

IN THE HIGH COURT OF FIJI AT SUVA
CIVIL JURISDICTION

Application for Judicial Review No. 43 of 2003

IN THE MATTER of decision made on P October 2003
by the Public Service commission

THE STATE

V

PUBLIC SERVICE COMMISSION



EX PARTE: TOMASI LEWAI KAMA of Buiei Road, Laucala Beach Estate, Nasinu,
Technical Officer.

APPLICANT

STATE v PUBLIC SERVICE COMMISSION
EX PARTE TOMASI LEWAI KAMA

For Applicants • **Mr. Gavin O' Discoll**
For Respondents - **Ms. Vuniwaqa & Ms. Naidu (on instruction)**

RULING OF TAXATION

Facts

Mr. Justice Singh delivered Judgment on 6th April, 2004 in favour of the Applicant with costs to be taxed if not agreed,

The order of the Court was perfected and sealed on 25th June, 2004 by the Applicant.

The Applicant's Bill of costs for taxation was issued from the Court on 31st January, 2005 and was listed for mentioned on 24th February, 2005.

There was no sign of any agreement between the parties and the Respondent had sought for leave to file a reply. After a further extension, the Respondent had then filed their reply on 10th March, 2005.

The matter was adjourned for Ruling to this day (31/03/04).

Law

Order 62, rule 29 (1)(a)&(d) of the High Court (Amendment) Rules, 1998 provides

29-(1)".where a party is entitled to recover taxed costs or to require any costs to be taxed by a taxing officer by virtue of—

- a) A judgment, direction or order given in proceeding in the Court;
- b).
- c).
- d).he must begin proceedings for the taxation of those costs within three months after the judgment, direction order, award or determination was entered, signed or otherwise perfected."

Singh J's judgment was delivered on 6th April, 2004 and the Bill of costs was filed on 31st January, 2005 which has a 8 months lapse and 5 months outside the stipulated 3 months which the above rule allows.

However, the Applicant had perfected and sealed the Order on 25 June, 2004 which was still a 6 months lapse and 3 months outside the time allowed by the rules.

Findings

The Respondent had filed a submission in reply to the Applicant's Bill of costs and the Applicant had no chance to reply to this. There was no one to blame but the Applicant himself who was rushing the proceedings through and did not even take time to try and settle the matter.

It was clear from the Respondent's submission that they (Respondents) were willing to settle but the Applicant had insisted that the Bill be taxed and he did not seek leave to respond to the Respondent's reply.

This Bill of Costs Taxation Proceedings is way out of time and I have no idea as to why. There was no evidence to prove that the Bill of cost had gone to the negotiating table as it was supposed to be, Singh J had ordered that "**costs are to be taxed if not agreed.**"

It would have saved each party and the Court a lot of time, money and effort if they had gone to the negotiating table and try to settle.

Conclusion

I have no choice but to dismiss this taxation *application according to the Rule but* that will leave the Applicant with no remedy due to his own laxity.

However, I see at paragraph 14 of the Respondent's submission that they are willing to pay costs but, **a reasonable one.**

Order

Parties are to settle the costs between themselves in the next 7 days.

Adjourn to 7th April, 2005 for settlement at 2.15pm.



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E. Koroï
Taxing Officer

Thursday, 31st March, 2005
@02.15pm