates independently from other bodies and functions in a judicial capacity. Its Chairman is a Judge who serves on similar terms and conditions as a High Court Judge, and it is assisted by two (2) lay assessors. “This independence ensures that the Tribunal can make impartial decisions based on the evidence presented,” added Prowell-Raphael.

“The Commission performs an essential role in promoting equality and investigating complaints, but it does not have the independence and judicial authority that the Tribunal possesses.” In terms of binding decisions, the Commission’s role is to investigate and conciliate. It does not make binding decisions and must refer unresolved disputes to the Tribunal for adjudication.

Matters that are settled successfully by conciliation, should be registered in writing with the Tribunal and upon registration, the agreement is deemed an order of the Tribunal given its legal muscles. “At the Tribunal decisions are legally binding and enforceable,” she said. “This power to make final and binding rulings on cases of discrimination underscores its authoritative status in the legal framework of equal opportunity.”

Prowell-Raphael highlighted the Equal Opportunity Tribunal is considered an authoritative body because it has judicial authority, independence, and the power to make legally binding decisions. It serves as the adjudicating authority in cases of discrimination, whereas the Equal Opportunity Commission's role is more investigatory and conciliatory, without the power to make binding determinations.

While there are differences between the EOT and EOC both entities do intersect. “When the EOC investigates a complaint and conciliation is unsuccessful or is not appropriate, the EOC is mandated to refer the case to the EOT with the consent of the Complainant for adjudication,” she said. “Also, the EOC’s role in investigation and mediation complements the EOT’s role in adjudication, providing a comprehensive mechanism for addressing discrimination. Finally, both entities may engage in public education and advocacy efforts, though the EOC takes the lead in this area.”

# The Equal Opportunity Tribunal: A Closer Look at Its Judicial Powers



**Photo:** Ms. Kemba Dillon, Senior Corporate Communications Officer

Decisions made by the Equal Opportunity Tribunal (EOT) are final. Yet, as EOT Senior Corporate Communications Officer Kemba Dillon explains, there is a narrow window for appeal—only on specific grounds—at the Court of Appeal. "Beyond this, the Tribunal's rulings cannot be challenged, appealed, or reviewed by any other tribunal, nor can they be overruled," Dillon emphasized. She further highlighted that individuals can bring legal action against the state, private entities, or individuals.

While the EOT shares several similarities with the High Court of Trinidad and Tobago, especially in terms of its judicial functions and powers, there are key differences between the two. The Tribunal has the same powers as the High Court for: Making witnesses attend and testify.; Requiring the production and inspection of documents.; Enforcing its orders and Inspecting property and other necessary actions.

Dillon added: "Compensation and damages awarded by the Tribunal can be enforced like civil debts or High Court judgments when certified by the registrar. Fines are collected by the Registrar of the Tribunal and paid into the government's Consolidated Fund."

The Tribunal consists of the Chairman/Judge who is its sole decision maker and 2 Lay Assessors who assist the Chairman in arriving at decisions in proceedings before the Tribunal. The Chairman as a Judge has equal status to a High Court Judge and as the Chairman is also responsible for the administrative oversight of the Tribunal, as well as, the conduct of proceedings in the cases brought before it. The Chairman/Judge is appointed by the President of Trinidad and Tobago in accordance with the advice of the Judicial and Legal Service Commission and serves on the same terms and conditions (save for pension) as a High Court Judge," said Dillon. Lay Assessors are appointed by the President.

The Equal Opportunity Tribunal has the power to:

- **Adjudication:** The EOT has the power to hear and determine complaints of discrimination and related matters sent to it by the commission.
- **Compel/Require:** compel people to attend and give evidence or produce documents.
- **Remedies:** The Tribunal can issue orders for compensation, including monetary compensation, reinstatement, and corrective actions to prevent further discrimination.
- **Enforcement:** The EOT's decisions are enforceable as if they were orders of the High Court, meaning they carry legal weight and must be complied with by the parties involved.

## Commonalities between the SOT and High Court

- **Judicial Function:** Both the EOT and the High Court have the authority to hear and adjudicate cases, make legal decisions, and issue binding orders.
- **Enforcement:** Decisions made by both the EOT and the High Court are legally enforceable, and non-compliance can lead to legal consequences.
- **Procedural Fairness:** Both institutions are bound by principles of natural justice, ensuring that hearings are conducted fairly, and both parties have the opportunity to present their case.

## Differences between the EOT and High Court

- **Jurisdiction:** The EOT's jurisdiction is specific to matters related to discrimination, victimisation and offensive language under the Equal Opportunity Act, whereas the High Court has a broader jurisdiction, handling a wide range of civil, criminal, constitutional, and administrative cases.
- **Appeals:** Decisions of the EOT can be appealed to the Court of Appeal, whereas decisions of the High Court are appealed directly to the Court of Appeal and then the Privy Council, depending on the case.
- **Structure:** The EOT is a specialised tribunal with a specific focus, while the High Court is a general court with various divisions (civil, criminal, family, etc.) addressing different legal issues. The High Court is made up of several judges.



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