

IN THE HIGH COURT OF FIJI

AT SUVA

CIVIL JURISDICTION

CIVIL CASE NO: HBC 206 OF 2024

BETWEEN : **JOSAIA VOREQE BAINIMARAMA**
PLAINTIFF

AND : **THE GOVERNMENT OF THE REPUBLIC OF FIJI**
THE ATTORNEY-GENERAL OF FIJI
DEFENDANTS

Counsel : **Mr D Sharma and Ms G Fatima for the Plaintiff**
Ms O Solimailagi and Mr T Cagilaba for the Defendants

Date of Hearing : **19 July 2025 & 16 August 2025**

Date of Judgment : **24 September 2025**

JUDGMENT

The Dispute

- [1] This case concerns a dispute between the Plaintiff and the Government regarding the calculation of the pension, gratuity, and benefits payable to a retired Prime Minister of Fiji. The Plaintiff asserts that his pension and gratuity were wrongly calculated based on a temporarily reduced salary instead of the statutory salary in effect at the time of retirement. He seeks a recalculation to reflect the higher amount, along with appropriate adjustments and interest.

- [2] The Defendants maintain that the reduced salary the Plaintiff was receiving at the time of retirement constitutes the lawful basis for the pension calculation. The Plaintiff counters that such an approach contradicts the applicable legislative requirements.

Prime Minister's Pensions Act 1994

- [3] The specific benefits provided to Prime Ministers under the Prime Minister's Pensions Act 1994 include financial entitlements, family benefits, and a range of non-monetary allowances and services. These provisions ensure a comprehensive package of retirement and support entitlements for former Prime Ministers, conditional upon length of service as follows:

Pension and Gratuity (Sections 4 & 6)

- Entitlement to a life pension upon ceasing office, calculated as:
- 20% of final salary for up to 2 years' service
- Additional 10% for each year beyond 2 years, for the next 3 years
- 5% for each year after 5 years' service, to a maximum of 75% of salary.
- Option to receive a reduced pension (three-fourths rate) plus a lump sum gratuity (12.5 times annual reduction).

Additional Lifetime Benefits (Section 9)

- Telephone installation, connection, maintenance, and rental (plus local call costs) at any private residence.
- Ministerial-type vehicle and driver, including free travel on government ships.
- Local medical treatment, hospitalization, drugs, and all hospital services, with provision for overseas medical care at the PM's discretion.
- Annual budget (\$30,000, subject to adjustments) for hiring personal staff.

- Security protection provided at the Prime Minister's discretion.
- These non-monetary benefits do not extend to family members after the PM's death.

[4] **Method of Payment and Protections**

- All pensions and allowances are tax-free, paid fortnightly from the Consolidated Fund.
- Pensions are protected against assignment or seizure except for State debts or court-ordered payments for spouse/child support.
- The Act is silent regarding loss of pension benefits following conviction for an offence committed while holding the position of the Prime Minister.

Parliamentary Remunerations Act 2014

[5] Salaries of politicians in Fiji are determined under the Parliamentary Remunerations Act 2014 by resolution of Parliament, guided by statutory principles, independent advice, and regular reviews conducted by appointed committees.

[6] In effect, Parliament holds the mandate to set the salaries, allowances, and benefits for the President, Prime Minister, Ministers, Assistant Ministers, Leader of the Opposition, Speaker, Deputy Speaker, and Members of Parliament by formal resolution. Determinations must consider principles of fairness, transparency, and the need to maintain public confidence in Parliament. Independent advice may be sought, including from the Fiji Revenue and Customs Service and relevant experts, prior to making a determination.

[7] Section 11 of the Parliamentary Remunerations Act 2014 governs the commencement, duration and expiry of determinations relating to the parliamentary remuneration. Section 11 states that every determination (setting pay/benefits) must have an explicit expiry date, however, upon expiry it remains in effect until Parliament makes a new determination to replace it.

Evidence from the Plaintiff

[8] The Plaintiff testified that he served as Prime Minister from 2009 until December 2022. He received an annual salary of \$328,750 until 27 March 2020, when Parliament determined a 20% temporary reduction due to COVID-19, lowering his salary to \$263,000. This reduction was intended to last until 31 December 2020 (PE(1) & PE(2)).

[9] On cross-examination, the Plaintiff admitted that no further effort was made to restore the salary after 2020, nor did he initiate any proceedings or submit requests for reinstatement. The Government continued to budget for the reduced rate. Thus, the Plaintiff continued to receive the \$263,000 salary from 2020 until his retirement in December 2022.

Evidence from Defence Witnesses

[10] Three witnesses testified for the Defence.

[11] Shreya Shivani Kumar, Principal Assistant Secretary at the Cabinet Office, described the pension application process for Mr. Bainimarama. She stated that legal advice had been received confirming his eligibility for a pension from January 2007. Salary records indicated the following:

- \$88,945 (Jan–Sep 2007)

- \$96,012.48 (Sep 2007–Dec 2011)
- \$230,000 (2012–Sep 2014)
- \$328,750 (Sep 2014–Apr 2020)
- \$263,000 (Apr 2020–Dec 2022, following the 20% COVID-19 reduction)

[12] The reduction, effective 27 March 2020, remained until retirement. Pension calculations followed legal advice, resulting in a gratuity of \$433,296.75 and a fortnightly pension of \$3,999.66. No authority was received to reinstate the higher salary.

[13] Moape Rokosuka, Head of Corporate Service and Project Planning, explained that calculations were based on the Prime Minister’s Pensions Act and applied a tiered approach:

- 20% of salary for the first two years
- 10% for each of the next three years
- 5% for each year beyond the first five, to a 75% maximum

[14] Salary levels were based on the actual amounts received in each year, rather than a fixed amount at retirement. Gratuity and other benefits were paid in accordance with entitlements and supporting evidence.

[15] Ronita Singh, Principal Accounts Officer at the Ministry of Finance, confirmed that Mr. Bainimarama’s salary at retirement was \$263,000, reflecting the continued 20% reduction as per official government records. These changes, as per her evidence, could only be amended through Parliamentary action, and no such

action was taken until 2024. No requests were made for reinstatement of the higher salary.

Jurisdiction and Justiciability

- [16] The Defendants argued that the court lacked jurisdiction to review parliamentary determinations made under the Parliamentary Remunerations Act 2014, citing section 173(4)(d) of the Constitution. However, constitutional doctrine provides that Parliament's actions remain subject to constitutional limits, and that the courts retain supervisory jurisdiction where there is an allegation of breach of the Constitution or deprivation of vested rights (*Phillips v Speaker of the National Parliament* [1990] SBHC 68, HC-CC 224 of 1990 (23 November 1990)). The Plaintiff's claim concerns legal rights—specifically, entitlement calculations, rather than matters of political discretion. Therefore, the objection to jurisdiction and justiciability is rejected.

Procedural Defect

- [17] The Defendants further objected to the use of a writ of summons instead of an originating summons. Courts have discretion to cure such procedural issues, provided no prejudice is caused, particularly where the dispute involves statutory interpretation rather than contested facts (*Qarase v Bainimarama* [2007] FJHC 41; HBC60.07(22 June 2007)). Since no prejudice was demonstrated, this objection is also overruled.

Calculation of Pension and Gratuity

- [18] Sections 4(b) and 6 of the Prime Minister's Pension Act 1994 set out the calculation method. The Plaintiff contended that the 20% salary reduction was only temporary and that calculations should use the original salary of \$328,750.

He argued that salary levels could only be lawfully altered by formal parliamentary determination, and not through budget notices or ministerial statements.

[19] However, section 11 of the Parliamentary Remunerations Act 2014 expressly provides that salary and allowances, once varied by determination, remain effective until Parliament makes a new determination. There is no presumption that a reduction is temporary, nor that the previous rate resumes automatically. In the absence of a formal new determination, the most recent valid determination continues to govern.

[20] Therefore, the argument that the reduction was temporary is not supported by law and is therefore rejected.

[21] Pension calculations under section 4(b) are as follows:

- 20% of salary for each of the first two years
- 10% of salary for each of the next three years
- 5% for each additional year thereafter, to a maximum of 75%

[22] The relevant salary for pension calculation purposes is the amount actually received in each year of service, and not necessarily the final salary at the time of retirement.

[22] When a gratuity is elected, it is calculated at 12.5 times the annual reduction in pension arising from the Plaintiff's decision to receive a reduced pension.

[23] The Defendants applied the actual salary paid in each year, including the figure of \$263,000 after the 20% reduction, in accordance with the statutory framework. The Court finds no error in the pension and gratuity calculations and rules that the amounts paid to the Plaintiff were correct.

Section 9 Benefits

[24] The Plaintiff abandoned his claim for other benefits under Section 9, given clear evidence that he received all lawful entitlements.

[25] **Result**

- The Plaintiff's Writ of Summons and Statement of Claim are dismissed.
- The Plaintiff is ordered to pay the Defendants costs in the sum \$5,000 within 21 days.



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Hon Mr Justice Daniel Goundar

Solicitors:

R Patel Lawyers for the Plaintiff

Office of the Attorney-General for the Defendants