

BETWEEN: Jimmy Rantes
Claimant

AND: Minister of Trade and Commerce
First Defendant

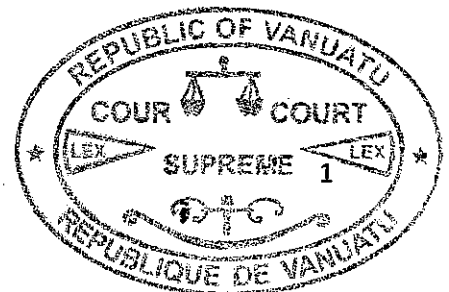
AND: Public Service Commission
Second Defendant

Date of Hearing: 23 June 2025
Before: Justice V.M. Trief
In Attendance: Claimant – Mr F.S. Loughman
Defendants – Mr F. Bong
Date of Decision: 22 September 2025

JUDGMENT

A. Introduction

1. The Claimant Jimmy Rantes is the Director General of the Ministry of Trade, Industry, Commerce and Ni-Vanuatu Business pursuant to his contract of employment dated 25 November 2022.
2. On 14 March 2025, Mr Rantes was suspended from his employment pending investigations into the allegations made against him.
3. The First Defendant Minister of Trade and Commerce is alleged to have sent a letter to the Second Defendant the Public Service Commission's ('PSC') Chairman,

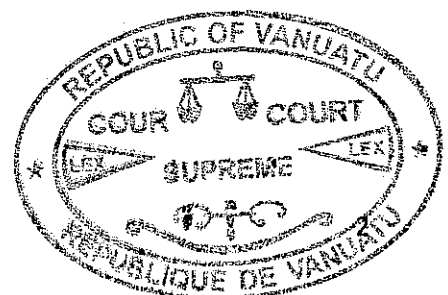


making a complaint against Mr Rantes and requesting the removal of Mr Rantes as the Director General of the Ministry of Trade and Commerce.

4. By the Amended Judicial Review Claim filed on 28 April 2025, Mr Rantes is seeking judicial review of the PSC's decision dated 14 March 2025 to suspend his employment. He is alleging that the PSC decision to suspend his employment is contrary to clause 2 of Schedule C of his employment agreement and s. 19B(1) of the *Public Service Act* [CAP. 246] (the 'Act').
5. Mr Rantes also alleged that he is subject to an annual performance review. He alleged that he has never failed to submit her performance reports and fulfil his obligations yet his letter of suspension refers to complaints made since 2023 for *inter alia* non-performance.
6. The Claim is disputed. The Defendants alleged in the Defence that the suspension was made pursuant to relevant provisions of the *Public Service Staff Regulation Manual* ('PSSRM') and that the investigation team's report is imminent. Further, that there will be a decision following the report whether or not further steps of the disciplinary process are taken against the Claimant, that the matter is still pending in terms of the PSC's disciplinary process therefore the Claim is misconceived and must be dismissed.
7. The issues arising include whether or not the PSC decision to suspend Mr Rantes' employment is contrary to his employment agreement and s. 19B(1) of the *Public Service Act* [CAP. 246]; and whether or not the Secretary of the PSC suspected Mr Rantes of committing serious misconduct or merely acted on the letter received from the Minister of Trade and Commerce.

B. Background

8. On 8 November 2024, Hon. Samson Samsen, Minister of Trade and Commerce wrote to Martin Mahe, Chairman of the PSC making a formal complaint against Mr Rantes and Noel Kalo, the Director of Industry for breach of contract and misconduct, and requesting their removal.
9. On 6 February 2025, Minister Samsen wrote another letter of complaint, to Hon. Jotham Napat, Prime Minister. He requested the immediate suspension and removal of Mr Rantes and others, as well as the appointment of Joe Ligo as Acting Director General of the Ministry of Trade and Commerce.



10. On 12 March 2025, Stephane Bong, Acting Secretary of the PSC wrote to the Chairman of the PSC referring the Minister's complaint dated 6 February 2025 to the PSC.
11. On 14 March 2025, the PSC met and suspended Mr Rantes (and two others) on half salary pending investigations into the allegations made against him. The PSC also approved at that same meeting the appointment of Joe Ligo as Acting Director General of the Ministry of Trade and Commerce.
12. By letter dated 14 March 2025, Mr Bong informed Mr Rantes of his immediate suspension from duty.
13. By letter dated 14 April 2025, Mr Bong informed Mr Rantes that the PSC had at its meeting on 14 March 2025 approved his performance agreement verification ratings conducted by the panel of peers for him. The letter also contained the dashboard for Mr Rantes as Director General of the Ministry of Trade and Commerce which showed his overall rating at 67.66% therefore a Performance Level & Performance Rating Scale of 'Satisfactory Performer.'

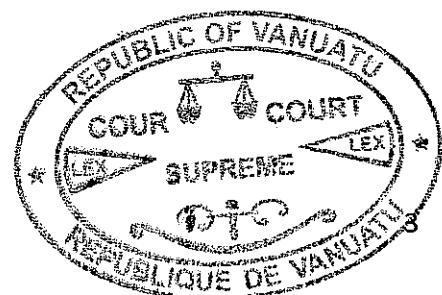
C. Evidence

14. Mr Rantes relied on his Sworn statements filed on 4 April 2025 [Exhibit C1], 9 April 2025 [Exhibit C2], 25 April 2025 [Exhibit C3], 19 June 2025 [Exhibit C4] (of which paras 1-3 and attachments "JR1" and "JR2" were struck out) and 20 June 2025 [Exhibit C5]. He was cross-examined. Mr Rantes also relied on the Sworn statement of Roy Amos Pakoasongi filed on 30 April 2025 [Exhibit C6]. Mr Pakoasongi was not required for cross-examination.
15. The Defendants relied on the Sworn statements of Stephane Bong filed on 10 April 2025 [Exhibit D1] and James Melteres filed on 30 April 2025 [Exhibit D3]. Both were cross-examined.

D. The Law

16. Section 19A of the Act provides, relevantly, as follows:

- 19A. (1) *The Commission may remove a director-general or director:*
- (a) *Because his or her performance is unsatisfactory; or*
 - (b) *Because of misconduct on his or her part; or*
- ...



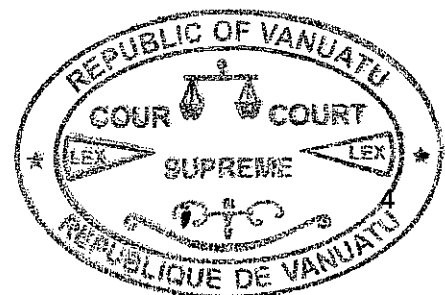
- (3) For the purposes of subsection (1), an act by a director-general or director that would be a serious disciplinary offence under section 36 amounts to misconduct.

17. Subsection 19B(1) of the Act provides as follows:

- 19B. (1) The Commission must not remove a director-general or director from office unless the Commission has received a complaint in writing from the Prime Minister, a Minister, the Ombudsman, Auditor-General or the Secretary of the Public Service Commission upon receiving complaints from any other person:
- (a) alleging that there is a ground or are grounds for his or her removal under subsection 19A(1); and
 - (b) setting out the evidence in support of the allegations.

18. Section 36 of the Act provides as follows:

36. (1) An employee commits a disciplinary offence who –
- (a) by any wilful act or omission fails to comply with the requirements of this Act or of any order hereunder or of any official instrument made under the authority of the Commission or of the director-general of the ministry in which the employee is employed;
 - (b) in the course of his or her duties disobeys, disregards or makes wilful default in carrying out any lawful order or instruction given by any person having authority to give the order or instruction or by word or conduct displays insubordination;
 - (c) is negligent, careless, indolent, inefficient, or incompetent in the discharge of his or her duties;
 - (d) behaves in a manner calculated to cause unreasonable distress to other employees or to affect adversely the performance of their duties;
 - (e) uses intoxicating liquors or drugs (including for the avoidance of doubt, kava) to excess or in such manner as to affect adversely the performance of his or her duties;
 - (f) improperly uses or removes property, stores, monies, stamps, securities or negotiable instruments for the time being in his or her official custody or under his or her control, or fails to take reasonable care of any such property, stores, monies, stamps, securities or negotiable instruments;
 - (g) otherwise than in the proper discharge of his or her duties directly or indirectly discloses or for private purposes uses any information acquired by him or her either in the course of his or her duties or in his capacity as an employee;
 - (h) absents himself or herself from his or her office or from the official duties during hours of duty without leave or valid excuse, or is habitually irregular in the time of his or her arrival or departure from his or her place of employment;



- (i) is guilty of any improper conduct in his or her official capacity, either inside or outside of working hours, or of any other improper conduct which is likely to affect adversely the performance of his or her duties or is likely to bring the Public Service into disrepute;
- (j) is guilty of any other offence prescribed from time to time by regulations made under this Act.

E. Analysis

19. Mr Rantes is employed as Director General under his contract of employment dated 25 November 2025 [**Exhibit D1 – Attachment “JM4”**]. His term of employment is for four years commencing from 30 September 2022. The contract is between Mr Rantes (the “Employee”) and the PSC (the “Employer”). “Secretary” is defined to mean the Secretary of the PSC.

20. Clause 25 of Mr Rantes’ employment contract provides as follows:

- 25.1 *The Employer must terminate this Contract on the ground of serious misconduct by following the disciplinary procedures provided in Schedule C.*
- 25.2 *The Employer may terminate this Contract on the ground of insubordination to lawful instructions of the Employer by following the disciplinary procedures provided in Schedule C.*

21. Clauses 1 and 2 of Schedule C of Mr Rantes’ employment contract provides as follows:

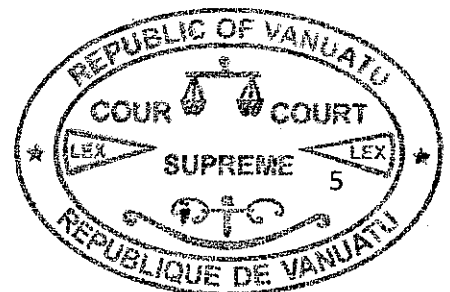
SCHEDULE C

DISCIPLINARY PROCEDURES FOR SERIOUS MISCONDUCT

- 1. *Where the Secretary suspects the Employee of committing serious misconduct, the Secretary must immediately after he has become aware of the serious misconduct report the matter in writing to the Employer to consider the alleged serious misconduct.*
- 2. *Based on the report of the Secretary, the Employer may immediately suspend the employee and shall appoint an investigative panel to investigate the allegation.*

22. The first issue between the parties is whether or not the Secretary of the PSC suspected Mr Rantes of committing serious misconduct or merely acted on the letter received from the Minister of Trade and Commerce, in terms of clause 1 of Schedule C of Mr Rantes’ employment contract.

23. Mr Bong, Acting Secretary of the PSC wrote a letter dated 12 March 2025 to the PSC Chairman referring Minister Samsen’s letter of complaint dated 6 February 2025 against Mr Rantes to the PSC [**Exhibit D1 – Attachment “SB2”**]. In that letter, he



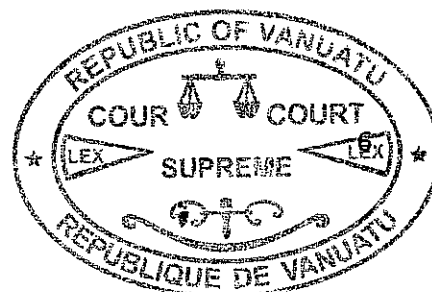
summarized Minister Samsen's allegations against Mr Rantes as breach of employment contract, conflict of interest and corruption, and urgent need for Government action.

24. Mr Bong stated in the last paragraph of his letter as follows:

In light of the above and given the nature of the allegations raised, I suspect that Mr Rantes and Mr Kalo improper conducts referred to above amount to disciplinary offences under s. 36 of the Public Service Act. I therefore report the matter with expectation that the Commission may undertake actions provided for under clause 2 of Schedule C of Mr Jimmy Rantes' employment contract... and pursuant to section 19(B) appoint an investigative panel to undertake investigation on the allegations raised.

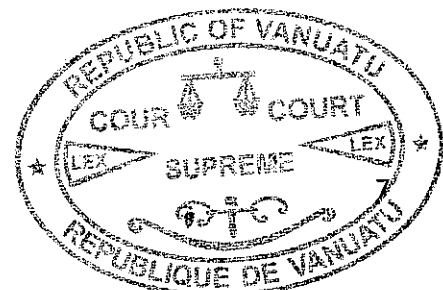
[emphasis added]

25. In cross-examination, Mr Bong stated that his personal knowledge of the allegations against Mr Rantes came from reading the Minister's letter. He stated that he formed a suspicion that Mr Rantes had committed misconduct from the contents of Minister Samsen's letter. He stated that the same allegations Minister Samsen put in his complaint letter, he (Mr Bong) set out in his referral letter to the PSC.
26. I find on the evidence that Mr Bong formed a suspicion that Mr Rantes had committed misconduct from the contents of Minister Samsen's letter dated 6 February 2025. Mr Bong then wrote his letter dated 12 March 2025 referring the Minister's complaint to the PSC. Mr Bong referred in his letter to s. 36 of the Act. That section provides for disciplinary offences, for which an employee's employment may be terminated for serious misconduct.
27. I find therefore that Mr Bong suspected Mr Rantes of committing serious misconduct as well as acted on the letter received from the Minister by referring it to the PSC, in accordance with clause 1 of Schedule C of Mr Rantes' employment contract.
28. That answers the first issue between the parties.
29. The next issue between the parties is whether or not the PSC decision to suspend Mr Rantes' employment is contrary to clause 2 of Schedule C of his employment agreement and s. 19B(1) of the *Public Service Act*.
30. On 14 March 2025, the PSC met and suspended Mr Rantes on half salary pending investigations into the allegations made against him. The PSC meeting minutes were adduced into evidence in **Exhibit D1 – Attachment "SB3"**.
31. Based on Mr Bong's report contained in Mr Bong's letter dated 12 March 2025, the PSC suspended Mr Rantes and appointed an investigative panel to investigate the allegations against Mr Rantes. The PSC decision to suspend Mr Rantes pending an



investigation into the allegations against him was entirely consistent with clause 2 of Schedule C of Mr Rantes' employment contract.

32. The PSC had received a complaint in writing from Minister Samsen dated 6 February 2025 alleging grounds for Mr Rantes' removal under subs. 19A(1) and setting out the evidence in support of the allegations. Those grounds alleged misconduct on Mr Rantes' part per para. 19A(1)(b) of the Act. No breach of s. 19B(1) of the Act has been shown.
33. I answer this issue in the negative – that is, that the PSC decision to suspend Mr Rantes' employment was not contrary to clause 2 of Schedule C of his employment agreement and s. 19B(1) of the *Public Service Act*. There is no illegality, breach of natural justice or procedural impropriety as submitted for the Claimant.
34. Mr Loughman submitted in the Claimant's final submissions filed on 27 June 2025 that the Court must address the allegations of conflict of interest on Mr Rantes' part and find that no conflict of interest exists on his part. That is misconceived. The Claim in the present proceeding seeks judicial review of Mr Rantes' suspension only. The allegations of conflict of interest on Mr Rantes' part are the allegations against him which are subject to the PSC disciplinary process. Those allegations will be determined by the PSC disciplinary process, not by the Court in the present proceeding. I reject those submissions.
35. Mr Loughman also submitted that the PSC's decision to suspend was unreasonable. However, the PSC's decision was made in accordance with clauses 1 and 2 of Schedule C of Mr Rantes' employment contract and s. 19B(1) of the Act. Mr Loughman also referred to Mr Rantes' satisfactory annual performance reviews. However, the question of whether Mr Rantes committed serious misconduct or his performance is unsatisfactory are for determination in the PSC disciplinary process on foot against him. It is not for the Court in the present proceeding to determine. I therefore do not agree that the decision was unreasonable. I reject those submissions.
36. Finally, Mr Loughman submitted that the Minister's actions demonstrated a clear bias and an attempt to influence the PSC contrary to subs. 46(2) of the Act and compromising the independence of the PSC as per article 60 of the Constitution. However, the Minister's actions to make a complaint against Mr Rantes and Acting PSC Secretary Mr Bong's actions to refer the Minister's complaint to the PSC for disciplinary action were made pursuant to s. 19B(1) of the Act and within the terms of Mr Rantes' employment contract. In addition, subs. 46(2) of the Act prescribes a criminal offence for attempting to influence the PSC. The Court in the present



proceeding is not concerned with finding whether or not someone has committed a criminal offence against subs. 46(2) of the Act. I also reject those submissions.

37. For the foregoing reasons, the Claim must be dismissed.

F. Result and Decision

38. The Claim is **dismissed**.

39. Costs must follow the event. The Claimant is to pay the Defendants' costs summarily fixed in the sum of VT200,000 **by 4pm on 20 October 2025**.

**DATED at Port Vila this 22nd day of September, 2025
BY THE COURT**



Justice Viran Molisa Trief

