

Attorney-General of Saint Lucia and Monica Joseph for leave to appeal to Her Majesty in Council against the decisions of the Court of Appeal of the Eastern Caribbean Supreme Court delivered on 9th February, 1988 in the matters intitled above.

It was accepted by the learned Solicitor General, for the applicants, that the obligation to appeal to the Privy Council in these matters was not as of right and that discretionary leave of the Court was necessary based on the concept of the general public importance of the matters to be raised in such appeal. [See S108 (2) of the Constitution of St. Lucia].

The applications were vehemently opposed by Queen's Counsel Mr. Monplaisir for the respondents on two grounds. Firstly, that the issues to be raised in the prospective appeals would not be matters that could be categorised as matters of general public importance. Secondly, that due to circumstances that occurred subsequent to the decision of this Court in these matters, the issues to be raised in the appeals were no longer living issues. They would now be matters of an academic nature.

The facts and circumstances surrounding these applications which we have considered were (1) the factual representation made to us by the learned Solicitor General in her arguments that both John Compton and Vaughan Lewis, the respondents herein, and their respective offices, were not the subject of the Commission of Inquiry in question (2) that the said Commission of Inquiry came to an end on October 17, 1997 as evidenced in a Gazette exhibited in the affidavit of the Attorney General filed in support of these applications (3) that there was no evidence to show that any extension was granted to keep the said Commission of Inquiry alive.

The Attorney General in his affidavit, deposed, *inter alia*, to the effect that a new Commission of Inquiry under

the chairmanship of Blom Cooper Q.C. was appointed since the judgment of this Court in these matters and that his terms of reference therein contained two matters which were originally included in the original Commission of which Monica Joseph was chairman and one other matter. The impression to be gleaned from these disclosures was that the Monica Joseph Commission had been abandoned and was now superseded by the Blom Cooper Commission.

It was also represented to us by the Solicitor General that of the two matters transferred from the Monica Joseph Commission to the Blom Cooper's Commission, none of them involved the respondents, or their offices. That was the factual situation that was presented to this Court.

Addressing the legal issues sought to be tested in Her Majesty's Council, the real issue revolved itself around the concept of bias. The law as it relates to this concept was not in any serious dispute. In fact we are of the view that it is virtually settled. The true issue in controversy in these matters was basically the question of fact whether or not either or both of the respondents were parties to a decision making process that arrived at a decision which effectively deprived Monica Joseph of an increased pension upon her retirement as a High Court Judge.

Given these facts and circumstances, we are firstly of the view that the issues intended to be raised before Her Majesty in Council would be purely of an academic nature, the relevant Commission of Inquiry no longer being alive. The matter is therefore no longer a living issue. Because of the present factual situation the matters have resolved themselves into abstract matters with no dispute to be resolved.

Secondly the law on bias being more or less settled and the dispute being basically on a question of fact, we do not consider that there was any matter of general public importance to be resolved. The fact that there was a

dissenting judgment is of no moment as, in our judgment, that circumstance, without more, is not enough to create a matter of general public importance. Especially, as in this case, where the dissent basically revolved around the factual matrix of the case.

For these reasons, in the exercise of our judicial discretion we would refuse these applications and order that the applicants pay the costs of the respondents to be taxed if not agreed.

SATROHAN SINGH
Justice of Appeal

I Concur.

ALBERT REDHEAD
Justice of Appeal

I Concur.

ODEL ADAMS
Justice of Appeal [Ag.]