

BETWEEN: BENA NAGLA VORES
Claimant

AND: SOUTH SEA SERVICE
Represented by Carissa Jacobé
Defendant

Date of Hearing and Judgment: Monday 23rd September, 2024

Venue: Efate Island Court – Court-Room, Joint-Court Ontop,
Port-Vila

Before: Justice F. Thomas (Presiding Justice)
Justice L. Sakita (Member)
Justice S. Paton (Member)

Island Court Clerk: Alida Alain

Appearances: Claimant - Present
Defendant – Not Present (with reasons provided)

Copy: Court File

JUDGMENT

1. INTRODUCTION

This judgment concerns an application by the Defendant, South Sea Services, to strike out the claim filed by the Claimant, Bena Nagla Vores, in Case No. 24/2911 IC/DEBT. The Defendant's application is made on the grounds that the claim has no merit and is vexatious in character.

2. RELEVANT LAW

The jurisdiction and procedures of the Island Courts are governed by:

- (1) **Island Courts Act [Cap 167]:** Establishes the Island Courts and sets out their civil jurisdiction, particularly in **Section 6**, which outlines their general authority to hear civil matters
- (2) **Island Courts (Civil Procedure) Rules:** These rules regulate how civil claims are handled in the Island Courts. **Rule 4(1)(a)** permits the Court to strike out a claim if the claimant fails to appear. Additionally, the Court has **inherent powers** to manage its proceedings and may strike out claims that are **meritless, vexatious, or an abuse of process**.



3. BACKGROUND

Bena Nagla Vores filed a debt application for Vatu 38,565, claiming misled information from South Sea Services Ltd. about the process for applying for "Sea Going Employment" with P&O Cruises Australia. The claimant claims he was misled into believing that submitting all required documents would lead to an interview and overseas employment. The claimant claims no job offer was made to him.

The Defendant South Sea Services Ltd. is a recruitment agency contracted by P&O Cruises Australia, denies misleading the claimant or forcing him to incur these expenses. The agency claims applicants are called for interviews after their applications have been screened and a specific job position becomes available.

4. DEFENDANT'S APPLICATION TO STRIKE OUT

The Defendant seeks to strike out the Claimant's claim, arguing that it lacks merit and is vexatious. The Defendant's position is that the Claimant voluntarily incurred the expenses as part of an application process, fully aware that such costs were his responsibility, and that there was no guarantee of employment or even an interview simply by submitting the documents.

5. COURT FINDINGS AND REASONING

- (1) South Sea Services operates as a recruitment agency for P&O Cruises Australia, not an employer.
- (2) Claimant's expenses were for personal identity and personal documents, standard requirements for employment applications.
- (3) Obtaining these documents is the applicant's responsibility, as stated on the application form.
- (4) The process of submitting documents leads to screening and interviews depend on available positions and successful screening.
- (5) Claimant's decision to incur these expenses was voluntary, and the risk of unsuccessful application rests with the applicant.
- (6) Claimant's claim of being misled is not supported by sufficient evidence.
- (7) The court finds that Claimant's claim for a refund for voluntary application expenses lacks a reasonable prospect of success and lacks legal merit.


6. ORDERS

- (1) For the reasons stated above, the Defendant's application to strike out the claim is hereby **GRANTED**.
- (2) The claim by Bena Nagla Vores against South Sea Services in Case No. 24/2911 IC/DEBT is **DISMISSED**.
- (3) There shall be no order as to costs.

DATED at Port Vila, this 23rd September, 2024.

BY THE COURT


 Justice S. Paton
 (Member)


 Justice F. Thomas
 (Presiding Justice)


 Justice L. Sakita
 (Member)

