

IN THE PUBLIC SERVICE DISCIPLINARY TRIBUNAL
AT SUVA

PSDT CASE No. 03 of 2024

BETWEEN : THE MINISTRY OF FORESTRY
EMPLOYER
AND : INOKE SESENABARAVI
EMPLOYEE

Appearances

For the Employer : Mr. Navitalai Dausiga

For the Employee : In-person

Date of Ruling : 15th November 2024

R U L I N G

Background

1. The following allegations were filed by the Ministry against Mr. Inoke Sesenabaravi ("**employee**") who is employed by the Ministry as a Cook:
 - a. **ALLEGATION 1:** Misconduct - Failing to comply with *Part II section 25 (i) (a) of the 2013 Transport Policy* by driving motor vehicle registration number GN447 without obtaining the appropriate approval.

- b. **ALLEGATION 2:** Misconduct - Failing to comply with *Part II section 25 (h) of the 2013 Transport Policy* by driving motor vehicle registration GN447 on 24.3.24 after official working hours without a valid official vehicle pass.

- c. **ALLEGATION 3:** Misconduct - Failing to comply with *Part II section 6 (1) of the 2013 Transport Policy* by transporting a family member in motor vehicle registration GN447 on 24.3.24.

- d. **ALLEGATION 4:** Misconduct - Failing to comply with *Part II section 24 (1-4) of the 2013 Transport Policy* without obtaining the proper authorization and without being the holder of a full driving license at the time of driving on 24.3.24.

- e. **ALLEGATION 5:** Misconduct - Failing to comply with *Part IV section 35 (1-2) of the 2013 Transport Policy* by failing to report an accident to the Police and to the Transport Officer immediately after he (employee) was involved in an accident whilst driving motor vehicle registration GN 447.

- 2. On 6th September 2024, the employee appeared before the Tribunal. He admitted to all the above allegations.

- 3. Time was provided to the Ministry to review allegation number 5. There was no indication from the Ministry in the subsequent mention dates of the said review.

Sanctions

4. Notably, the charges were drafted pursuant to the *2013 Transport Policy* ("**policy**") instead of the *Public Service Code of Conduct*.
5. A charge cannot be drafted pursuant to the policy because there is no provision under the policy which creates an offence. Furthermore, the policy does not set out any sanction.
6. This means that the Tribunal has no power to make a finding that the employee has committed an offence against the policy, let alone, sanction the employee under the policy.

Considerations

7. As there is no lawful power to sanction under the policy, the Tribunal shall not direct its mind towards the mitigation filed on behalf of the employee. To do so would be an exercise in futility.
8. However, in passing, the Tribunal notes that the employee is currently paying a surcharge of five hundred dollars (\$500) imposed by the Ministry. The Tribunal notes that the Ministry is entitled to impose a surcharge as such under *Part IV Section 39 and 40 of the Transport Policy*.

Conclusion

9. In light of the foregoing, the Tribunal is constrained from sanctioning the employee.

10. The Tribunal so orders.

Signed  Date: 15/11/24
Mr. Anare Tuilevuka
[Chairman - Public Service Disciplinary Tribunal]

Signed  Date: 15/11/24
Ms. Deepika Prakash
[Member - Public Service Disciplinary Tribunal]

Signed  Date: 15/11/24
Mr. Jeremaia N.L Savou
[Member - Public Service Disciplinary Tribunal]

