JOHN A. F. ANSAH -V - ATTORNEY-GENERAL & OTHERS

High Court of Solomon Islands
(Muria, CJ.)
Civil Case No. 411 of 1993

Hearing: 4 May 1994

Judgement: 2 June 1994

R. Teutao for Applicant

P. Afeau for Respondents

MURIA, CJ: The applicant John Adolph Flynn Ansah a citizen of Ghana comes to this Court seeking the orders of certiorari and mandamus against the Commissioner of Labour and Director of Immigration. The orders sought are in respect of the decisions of the Commission of Labour cancelling the applicant's work permit and of the Director of Immigration not granting permit to enter and reside in Solomon Islands.

The brief background facts of this case are that the applicant came to Solomon Islands in 1991 and was employed by John Iro Funding Company (JIFCO) as an Adviser and Project Director to plan and upgrade the cocoa plantation and to be responsible for setting up a cocoa bean factory and other related activities. He was issued with a work permit on 1 January 1991 which was to expire on 1 January 1993. A resident permit dated 7 January 1991 was also issued to the applicant and which was to expire also on 1 January 1993.

The applicant's employer JIFCO was wound up by the High Court 23 September 1992. Consequently the applicant resigned from his employer on 1 October 1992, effective as from 2 October 1992.

Complaints were received by the Commissioner of Labour's office about the applicant. The complaints were investigated resulting in the applicant's work permit cancelled on 28 December 1992. The resident permit naturally came to its end on 1 January 1993. Attempts had been made by the South Pacific Cocoa Products Limited (SPCP) Ltd to have the applicant's work permit and residence permit renewed but no work permit or residence permit had been renewed.

On 6 January 1993, the Director of Immigration notified the applicant that since his residence permit expired on 1 January 1993 and had not been renewed, he must leave the country on the first available plane. On 19 January 1993 the applicant appealed to the Minister. Pending the determination of his appeal, the applicant was granted an interim residence permit on 15 February 1993 for six months which expired on 1 June 1993. In this

connection a fee of $50.00 was paid for the interim residence permit and a further $30.00 deposit was paid as security.

On 31 August 1993, the Minister rejected the applicant's appeal against the Director of Immigration's decision that the applicant must leave the country immediately as his residence permit had been refused to be renewed. The decision by the Director of Immigration not to grant residence permit followed from the cancellation of work permit by the Commissioner of Labour on 28 December 1992.

Prior to the cancellation of his work permit on 28 December 1992, but after he resigned from JIFCO the applicant, through SPCP Ltd had applied on 16 November 1992 for a renewal of work permit to enable him to assist the SPCP Ltd on a project on Cocoa Butter (Oil) expelling. A fee of $100.00 had been paid for the application. The application by SPCP Ltd for work permit had been put to the Commissioner of Labour who said that he would not consider further application to employ the applicant" until all matters are settled."

The main argument for the applicant is that the earlier work permit No. 942/90 was prematurely cancelled on 28 December 1992 and that it was done so without giving the applicant the opportunity to be heard on the allegations which were said to be the reasons for the cancellation. Further it was argued by Counsel for the applicant that despite the new application for work permit had been lodged on 16 November 1992 with appropriate fees paid, the second respondent simply refused to consider that application in view of the cancellation of the earlier permit.

The alternative argument put by Counsel on behalf of the applicant is that the application for a new work permit had not been considered because the applicant did not pay $2,000.00 to Mr. Bosoboe, a Senior Labour Officer in the second respondent's office. This essentially is an allegation of corruption against the senior public officer in the Government service.

The legal position of aliens who wish to undertake employment in Solomon Islands is that provided under section 68 of the Labour Act which provides:

"(1) No person shall employ an immigrant or non-indigenous worker unless such worker has obtained from the Commissioner a work permit and the employment relates to the conditions of such work permit.

(2) No immigrant or non-indigenous worker whether employed or self-employed shall work in the Solomon Islands without a work permit from the Commissioner which shall specify the work which such immigrant or non-indifenous worker may undertake.

(3) Any immigrant or non-indegenous worker who wishes to work in the Solomon Islands shall, in addition to the provisions of section 8 of the Immigrantion Ordinance, make application in the prescribed form to the Commissioner for a work permit provided that such application may be made on behalf of an immigrant or non-indigenous worker by any prospective employer".

That section makes it clear that no immigrant or non-indigenous person shall obtain employment in Solomon Islands unless such person has a work permit issued to him by the Commissioner of Labour. The types of work to be undertaken by such person will also be specified in the work permit.

The expression used in the section is "non-indigenous worker" which is defined in section 2 of the Labour Act as -

"any person who is not entitled to enter Solomon Islands without complying with section 8 of the Immigration Act."

The applicant in this case is a non-indigenous worker and as such he is required to have a work permit to undertake employment in this country. He obtained one which had been cancelled by the second respondent on 28 December 1992.

The power to cancel work permit is vested in the Commissioner of Labour. That power can be found in the Work Permit Rules 1985. Rule 5 of the 1985 Rules provides:

"5. The Commissioner may revoke any work permit granted or renewed pursuant to rule 3(1) at any time if, at that time -

(a) he becomes aware of and is satisfied that the applicant has filled in a false particular in his application for the work permit; or

(b) he is satisfied that the immigrant or non-indigenous worker to whom the work permit has been renewed has contravened any of the conditions of the work permit referred to in rule 6"

and rule 6 provides:

"6 (1) No immigrant or non-indigenous worker who has been granted a work permit or whose work permit has been renewed pursuant to rule 3(1) shall -

(a) proposed, accept or comply with any alterfiation -

(i) in the terms of service of his employment;

(ii) in the description of the worker for which he was employed by his present employer to undertake;

(b) *undertake any work other than those described in the application for his work permit;*

(c) *undertake any work in any place other than the place where he is to undertake the work as indicated in the application for his work permit; or*

(d) *undertake any work with any employer other than the employer referred to in the application for his work permit,*

without the prior approval of the commissioner."

It is not disputed that the applicant's Work Permit No. 942/90 had been cancelled by the second respondent on 28 December 1992. The applicant, however, says that the cancellation was done contrary to the rule of natural justice, in that, he was not given the chance to be heard.

The evidence of Mr. Bosoboe as disclosed in his affidavit and before the Court is that following complaints received by the office of the second respondent regarding the activities of the applicant, Mr. Bosoboe was directed to investigate those complaints. He carried out his investigation into the applicant's activities during the months of June and July 1992.

It is not clear what complaints were investigated by Mr. Bosoboe in June or July 1992 but it appeared that the complaints made at the time were those from Mr. Bobby Kwaomae. It was as a result of Mr. Kwaomae's complaint that the applicant had set up his own office that the second respondent authorised Mr. Bosoboe to investigate into that complaint.

Also in his evidence in Court, Mr. Bosoboe stated that following Mr. Kwaomae's complaint, he went to the applicant and asked the applicant if he was still working for JIFCO and the applicant replied saying that he was, although the machines in the office were his.

If I accept what Mr. Bosoboe said in Court, then it is consistent with what the applicant's position was at the time. The applicant did not resign from the JIFCO company until 1 October 1992 as evidenced by Annexure "D" in Mr. Bosoboe's affidavit.

Again, Mr. Bosoboe in his sworn evidence on oath maintained that it was as a result of his investigation in June and July 1992 and the letter from the applicant's former employer JIFCO that the applicant's work permit was cancelled. If that was so, then only the contents of the complaints investigated in June and July 1992 were actually put to the applicant. This is because, the letter written by the applicant's former employer was written on 12 December 1992.

There is no evidence to show that the contents of the letter of 12 December 1992 had been put to the applicant by Mr. Bosoboe as he swore on oath that the only times he visited the applicant were during the course of his investigation in June and July 1992 at which time the letter was not yet in existence. Likewise there is no evidence that the letter of 12 December 1992 was ever brought to the attention of the applicant by his former employer. It was not copied to him. It is therefore not surprising that he swore on oath that he was never given the opportunity to answer the allegations contained in that letter.

When one turns again to Mr. Bosoboe's affidavit, paragraph (4) clearly tells the reason for the cancellation of the applicant's work permit. It states:

> *"4. The cancellation of the Work Permit came as a result of complaints by the applicant's employer, John Iro Fund. Co., contained in a letter dated 12 December 1992/ 105/92. Attached hereto and marked "C" is a true copy of that letter."*

That was the letter that contains complaints which formed the basis for the cancellation of the work permit. Yet there was no evidence that it was put to the applicant. I must accept therefore that the applicant did not know about the allegations in that letter.

I accept that there had been investigation into the activities of the applicant during the period of June and July 1992. But in his own words, Mr. Bosoboe clearly showed that the applicant's work permit was cancelled on the basis of the complaints raised in the letter of 12 December 1992, a document that was only known to the Immigration office, Commissioner of Labour, Hon. Minister of Trade & Commerce and Chairman of Foreign Investment.

It is interesting to see that having received a copy of the letter, the then Minister for Commerce, and Primary Industries made the note:

> *"PS,*
> *If these allegations are true, make sure the man leaves.*
>
> *Thank you.*
>
> *(Signed)*
> *MCPI "*

Also, on the same copy the Commissioner of Labour (Ag) noted:

> *"SLO (E)*
> *Recall & cancel his Work Permit A.S.P & advice DOI.*

(Signed)
COL (Ag).
28.12.92"

Obviously the evidence before the Court does not show that the allegations in the letter were put to the applicant. Yet the Commissioner of Labour(Ag) instructed the SLO(E) to proceed to recall and cancel the applicant's work permit.

There is undoubtedly a discretion vested in the Commissioner of Labour to revoke any work permit granted or renewed at any time if he is satisfied that the immigrant or non-indigenous worker has contravened any of the conditions of the work permit. The question is: how can the Commissioner of Labour, in this case, be satisfied of the allegations, if the applicant's response to those allegations had not been obtained?

In this regard, one is driven to the conclusion that for the authority to be 'satisfied' before exercising his discretionary power, an opportunity to be heard must be accorded to both sides of the dispute. This is part of the duty to act fairly, a long-standing principle which must be observed by those who decide on matters that are prejudicial to the party against whom such matters are brought. The principle implies an obligation to adopt a fair procedure when carrying out administrative functions. In *de Smith's Judicial Review of Administrative Action, 4th Ed.* the learned author dealt with this associated aspect of the right to a hearing. He said at pages 238 - 239:

"That the donee of a power must 'act fairly' is a long-settled principle governing the exercise of discretion, though its meaning is inevitably imprecise. Since 1967 the concept of a duty to act fairly has often been used by judges to denote an implied procedural obligation. In general it means a duty to observe the rudiments of natural justice for a limited purpose in the exercise of functions that are not analytically judicial but administrative. Given the flexibility of natural justice, it may not have been strictly necessary to use the term "duty to act fairly" at all, but its usage is now firmly established in the judicial vocabulary. Its value has lain in assisting the extension of implied procedural obligations to the discharge of functions that are not analytically judicial, and in emphasising that act in accordance with natural justice does not mean forcing administrative procedures into straitjacket."

The cases cited by the learned author on this notion of a duty to observe the requirement of acting fairly include *Re H.K. and R -v- Home Secretary, ex parte Mughal* [1974] QB 313 where an immigration officer had been said to have a duty to tell a would-be immigrant that he has doubts about the latter's age an to give him a fair chance to allay them, *R-v Gaming Board for Great Britain, ex p. Benaim and Khaida* [1970] QB 417 where it was said that the Board had a duty to divulge information prejudicial to applicants; *Re Pergamon Press Ltd* [1971] ch. 388 and *Maxwell -v- Dept. of Trade and Industry* [1974] QB 523 where it was said that company inspectors have a duty to inform a person of prejudicial allegations and to consider his reply before making their report.

Again this duty to act fairly necessarily entails that a person must be notified of the allegations against him. As Lord Denning MR said in *Kanda -v- Gov't of the Federated State of Malaya [1962] AC 322, at 337:*

"If the right to be heard is a real right, which is worth anything, it must carry with it a right in the accused man to know the case which is made against him. He must know what evidence has been given and what statements have been made affecting him and he must be given a fair opportunity to correct or contradict them"

Although the principle is very much of a criminal procedure, it has been applied in the administrative law. As in *Kanda* the Privy Council held that the dismissal of a police officer was void where the adjudicating officer was in possession of a report of a board of inquiry which made charges of misconduct and was not disclosed to the police officer.

The case of *Kanda* had been applied in this jurisdiction in *Waroka -v- Mostyn Habu and The Attorney General* CC 41 of 1992 where this Court said at page 14 of the judgement:

"It is too elementary to repeat here the rules of natural justice requiring a person not to be punished unheard, particularly when a right to be heard has been conferred by law such as that provided under Regulation 50 of Public Service Commission Regulations. In such a case a person must be told what evidence has been given and what statements made against him and he must be afforded the opportunity to respond to such evidence and statements."

Some of the allegations in the letter of 12 December 1992 from the former employer of the applicant in the present case were of private nature. Nevertheless, those allegations contained in that letter were the ones which the second respondent relied on to cancel the applicant's work permit. As such the applicant ought to have been given notice of those allegations as well although they were of a private nature. In *Chief Constable of the North Wales Police -v- Evans [1982] 3 ALL ER 141*, a probationary police officer was required to resign because of allegations about his private life. The allegations were not put to him and the Court held that the allegations, though about his private life, ought to be put to the officer for his comments.

The discussions and the authorities cited are very much relevant to case now under consideration, even if not only, for the purpose of showing the situations in which the *audi alteram partem* rule may be required to be observed.

As I have said, the evidence in this case does not show, and I am not persuaded that there is any, that the document dated 12 December 1992 containing the allegations which form the basis for the cancellation of the applicant's work permit had been put to the applicant.

Therefore on the authorities cited, the cancellation of the applicant's Work Permit No. 942/90 on 28 December 1992 must be void and of no effect and must be quashed.

I now turn to consider the applicant's application for a renewed work permit. That application, on the evidence, was lodged on 16 November 1992 by SPCP Ltd, a prospective employer of the applicant together with a fee of $100.00.

Section 68 of the Labour Act must also be noted that it permits a prospective employer to apply for a work permit for any immigrant or non-indigenous worker who wishes to work for that prospective employer. That is clearly shown by subsection (3) of the section.

No doubt, pursuant to that provision, the SPCP Ltd lodged the application on behalf of the applicant on 16 November 1992 which was after the applicant had resigned from his former employer JIFCO and before the cancellation of the previous Work Permit No. 942/90 on 28 December 1992. There is some dispute as to whether or not the applicant had already been employed by the SPCP Ltd at the time of the application for a renewal of work permit. On the evidence before the Court, I am satisfied that SPCP Ltd had not yet employed the applicant at the time of applying for renewal of work permit or after. But rather SPCP Ltd was a prospective employer of the applicant.

The applicant's main argument however is that despite the lodgement of the application and fees paid, it has never been heard.

Rule 2 of the work permit Rules 1985 provides for the manner of applying for a work permit. It provides:

> *"2 (1) An application under 68(3) of the Labour Act for the grant or renewal of a work permit shall be made in Form 1 of the Schedule.*
>
> *(2) No application for the grant or renewal of work permit shall be considered by the Commissioner unless the applicant has paid to the Commissioner a fee of one hundred dollars."*

It will be observed that the rule makes it mandatory that an application for work permit to be in accordance with Form 1 of Schedule 1 of the Rules. It is also a mandatory requirement for the Commission of Labour to consider the appeal only where the required fee has been paid. Once those two conditions are fulfilled, the Commissioner of Labour is obliged to consider the application.

What is the position in this case? After lodging the application on 16 November 1992, Mr. Kama of SPCP Ltd wrote again to Commissioner of Labour on 8 December 1992 to follow up among other things, the application. On 28 December 1992 Mr. Bosoboe of the

Commissioner of Labour's office wrote to the applicant's former employer advising them of the cancellation of the Work Permit No. 942/90 and that the applicant must prepare for his repatriation immediately.

On 6 January 1993, the Director of Immigration wrote to the applicant advising him to leave the country immediately on the first available transport. On 19 January 1993, Mr. Kama appealed to the Minister against the decision of the Director of Immigration. In that letter of appeal Mr. Kama had specifically mentioned about the application for a work permti lodged on 16 November 1992 which had not yet been considered despite the reminder on 8 December 1992.

On 28 January 1993, Mr. Kama of SPCP Ltd lodged an application for residence permit with a fee of $160.00 paid. On 29 April 1993 Mr. Kama again wrote to Commissioner of Labour reminding him of the application lodged on 16 November 1992 for work permit and enquired of the reason for the delay in considering or responding to the application.

On 27 July 1993, Mr. Kama of SPCP Ltd wrote to The Hon. Minister of Commerce & Primary Industry advising the Minister that there had been no response to the application for work permit lodged on 16 November 1992 and the application for renewed permit lodged on 28 January 1993.

It was on 30 July 1993 some 8 months later that Mr. Bosoboe of Commissioner of Labour's office wrote to SPCP Ltd acknowledging the receipt of the application for work permit for the applicant. The applicant's appeal against the Director of Immigration's decision not to grant residence permit was rejected by the Minister on 6 September 1993.

In so far as the application for work permit, Mr. Bosoboe's letter of 30 July 1993 is crucial. This is so because that was the last correspondence from the second respondent's office to the applicant about the application. As that letter is important, I shall set it out in full:

> *"Dear Sir,*
>
> ***Re: Work Permit Application - J.A.Flynn***
>
> *Your application for employing the above was received, but put to pending until all the investigation which is carryed out by this Division is complete.*
>
> *The above Immigrant Worker was investigated on since June 1992 for allergelly working outside the condition of his Work Permit, while he was employed by John Iro Funding. This is why when your application was received in 16th November 1992 it was put to pending, until all the investigation was completed. When the Commissioner of Labour had completed his investigation, and also after his employer had submit his report, that he had no knowledged of the above setting up his own office in Honiara, the Commissioner is satisfied that he was contravening Section 6 (1) of the Work Permit rules, 1985 and ordered cancellation of his Work Permit under section 5 (b) of the same rule, on the 28th December 1992*

Therefore your company, cannot possibly be given the above Immigrant worker.

Since then Mr. Flynn should have cease all other activities and prepared for his reparation, however as he is still here doing other activities while his permit has been cancelled, the Commissioner has referred the matter to the CID Police Branch to further investigate and possibly legal action.

In the mean-time Mr. Flynn has no Work Permit and the Commissioner of Labour will not consider further application to employ the above until all matter are settled.

Should you require further information, please contact us.

Yours faithfully

D.Bosoboe
for: commissioner of Labour
Ministry of Commerce E & Trade"

It cannot be doubted from that letter that the application for work permit for the applicant was still *"pending until all the investigation .. is completed"* and that no further application to employ the applicant would be considered *"until all matter are settled."* That was the last time that was heard about the application for a work permit.

On 2 November 1993, a Notice of intended deportation was issued against the applicant.

What is the legal position of the applicant in relation to his application for a work permit? In my view rule 2(1) and (2) of the 1985 Rules confers on the applicant an interest or a legitimate expectation to have his application considered. This interest or a legitimate expectation arises out of the implied assurance under rule 2 (1) and (2) that the Commissioner of Labour will consider the application for the grant or renewal of a work permit provided the application was made in Form 1 and the required fee has been paid, both of which had been done. That is the practice to be followed when an application for work permit is made. The applicant fulfils his part and the Commissioner of Labour impliedly promised to honour his part by considering the application. That surely must give the applicant a reasonable basis upon which to expect his application to, at least, be considered by the second respondent.

This concept of "legitimate expectation" was first developed by Lord Denning MR in *Schmidt -v- Secretary of State for Home Affairs* [1969] 2 ch D. 149. In that case Schmidt was an alien who had been given permission to enter the U.K. and study for a limited period. When that period expired the Home Secretary refused to extend Schmidt's period of stay in the U.K without hearing any representations from Schmidt. Although on the particular facts of that case Schmidt had no legitimate expectation, Lord Denning enunciated the general principle in the following terms:

*"The speeches in **Ridge -v- Baldwin** [1964] AC 40 show that an administrative body may, in a proper case, be bound to give a person who is offered by their decision an*

opportunity of making representations. It all depends upon whether he has some right or interest or, I would add, some legitimate expectation, of which it would not be fair to deprive him without hearing what he has to say"

The concept of legitimate expectation has been adopted in English courts as well as by the courts in Commonwealth countries. In *O'Reilly -v- MacKman* [1983] 2 AC 237 and *Re Finlay* [1985] AC 318, the House of Lords recognised the application of the concept of legitimate expectation as providing the basis of *locus stand* in judicial review proceedings.

A more fuller analysis of the concept was made by Lord Diplock in the case of *Council of Civil Service Unions -v- Minister for Civil Service* [1985] AC 374 ("the GCHQ case) where he said:

"The decision must affect some other person either -

(a) by altering rights or obligations of that person which are enforceable by or against him in private law; or.

(b) by depriving him of some benefit or advantage which either:

(i) he had been permitted by the decision maker to enjoy and which he can legitimately expect to be permitted to continue to do unless there has been communicated to him some rational grounds for withdrawing it on which he has been given an opportunity to comment; or

(ii) he has received assurance from the decision maker will not be withdrawn without giving him first an opportunity of advancing reasons for contending that they should not be withdrawn."

On the question of honouring a promise or an undertaking Lord Fraser said in *A -G of Hong Kong -v- Ng Yuen Shiu [1983] 2 AC 629 at 638:*

"when a public authority has promised to follow a certain procedure, it is in the interest of good administration that it should be act fairly and should implement its promise, so long as implementation does not interfere with its statutory duty."

On the other hand caution should be exercised when applying the doctrine of legitimate expectation. As Lord Templeman cautioned in *Lloyd -v- McMahon [*1987] AC 625 over the argument that a legitimate expectation of being invited to an oral hearing is a fundamental right. At page 714 Lord Templeman observed:

" Counsel for the appellants ... submits that a legitimate expectation of being invited to an oral hearing is an objective fundamental right which, if not afforded, results in a breach of law or breach of natural justice which invalidates any decision based on

written material. This extravagant language does not tempt me to elevate a catchphrase into a principle."

In a more recent case of *R -v- ITC,* ex p. TSW (1992) Times (H.L) Lord Donaldson MR also cautioned that legitimate expectation is not a magic password.

With those caution in mind, I am of the view that the concept of legitimate expectation can be suitably applied in Solomon Islands in areas where public authorities are expected to make decisions affecting people's rights or interests and the decisions are made following certain procedures.

In the present case, the applicant having made the application in Form 1 and paid the required fee, the Commissioner of Labour should have considered the application. The applicant has a legitimate expectation that the second respondent ought to consider this application as stipulated in rule 2(2) of the 1985 Rules. That had not been done. The decision or more accurately,the lack of it, not to consider the application in this case must clearly deprive the applicant of the benefit or advantage of having his application heard, which in the past he had been permitted to enjoy and which he legitimately expected to continue to enjoy.

Despite Mr. Bosoboe's insistence that the Commissioner of Labour had actually decided not to renew the applicant's work permit and in support Mr. Bosoboe relied on his letter of 30 July 193 Annexure "J" to his affidavit, that same letter clearly shows the opposite. No decision has ever been taken on the applicant's application which was ***"still pending."*** The reason for no decision being made on that application is because it has never been considered as it should have been done under the rules.

In those circumstances an order of mandamus must be issued to have the second respondent consider the application.

The power to grant work permit belongs to the Commissioner of Labour. The law gives him that power. This Court ought not force him to grant or not to grant a work permit. What this Court does is to exercise its power of judicial review under established principles to ensure that as a public officer charged with a duty of discharging a public discretion, he must discharge that function judiciously.

On the question of the alleged corrupt practice by Mr. Bosoboe of demanding $2,000.00 from the applicant in order that he process the applicant's work permit, this Court requires that such an allegation be proved to the entire satisfaction of the Court. Allegations of corruption against public officers are very serious and the test is a strict one. This Court had already set out the standard required to establish allegations of corrupt practice. The standard has been set out in the number of election cases recently dealt with by this Court. See the cases of *Alisae -v- Salaka [1985-1986] SILR 31; Mamata -v- Maetia CC115/84,*

Maetia -V- Dausabea CC266/93; Wate -v- Folotalu CC241/93; Hite -v- Paul CC207/93 and Ulufa'alu -v- Saemala CC204/93.

The allegation here comes from the applicant himself and rebutted by Mr. Bosoboe. The applicant seeks to support his allegation by Mrs. Ma'aramo's evidence. Unfortunately that too is insufficient and one that was passed on to her by the applicant. Such evidence alone cannot be considered sufficient to found such serious allegation of corrupt practice.

On the evidence I reject the allegation against Mr. Bosoboe of demanding $2,000.00 from the applicant.

The Court, however, must grant the application.

I make the following order:

1. *An order of certiorari shall issue to quash the second respondent's decision made on 28 December 1992 cancelling the applicant's Work Permit No. 942/90.*

2. *An order of mandamus sought directing the second respondent to grant a work permit to the applicant is refused.*

3. *Relief of Mandamus granted directing the second respondent to consider the application lodged on 16 November 1992 for work permit for the applicant.*

4. *Relief sought in paragraphs 4 & 5 of the Notice of Motion declined.*

Costs to the applicant.

G.J.B Muria

CHIEF JUSTICE