



PUBLIC SERVICE APPEALS BOARD

YAREN

Appeal No. 1 of 2020

IN THE MATTER of the Public Service Act 2016

AND IN THE MATTER of an Appeal to the Public Service Board pursuant to the Public Service (Amendment) Act 2020

BETWEEN: JAMES KEPPE **APPELLANT**

AND: CHIEF SECRETARY **RESPONDENT**

Before: F. Jitoko (Chair)
Elkana Capelle (Member)

For the Appellant: E. Soriano

For the Respondent: No appearance

RULING

1. The Board sat to consider the application to enlarge the appeal time as moved in the Applicant's summons, in the light of the recently enacted Public Service (Amendment) Act 2020.
2. The application for enlargement of time filed by the Applicant, is based on section 109 (2) of the Public Service Act 2016, which authorises the Board to extend time for the lodgement of notice of appeal.

3. The Board pointed out to the Applicant that Part 8 of the 2016 Act on the Public Service Appeals Board, has now been repealed by section 27 of the 2020 Amendment Act and that the discretionary powers vested in the Board under section 109 (2) of the 2016 enactment, no longer exists. Be that as it may, the Board is of the view that given that the appeal is received by the Secretary on behalf of the Board in the first instance under section 111, the rule of natural justice must allow the discretionary powers to the board to enlarge time of the lodgement of the appeal, where there is merit, to be read into the provisions. Not to do so, in the Board's view, is a denial of natural justice to an aggrieved party.
4. However, the Board notes that even if the appellant in this case was to overcome the first hurdle of time of lodgement, there appears to be an insurmountable obstacle posed by the new provisions of section 110 of the 2020 Amendment Act, where an employee is denied the right to appeal under sub-paragraph (b) thereof. Part of the Applicant's argument was going to be based on this contention. Again the issue of denial of natural justice to an aggrieved party is of relevant consideration.
5. Finally there is the simple matter of the quorum that under section 111 (1) of the 2016 Act, allowed two members of the Board to hear an appeal. This no longer exists in the new sections 111 to 114 of the 2020 Act. The presumption is that only the full members of the Board may, sit and hear matters. Unfortunately, the third member of the Board was not able to attend today.
6. In the light of these observations the two (2) members of the Board present agree that they are prevented from dealing with this matter further.

Dated this 16th day of September 2018.



E. Capelle
Member



F. Jitoko
Chair



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