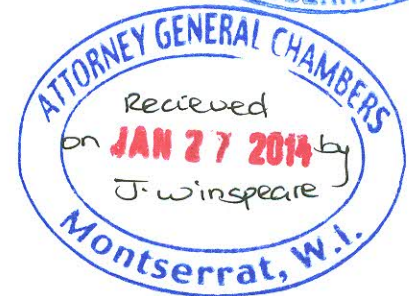


IN THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
COLONY OF MONTSERRAT
(CIVIL)
A.D 2014



CLAIM NO. MNIHCV2013/0031

BETWEEN:

THOMAS WINSTON BUFFONGE Claimant

and

THE DEPUTY GOVERNOR

THE HON. ATTORNEY GENERAL Defendants

APPEARANCES:

Mr. Sylvester Carrott for the Applicant

Ms Cilma Wade for the Respondents

2014: January 13

2014: January 27

JUDGMENT

[1] REDHEAD J (ag) The applicant Mr. Thomas Winston Buffonge has made an application for Judicial Review filed on 10th December 2013 in which he seeks the following reliefs:

- (i) A declaration that the said Thomas Winston Buffonge is entitled to be paid a pension in accordance with the Pensions Act.
- (ii) An Order of mandamus requiring the Respondents to pay according to law the Applicant's past and current pension with interest upon past payments at the rate of 10% per annum or such rate as the honourable court shall consider fit and proper.
- (iii) Interim Relief by way of an order that the Respondents do forthwith pay to the Applicant the sum of EC\$50,000.00 on account of the pension entitlement alternatively that the Respondent do within 14 days of the grant of Leave commence payments of the Applicant's current pension entitlement.
- (iv) An interim Order that the Respondents do forthwith disclose all documents in their possession relating to the Applicant's employment with the Government of Montserrat between the years 1959 and 1987 including any instruction by any officer that the Applicant's pension should be paid.
- (v) In so far as the Respondents have made any decision that the Applicant is not entitled to his pension, an order of Certiorari quashing the same.
- (vi) Damages for breach of statutory duty.

[2] The Applicant is now 70 years old. He would have been born on 14th March 1943. He worked in various departments of government from 1964 beginning as a Clerk in the Department of Labour ending up as Manager in

1975 as Manager of Montserrat Industrial Enterprises (MEIL). The Applicant has had many years of agreed unpaid study leave from 1980.

[3] On September 12, 1986 the Applicant wrote to the Permanent Secretary Administration inter alia:

“Dear Madam

Will you kindly refer to your letter ME 698 of April 24th “No Pay Study Leave...”

I understand that government would make study loans available to interested Montserradians pursuing educational programme abroad. If this is so, I would like to be considered for such a loan. If not then I request that my study leave be extended for a further period to December 31, 1988.....

If neither the above are [sic] acceptable, I would like to enter into discussion with you regarding early retirement from the service as indicated in your letter under reference...

Sincerely

Thomas W. Bufonge”

[4] There was a response to this letter from the Permanent Secretary in which she said in part as follows:

“Dear Mr. Buffonge

Your letter dated September 12 refers.

Government requested that you produce definite evidence from the School or University you are attending to show that you will complete your degree programme within four (4) years. In the absence of this evidence, your alternate option is to consider early retirement....”

[5] I make the observation that this is the second occasion that the Applicant was offered early retirement.

On 21st February 1987 the Applicant responded in the following terms:

**“Permanent Secretary
Department of Administration
Government Headquarters
Plymouth Montserrat**

Dear Miss Meade

Following discussion with the Permanent Secretary, Development and the Personnel Office during my visit to Montserrat on January 6, 1987, I have decided to take an early retirement from the service. I therefore ask that this letter be considered as my formal request for early retirement from the Civil Service

Thomas Buffonge”

