A Certified True

Republic of Nauru

In the Supreme Court **Civil Action No. 1/1998**

Between **Joseph Hiram** **Plaintiff**

And **Nauru Phosphate Corporation** **Defendant**

Paul Aingimea, Pleader, for the Plaintiff
Ian Bowditch of Counsel, for the Defendant

Dates of Hearing: 18 and 21 September 2001

Date of Decision: 30 October, 2001

Decision of Connell C.J.

The Plaintiff was appointed General Manager of the Defendant Company on 5 July 1996. By a letter dated 19 February 1997 written by the Chairman, the Board of the Nauru Phosphate Corporation (hereinafter described as "NPC") summarily dismissed the Plaintiff. The Plaintiff claims he was not accorded a hearing nor given a reason for his dismissal. He took action under his contract for wrongful dismissal claiming reinstatement and damages.

The NPC

Joseph Hiram, the Plaintiff, had been a long-time servant of the NPC. The business of the NPC was the mining and export of phosphate rock. It was the only major industry in the Republic of Nauru and had sustained that economy for the better part of the twentieth century. Ancillary to the

mining of phosphate, the NPC was also responsible on Nauru for power generation and its distribution, fuel and water through a desalination plant. The Nauruan community was heavily dependent on an efficient NPC operation.

The NPC was the successor to the British Phosphate Commissioners who had been responsible for the mining operation between 1920 and 1970. However, by an Agreement in 1967 between the Nauru Local Government Council and the three administering governments under the United Nations Trust, it was provided for the NPC to be established. In 1969, the Nauru Phosphate Corporation Act (`**the Act**') was passed.

Since 1969, there have been two amendments to the Act; the first in 1978 and the second in 1982. Both amendments have some bearing on the case at hand. In 1978, the role of Managing Director was removed in Section 19 and replaced by a general delegation section enabling the Board, unless otherwise directed by the Minister, to delegate to any officer or employee of the Corporation any of the Board's powers and functions under the Act. Under the previous Section 19, the Managing Director had been the Chief Executive Officer of the Corporation.

In 1982, Section 20 was amended. Section 20 dealt with the questions of appointment, terms and conditions of staff, and dismissal or suspension of staff. The effect of the amendment was to give broader powers to the Minister. The new provision now reads :-

"Officers, Staff and Labour.

20. The Corporation may, unless otherwise directed by the Minister, and shall if the Minister expressly so directs –

(a) appoint, engage or employ;
(b) apply such terms and conditions of service in respect of; and
(c) dismiss or suspend

such officers, staff or labour, as the Board or the Minister, as the case may be, considers it necessary or appropriate for the conduct of the Corporation's business."

The amendments are underlined. A slight brake was placed on the Minister's intervention by the inclusion of a new Section 35A, under which, where a Minister gave a direction, Cabinet was to be informed at the next meeting of Cabinet after it was given.

Clearly, the changes illustrate the importance of the NPC to the economy of the Republic, and the seeming need of the government to have an interventionist role through the Minister when it sees fit. This is unusual only to the extent that the reason normally formulated for a statutory corporation is to enable it to develop a business independently of the constraints of government. The amendments indicate the view of Parliament for a constant guiding hand of government in such an important institution to the state.

It is noticeable with the deletion of the role of Managing Director, there is, so far as the Act is concerned, no other person who becomes the Chief Executive Officer of the Corporation. Evidence was not led by either the Plaintiff or Defendant of any delegated powers under Section 19, which would have specified the exact role of the General Manager. It was assumed, without argument to the contrary, that the General Manager had such a role as Chief Executive Officer. This was the assumption when evidence was given by the Plaintiff of an action against Rene Harris that he commenced on behalf of the NPC without first obtaining the authority of the Board. On the other hand, his letter of appointment does not spell out anything, and he said in evidence, whilst he attended Board meetings before Rene Harris was Chairman, he was excluded when he became Chairman unless required for a specific matter. So his powers and functions were never fully spelt out in the Court, and one cannot but wonder without knowledge of specific delegable authority what they really were. At the same time, they must still have been considerable in his role as General Manager for there was no other executive officer above him.

As I mention later, this was partly borne out by a chart of responsibilities shown to the Court, which one assumes was based on delegations made under Section 19.

Employment History of Plaintiff

After graduating from the Gordon Institute of Technology in Geelong, Victoria, with a Diploma in Mechanieal Engineering, Joseph Hiram was first employed in the phosphate industry by the British Phosphate Commissioners in 1965 at their Head Office in Collins Street, Melbourne, as a design draughtsman.

Following Nauruan independence, the then President, Hammer DeRoburt, requested the Plaintiff to join the NPC and establish its Melbourne office. He did this and then later in 1973 left Melbourne and came to Nauru as second assistant Mechanical Engineer. As such, he exercised control in the power station, workshops, and fuel. He had earlier undertaken training with Shell Oil Company on a three months course embracing laboratory work.

Over the years he gave evidence that he has carried out considerable work as a project engineer on such matters as the amount of phosphate left after primary mining, exporting of phosphate overseas to new countries, design extension of the boom of No. 2 cantilever to accommodate larger vessels, upgrading of the drying plant to reach 85 tonnes per hour. He was appointed Services Manager and, from time to time, acted as General Manager until his substantive appointment on 5 July 1996.

All up, he has worked with the BPC and NPC in the phosphate industry for thirty-three years. During this period, the only other Nauruan professional to have as long an employment history with NPC was Lagumot Harris, a Civil Engineer, who had worked previously as a General Manager.

Two other engineers, Vinci Clodumar, a Mechanical Engineer, and the recently appointed Anton Jimwereiy, an Electrical Engineer, have also been General Managers.

None of the above facts were challenged by the Defendant and I accept the above employment history as a bonafide account given by the Plaintiff.

The Contract of Service and General Manager

The Plaintiff received, upon his appointment, nothing other than a letter, dated 10 July 1996, from the Personnel Manager of the NPC. I quote it in full below. On NPC letterhead the letter stated –

> "10 July 1996
>
> Mr. Joseph Hiram
> Acting General Manager
> Nauru Phosphate Corporation
>
> This is to advise of your appointment to the position of General Manager effective 5 July 1996.
>
> Your commencing salary is $32,500 (fixed) from the date of your appointment.
>
> I congratulate you on your appointment and wish you all the best in your new position.
>
> Yours faithfully,
>
> E.K. ILTON
> Personnel Manager
>
> Cc: Financial Controller"

One cannot but be surprised at the seeming informality of such a letter. The letter does not state who instructed the Personnel Manager, any detail of the appointing procedure or who the authority was that appointed him. At the time of his appointment, the Plaintiff was already Acting General Manager so was the superior of the Personnel Manager who administered one of the NPC Departments. The Financial Controller was copied presumably to make him aware of the salary to

be paid. But there was no indication in the letter that this had taken place as a Board decision. This makes one wonder where the General Manager was situated in the scheme of things. One thing is certain, he did not take the place of the Managing Director when that post was deleted in 1978. To an extent some revelation was provided by a 1986 Schedule of Delegations, earlier mentioned above, outlining the responsibilities of the Minister, Board and General Manager. Whilst it was described to the Court as a working document, it did not recount the authorities for such delegations, which one presumes were made under Section 19 of the Act.

The 10 July 1996 letter represented the only notification of his appointment that was apparently given to the Plaintiff. The Defendant NPC certainly did not offer in evidence any other documentation. The letter told the Plaintiff he was appointed and gave him his commencing salary. The fact that subsequently the Plaintiff took up the appointment and was paid would indicate that that represented his acceptance of the appointment, which was not couched as an offer.

It is what the offer or letter does not say that is somewhat startling. There is no finite term of employment stated, thus implying continuous employment, no employment terms and conditions, no statement of rights, for example, to a vehicle or accommodation, nothing about leave rights, and nothing about the availability of superannuation or staff benefits. It was intimated to the Court by the Plaintiff that the General Manager was the senior executive position in NPC and this was not controverted by the Defendant. It is, therefore, all the more remarkable that such an appointment does not spell out clearly the terms and conditions of such a position and with a full duty statement prepared. The absence of such from these Court proceedings would indicate, very likely, of their non-existence.

The Defendant's counsel from the Bar described such a contract paid from month to month as periodic that could be dispensed with on a month's notice. He also asserted that it could be equated

on common law principles to the old crown servants who were contracted at the pleasure of the Crown.

On the other hand, the Plaintiff asserted that the conditions of employment granted upon the engagement of overseas staff were to be adapted *mutatis mutandis* to senior Nauruan staff of the NPC. In support of this contention, the Plaintiff cited his own case where, after his dismissal in 1997, he later took up a position as Mechanical Engineer on 6 April 1999. In that letter from the Personnel Manager, Lesi Olsson, the overtime, termination, recreation, and sick leave provisions bore an equivalence to those contained in the overseas staff conditions of employment.

I shall return to this question later.

The Dismissal

On 19 February 1997, the Chairman of the Board, the then Honourable Rene Harris, MP, dismissed the Plaintiff. The letter of dismissal was in the following terms –

> "Dear Mr. Hiram,
>
> The NPC Board of Directors, at its Special Board Meeting held this evening to consider matters raised by the Government and also by the Board, regrets to advise of its decision that your services with the Nauru Phosphate Corporation are no longer required and cessation of your employment is to take effect immediately.
>
> Due to the past services rendered by you to the Corporation, the Board is willing to consider your re-engagement in a profession suitable to your qualifications.
>
> You are advised to cease using the NPC vehicle immediately and also to vacate the NPC quarters MQ6 by 6:00pm on Thursday 20 February 1997.
>
> Any moneys owing to you will be paid out to you as soon as possible.
>
> On behalf of the Board and Management, I take this opportunity to thank you for the services you have rendered to the Nauru Phosphate Corporation.
>
> Yours sincerely,

Honourable René Harris
Chairman of the Board of Directors
Nauru Phosphate Corporation.

Cc: NPC Board Members"

Given the important statutory changes undertaken in 1982 with regard to Section 20 of the Act, it is perhaps a little surprising that such a letter was not copied to the Minister. No doubt, he was informed.

In the evidence of the Plaintiff, he stated that he had not been contacted by the Chairman to discuss the matter prior to receiving the letter or the Special Board Meeting. He had not received, prior to the letter, either any intimation that his services had been unsatisfactory or, more particularly, in terms of the conditions of employment, earlier alluded to, that he had been seriously neglectful, had refused duty or had engaged in misconduct any of which would have merited under those conditions, termination without notice. Such conditions were those contained in the overseas staff document.

After receiving the letter, the Plaintiff went to see the Chairman and asked what reasons did the Board have for dismissing him. The Chairman simply replied that it was none of the Plaintiff's business. The Plaintiff then left the NPC.

Events Before and After the Dismissal

1. **Before** When he was appointed in 1996, the President was the Honourable Lagumot Harris, MP, and the Chairman, Mr. Lawrence Stephen. Upon his appointment, the President instructed the Plaintiff that he was to look into various debts owed to the NPC to which attention had been drawn by the auditors of NPC, Messrs Coopers and Lybrand. There were quite a number,

in total about 20, and, amongst them, René Harris was the largest debtor. The Plaintiff, for the NPC, instigated a legal action against René Harris for the recovery of the debt.

When President Lagumot Harris lost office as President, President Dowiyogo was elected and René Harris was installed as Chairman of the NPC. Upon that appointment, the Plaintiff saw President Dowiyogo and objected to the appointment given the fact of the Chairman's prior debt to NPC.

The Plaintiff, in his evidence, considered this was a factor in his dismissal, which the Plaintiff thought would go some way towards establishing capriciousness in the act of dismissal by the Board.

2. **After** Sometime after his dismissal, the NPC offered the Plaintiff the post of Mining Superintendent. The Plaintiff declined the offer as he did not feel qualified. It was, he stated in evidence, a specialist job requiring the ability to oversee the operation of heavy equipment and explosives efficiently and safely.

The Plaintiff believed that this offer was made to him by the Defendant on the basis that it was considered to be in a professional capacity suitable for his qualification. But, in his evidence, such a position was not one for which he was qualified. In cross-examination, the Plaintiff was a little equivocal on the matter particularly, where he was queried whether, in fact, his staff, who had explosives training and were certified, would have undertaken that particular work. His answer was that in all cases he had to take final responsibility and explosives knowledge and experience was crucial to the position.

He was, thereafter, not offered another position until, in 1999, he took up the position of Mechanical Engineer, which has already been mentioned. He was out of work in that intervening period.

Fit for the Post

If any reason had been given in the dismissal letter of the Chairman to the Plaintiff, it is to be found in the rather cryptically phrased sentence – "Due to the past services rendered by you to the Corporation, the Board is willing to consider your re-engagement in a profession suitable to your qualifications."

It appeared both sides were prepared to read this as meaning, something along the following lines, - "Because of your long service to the NPC, the Board might look to engage you in a professional capacity that more befits your qualifications."

The Plaintiff took exception to what he regarded was an unjustifiable statement as he believed his qualifications were at least on an equal footing with Lagumot Harris, a diplomate civil engineer, Vinci Clodumar, a diplomate mechanical engineer, and Anton Jimwereiy, a diplomate electrical engineer. He also believed that he had broader experience in the industry than any of the others. The four of them are all Nauruans and have held or do hold, as the case may be, the post of General Manager.

Counsel for the Defendant in cross-examination questioned his competency in the area of corporate management. The Plaintiff had not been a company secretary, and had not undertaken courses on corporate management or personnel management. In the course of the examination, the Plaintiff indicated that he attended Board meetings more or less as of right before the chairmanship of Mr.

Harris, but, only as required under the René Harris chairmanship. However, he did say that on a number of occasions he had been asked to act as General Manager.

He was once again, too, given the post of General Manager in the latter part of 2000 but was dismissed in 2001 soon after the Honourable René Harris became President.

Evidence of the Defendant

The defence produced only one witness, Robert Kaierua, a legal officer and acting Personnel Officer of NPC.

The gist of his evidence was that the Conditions of Employment of the NPC only applied to signed contract workers from overseas. He then went on to state that no local terms and conditions had been set out for Nauruans. He added that attempts have been made for some time to establish such terms and conditions but they had, for whatever reason, not materialised.

In cross-examination, he agreed that the Mechanical Engineer terms offered to the Plaintiff in 1999 resembled those granted to overseas officers. He also said when Lagumot Harris was appointed General Manager he would have been regarded as an "A" grade officer in terms of the overseas terms and conditions, however, he was unaware whether Lagumot Harris was given a contract or not, nor upon what terms and conditions he was employed.

The Defendant did not produce any other evidence.

The Law

In his final submissions, Counsel for the Defendant pressed that the case was similar to the old cases involving Crown servants who were employed at the pleasure of the Crown. As a result, at

the pleasure of the Board, Counsel intimated the Plaintiff could be dismissed summarily without notice, without any prior hearing, and without giving reasons. He submitted that **Barratt v Howard & Ors** [2000] FCA 190 supported his contention.

Before embarking on this, it is well to consider the legislative background. The Plaintiff was not a Crown servant but a servant appointed pursuant to Section 20 of the Nauru Phosphate Corporation Act 1969, which act established a statutory corporation in the Republic of Nauru with specific objects and powers contained within Sections 16 and 17 of the Act.

Furthermore, the Republic of Nauru under its Custom and Adopted Laws Act 1971-76 adopted the common law in force in England on the 31st day of January 1968. Further, Sub-section (4) of Section 4 of the Custom and Adopted Law Act 1971-76 reads as follows:-

> "(4) The principles and rules of the common law and equity adopted by this section may from time to time in their application to Nauru be altered and adopted by the Courts to take account of the circumstances of Nauru, and of any changes of those circumstances, and of any allocations or adaptations of those principles and rules which may have taken place in England after the thirty-first day of January, 1968, whether before or after the commencement of this Act, but –
>
> (a) nothing in this subsection shall be taken as requiring that any principle or rule of the common law or equity adopted by this section be altered or adapted in its application to Nauru; and
>
> (b) a principle or rule of the common law or equity adopted by this section shall not be altered or adapted in its application to Nauru unless the Court which

makes the alteration or adaptation is satisfied that the principle or rule so altered or adapted will suit better the circumstances of Nauru than does the principle or rule without that alteration or adaptation.

Section 5 of the said act makes it clear that the common law has force and effect in Nauru only so far as the circumstances of Nauru and the limits of its jurisdiction permit, and only so far as the common law is not repugnant to or inconsistent with the provisions of the Custom and Adopted Laws Act, or of any Ordinance or Act currently in force.

i. **The Pleadings**

The original writ was issued along with the Statement of Claim on 7 January 1998. After a somewhat halting start, a defence was pleaded to the overly optimistic statement of claim on 5 March 1998. Following a change of counsel, the Plaintiff pleaded an amended statement of claim on 10 May 1999 to which a defence was filed on 21 July 1999. The Plaintiff filed a Reply on 17 August 1999.

The amended Statement of Claim more conventionally pleaded the contract, such as it was, and implied that the General Conditions of Employment of the Defendant as applicable to overseas employees should be applied to the case in hand. The Defendant denied that the Conditions of Employment applied and added that such conditions only applied to overseas employees. The Defendant further stated that in dismissing the Plaintiff, the Board of the Defendant had lost confidence in him. The Reply of the Plaintiff stated that loss of confidence did not warrant summary dismissal and that such a dismissal should have been on notice. Further, in the Plaintiff's Reply, it asserted that in the absence of specific

written terms and conditions the General Condition of Employment operated except for provisions specifically applied to staff engaged from overseas.

What is noticeable here is that the pleadings are based on a breach of contract such as it is, and not seeking judicial review of administrative action which would be based on public law.

ii. **The Relief Sought**

The Plaintiff sought reinstatement without loss of benefits or entitlements. Alternatively, he sought severance pay of $170,000.00 based on his salary for five years together with interest from the date of dismissal 19 February 1997. He also sought a food allowance of $12,000.00 for one year from the date of dismissal. There is also in his Reply an assertion that three months notice should have been given of his dismissal. It seems that this was a fall back relief. This was further brought out in evidence where assertions were made by the Plaintiff that the NPC had promised him a payment in lieu of three months notice.

The Plaintiff alleged that the NPC, through its Chairman, had offered the Plaintiff payment in lieu of three months notice. This was a bare assertion. It was further alleged that the Board had passed a resolution that such an amount be paid, and that he, the Plaintiff, had seen such a resolution. The Defendant was unaware of such a resolution. The Board Minutes were not called for nor produced. The Chairman was not called to give evidence. There was certainly no admission by the Defendant on this matter, and the question was not substantiated. The explanation may well lie in the fact that it may have represented a negotiation stance by the Defendant prior to the hearing of the

matter. It was not something that the Court could consider unless there was before it more substantial evidence of a commitment to pay by the Defendant.

iii. **The Position at Common Law**

"At common law a master is not bound to hear his servant before he dismisses him. He can act unreasonably or capriciously if he so chooses but the dismissal is valid. The servant has no remedy unless the dismissal is in breach of contract and then the servant's only remedy is damages for breach of contract." **Malloch v Aberdeen Corporation** [1971] 2 All E.R. 1278 per Lord Reid at 1282.

iv. **The Right to be Heard**

In **Ridge v Baldwin** [1963] 2 All E.R. 66 at 71, Lord Reid considered that there were three classes of employment dismissals in terms of the right to be heard, "dismissal of a servant by his master, dismissal from an office held during pleasure, and dismissal from an office where there must be something against a man to warrant his dismissal."

The matter of dismissal in a pure case of master and servant has the outcome as outlined by Lord Reid in the quoted passage above from **Malloch v Aberdeen Corporation**. There was no right to be heard from an office held during pleasure (**Ridge v Baldwin** at 72). In the third class, there is "an unbroken line of authority to the effect that an officer cannot lawfully be dismissed without first telling him what is alleged against him and hearing his defence or explanation." (**Ridge v Baldwin** at 72 per Lord Reid.)

The question arises into what class of case the Plaintiff falls. Does he necessarily attract a public law breach of duty by the Board of the Defendant? This matter had the attention of the Court of Appeal in England in **R v East Berkshire Health Authority ex parte Walsh** [1984] 3 All E.R. 425, where a senior nursing officer had been dismissed. The nursing officer sought judicial review of the dismissal on grounds, *inter alia*, of breaches of the rules of natural justice in the procedures leading up to the dismissal. The employer health authority raised the point whether the applicant appropriately could bring proceedings for judicial review.

Sometime earlier in **Malloch v Aberdeen Corporation**, a case involving the dismissal of a teacher under the Schools (Scotland) Code 1956, Lord Wilberforce in answering the argument of employment held at pleasure made a strong statement of distinguishing such cases from those backed by incidents of employment laid down by statute. He said (**Malloch v Aberdeen Corporation** at 1295) as follows:-

> "The difficulty arises when, as here, there are other incidents of the employment laid down by statute, or regulations, or code of employment or agreement. The rigour of the principle is often, in modern practice, mitigated for it has come to be perceived that the very possibility of dismissal without reason being given – action which may vitally affect a man's career or his pension – makes it all the more important for him, in suitable circumstances, to be able to state his case and, if denied the right to do so, to be able to have his dismissal declared void. So, while the Courts will

necessarily respect the right, for good reasons of public policy, to dismiss without assigned reasons, this should not, in my opinion, prevent them from examining the framework and context of the employment to see whether elementary rights are conferred on him expressly or by necessary implication, and how far these extend."

However, with Malloch's case in mind, Lord Donaldson MR in **R v East Berkshire Health Authority ex parte Walsh** at 430 said –

"It is the existence of these statutory provisions which injects the element of public law necessary in this context to attract the remedies of administrative law. Employment by a public authority does not per se inject any element of public law. Nor does the fact that the employee is in a `higher grade' or is an `officer'. This only makes it more likely that there will be special statutory restrictions on dismissal or other underpinning of his employment. It will be this underpinning and not the seniority, which injects the element of public law. Still less can I find any warrant for equating public law with the interest of the public. If the public through Parliament gives effect to that interest by means of statutory provisions, that is, quite different, but the interest of the public per se is not sufficient."

(v) **The Position of the Plaintiff so far as Public Law is Concerned**

The Plaintiff was at pains to demonstrate to the Court that he held an important post in the Corporation, and so it might have been. However, it was not a statutory post created by the Act itself, such as the Chief Executive Officer of the Nauru Air Corporation pursuant to Section 23 of the **Nauru Air Corporation Act** 1995. The Plaintiff was employed under the general staff provision of Section 20 of the Act. When the Managing Director provision was repealed, the General Manager did not step into that role, nor alternatively, was he accorded a special statutory status.

He was, in fact, simply the recipient of a letter not even from the Board, as one might expect, under Section 20 but from the Personnel Manager advising him of appointment and the fixed salary. There are no mention of terms and conditions and no evidence was led to the Court of such specific terms and conditions. It was alleged by the Plaintiff that the general conditions applicable to overseas appointments extended to him. It is noticeable under those conditions that three months written notice is required by either party to terminate service in the case of senior management. Neither party to the current proceedings alleged that the Plaintiff was dismissed in terms of serious neglect, refusal of duty, or misconduct, which under those conditions may have attracted summary dismissal.

In the case of the Plaintiff, there are no statutory conditions either under the Act or contained in any regulations or any other conditions established by the Board under Section 20, which would raise a public law matter. Through absence of all evidence to the contrary, one cannot but conclude that the Plaintiff was employed on a pure master and servant basis by the Board. A public law question does not arise and, therefore, there is not a question of denial of natural justice. Reinstatement is not an available remedy. The appointment was held at pleasure.

(vi) **Did the Contract incorporate any conditions requiring notice of termination?**

The only question remaining is whether in express or implied terms there are contractual terms requiring some form of notice, written or otherwise. It was pressed both in the pleadings and during the hearing, that the conditions of employment, still extant, that applied to employees recruited from overseas should be incorporated by implication in the contractual conditions of the Plaintiff. But those conditions are quite specific. They are only incorporated for those employees from overseas signing a Tropical Service Agreement recording remuneration, position for which engaged, and their specific acceptance of the `Conditions of Employment' as outlined. That agreement is a fixed term agreement, not at pleasure, and has specific forms of termination, conditions of travel and transport of effects, leave, student travel and allowances, accommodation and messing. Such conditions cannot by implication be considered to be part of the contract entered into by the Plaintiff.

I am surprised that even the Conditions of Employment for overseas employees have no expressed authorisation by the Board in the body of the document. The only light thrown upon the issue in the course of the hearing was when Mr. Kaierua, who gave evidence for the Defendant, was asked whether the Conditions of Employment document for overseas employees was matched by any document for local employees. His answer was that local management had been trying to get something along these lines for some time but nothing had materialised.

It may come as some surprise that there are no laid down terms and conditions of employment for Nauruan professional and other staff. Certainly none were produced in evidence to the Court. This could be overcome by written personal contracts for

employees , but this certainly did not exist so far as the Plaintiff was concerned in this case. Whilst Mr. Kaierua made a desultory comment in his evidence that Mr. Lagumot Harris may have been treated as an `A' grade officer when General Manager, he was unaware whether he had a written contract or not or what, if any, specific conditions had been applied to him.

Conclusion

On balance, it is clear that the Plaintiff was employed under a pure master and servant contract whereby the Board has power to dismiss for whatever or no reason and without notice. In which case, the letter from the Chairman of the Board dated 19 February 1997 summarily dismissing the Plaintiff was effective.

There was no basis in law for incorporating a notice period entitling the Plaintiff to be paid for that notice period in lieu of notice, nor was there any evidence of terms or conditions applicable to the Plaintiff within the Corporation requiring notice of termination. All claims for relief are rejected. The action is dismissed with costs.

Order

Action dismissed with costs to be taxed.

Barry Connell
CHIEF JUSTICE

A Certified True Copy
of the Original:

SAMPATH B. ABAYAKOON
REGISTRAR, SUPREME COURT