



IN THE SUPREME COURT OF
THE REPUBLIC OF VANUATU
(Civil Jurisdiction)

Civil
Case No. 22/1040 SC/CIVL

BETWEEN: LENNON HURI AND HARDISON TABI
Claimant

AND: OFFICE OF ATTORNEY GENERAL
Defendant

Before: Hon. Justice EP Goldsbrough

In Attendance: Molbaleh E for the Claimant
Hurley, M, for the Defendant

Dates of Hearing: 28th August 2024
Date of Judgment: 17 November 2025

JUDGMENT

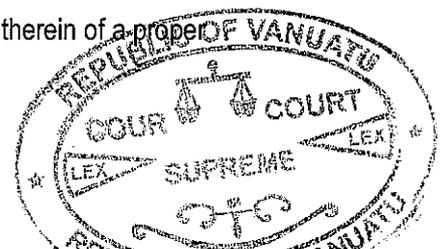
1. In a claim filed on 19 May 2022, the claimants, both then employees of the Chambers of the Attorney General, brought an action against the Attorney General as their employer in connection with their employment. They seek orders that the actions of the Attorney General in placing them where he did within the salary scales provided in a Government Remuneration Tribunal determination (GRT) be declared unjust, unfair, irrational and in breach of the rules of natural justice, and consequential orders for arrears of salary and payment of responsibility allowance.
2. The essence of the complaint is that the work they have both undertaken within the Chambers merits a higher salary level and, in particular, that they were not accelerated to higher levels with the same speed applied to another staff member who is a more recent recruit to the Chambers.
3. Mr Huri joined the office of the attorney general on 13 June 2013 and was appointed assistant senior state counsel on the 23rd of June 2016 at a salary scale JS 6.0. As part of his duties as an assistant senior state counsel, he was tasked with managing the litigation files assigned to him by the solicitor general. Following the GRT determination in 2016, he was placed on the PL 5.5 salary scale. On the 6th of June 2017, he was placed on the salary scale PL 6.5



4. Mr Tabi joined the office of the attorney general on the same date as Mr Huri. He was also appointed assistant senior state counsel on the 23rd of June 2016 at salary scale JS 6.0 and on the 1st October 2016 at salary scale PL 5.5. On the 8th of June, he was placed on salary scale PL 6.5, just two days after Mr Huri.
5. Both claimants remained on the same salary scale from the 1st of January 2017 until the 30th of June 2021, with neither promotion nor increment. It was around this time that the claimants became aware of differences in their salary scales compared to others'. They felt their workload was either similar to or larger than that of some other senior State Counsel. This was raised with their employer, but no satisfactory solution was found.
6. Also in 2021, another individual became an assistant senior state counsel, and he was placed at SPL 1.1. The claimants were then on the PL 5.5 salary scale, receiving a much lower rate of pay. The claimants were then managing lawyers, whereas the newcomer was not.
7. It is these discrepancies which the claimants cite as unfair.
8. In relation to Mr Tabi alone, there is a further issue of additional responsibilities as the managing lawyer for all land lease files. He claims an additional responsibility allowance, which he has never been awarded.
9. A defence was filed on the 5th of July 2022 denying the claim in its entirety.

THE EVIDENCE

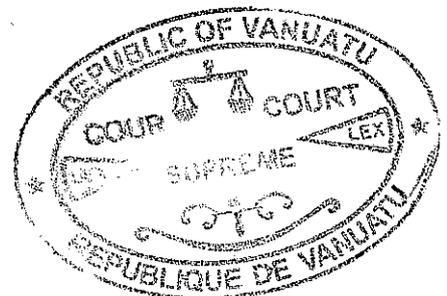
10. Evidence in the trial came from 2 sworn statements filed by Hardison Tabi and one sworn statement of Lennon Huri. Both were required for cross-examination. The attorney general filed two sworn statements, both of which were introduced into evidence, and he was required to attend for cross-examination. The evidence of JP Semeno, contained in a sworn statement filed on the 28th of October 2022, was admitted without cross-examination.
11. During his evidence office time with the attorney general's chambers, Lennon Huri agreed that he accepted a salary scale PL 5.5 when he was a claimant in JR 1817 of 2017. Following the GRT determination, he was put on PL 5.5, just one point below the maximum. After a second determination, he was put on PL 6.5 effective from the 1st of January 2017. He acknowledged PL 6.5 is at the very top of the salary structure for public lawyers, and he accepted that increase at that time. He referred to the judgment in J R1817 of 2017, and the finding therein of a proper



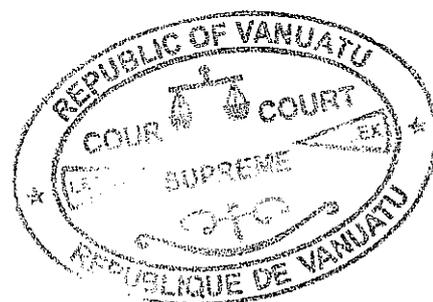
assessment having been undertaken by the Attorney General. In his view, the salary scale should reflect not only the experience required of a senior lawyer but also the workload and the number of cases assigned. It should capture, he said, how much work you are given. He acknowledged a staff appraisal and signed it, together with his immediate supervisor, the solicitor general, in which an increment was recommended, to SPL 1.1. He did not accept that increment

12. He complained about the lack of a particular scale for the post of assistant senior state counsel. Still, he acknowledged that he was offered a salary at the bottom of the SSL scale, meaning the actual difference in amount was only a little. He explained that this action was triggered by the promotion of another from SC to an ASSC at salary level SPL 1.1. In his words, "we wanted to be getting what he got just as quickly". Hence the suggestion that, from October 2016, he should have been on SPL 1.1 rather than a lower scale. Finally, he acknowledged that the attorney general had the discretion to determine where to place a person on the scale, based on various criteria, including experience and quality of work.
13. Evidence from Hardison Tabi followed much the same pattern. He acknowledged joining the chambers with virtually no experience, but he gained experience as he completed the work assigned to him. Following his performance appraisal, he was offered SPL 1.1, the same as the incoming lawyer, but again refused it. He wanted that promotion backdated. He acknowledged that, in discussions, the solicitor general had determined that responsibility for managing land lease cases was not an additional responsibility.
14. Evidence produced on behalf of the defence shows that both the claimants had started as junior lawyers, were accelerated following the GRT, were promoted after complaints and agreed with those advancements, and were parties to JR 1817 of 2017. It was suggested that they were jealous of the newcomer's rapid promotion.
15. The Attorney General accepted that there was no specific grade for an ASSC. In his view, an SCC is still a junior lawyer who is being prepared to become an SSC. His view was that they would not manage more files than an SSC. He produced figures to support that assertion. He expressed the view that managing more files should not simply equate to getting paid more, but that performance assessment should be the vehicle for promotion, not the number of files handled. He did express the view that the GRT could not be regarded as a great equaliser.

DISCUSSION



16. There are limits to how far back an employee may claim for unpaid emoluments. Still, no point is taken in this case, as it is not brought under employment legislation but rather as a Judicial Review of a decision. The defence is simply that the two claimants were promoted and had salary scales changed following the GRT, and as appropriate, based on their performance appraisals rather than workload.
17. As to the question whether an Assistant Senior State Counsel should be paid as a Senior State Counsel, the simple answer is no. An ASSC is working towards becoming an SCC and will hopefully do so. Promotion to that grade requires both a successful appraisal and, often, a vacancy within the Chambers. An ASSC will frequently perform the same work as an SSC, simply because they are trying to gain relevant experience.
18. The earlier acceptance of promotions and gradings goes towards the general notion that they were both content with their lot until they discovered how another was promoted, in their view, too quickly or at least more rapidly than they had experienced.
19. Did the assignment of Land Lease files amount to additional responsibility for Hardison Tabi? He agreed in evidence that the same work was covered in his contract of employment, and so he could not point to that, but submitted that he alone was assigned this non-litigious work.
20. It is, of course, for the claimants to establish on the balance of probabilities the substance of their claim. They must show that the actions and decisions of the Attorney General were unjust, unfair, irrational and in breach of the rules of natural justice. That was always going to be a difficult task.
21. Given the evidence, the claimants have singularly failed in that task. The process and decisions made in respect of each of them were always made in accordance with the rules of natural justice. They were neither unjust nor unfair. They were not irrational.



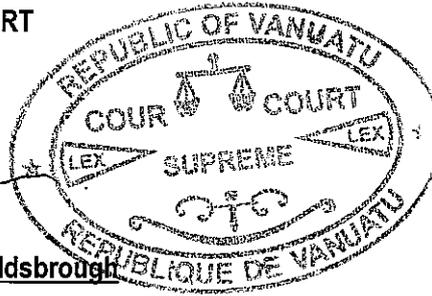
DECISION

22. The claim is dismissed. The costs of and incidental to this claim are awarded to the defendant, to be agreed or assessed.

Dated at Port Vila this 17th day of November 2025

BY THE COURT

EP Gold



Hon. Justice EP Goldsbrough