

**THE EASTERN CARIBBEAN SUPREME COURT  
ANTIGUA AND BARBUDA**

**IN THE HIGH COURT OF JUSTICE**

**CLAIM NO: ANUHCV2011/0506**

**BETWEEN:**

**LAWRENCE DANIELS**

Claimant

and

**ATTORNEY GENERAL OF ANTIGUA AND BARBUDA**

First Defendant

**POLICE SERVICE COMMISSION**

Second Defendant

**COMMISSIONER OF POLICE**

Third Defendant

**Appearances:**

Ms. Samantha May for the Claimant

Ms. Bridget Nelson for the Defendants

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2014: November 10

2015: March 31  
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**JUDGEMENT**

[1] **Cottle, J.:** By his amended fixed date claim form, filed on 16<sup>th</sup> November, 2011 the claimant sought certain declarations from the court. The defendants failed to file a defence. Evidence was heard from both sides at trial.

[2] The claimant is claiming that his constitutional rights have been breached by the defendants unlawfully discriminating against him by according different privileges and/ or advantages, such as

promotions, courses and allowances to other members of the police force, despite his having the necessary qualifications, training and experience. He claims that he was unlawfully suspended, and as a result is entitled to vacation leave, withheld salary and compensation for loss of opportunity. In addition he is entitled to damages for embarrassment after the incident in the magistrate's court; to be appointed a notary public; and to retire from the police force.

[3] During the course of the trial it was agreed that the effective date of the retirement of the claimant was 5<sup>th</sup> July, 2009.

[4] In his statement of claim the claimant alleges that he performed well in training in the police force and travelled to the United Kingdom and trained as a lawyer. Despite this, and contrary to a stated policy of the police force to promote members who had obtained a university degree, the second named defendant failed to promote the claimant or remunerate him commensurate with his qualifications. The claimant provided lists of other officers who were promoted during the relevant period. As a result, the claimant alleges that he was unlawfully discriminated against while being a member of the police force, contrary to section 14(2) and (3) of the Antigua and Barbuda Constitution cap 23, which reads as follows:-

(2) "Subject to the provisions of subsections (6), (7) and (8) of this section, no person shall be treated in a discriminatory manner by any person acting by virtue of any law or in the performance of the functions of any public office or any public authority.

(3) "In this section, the expression "discriminatory" means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, place of origin, political opinions or affiliations, colour, creed, or sex whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages that are not accorded to persons of another such description."

- [5] The accepted definition of discrimination is; the unjust or prejudicial treatment of different categories of people or things, especially on the grounds of race, age, or sex.
- [6] Nowhere in his claim form or statement of claim does the claimant allege that he was treated differently as a result of any of descriptions listed in the constitution. The claimant has alleged discrimination by the second defendant but he has failed to provide any evidence.
- [7] During the course of the trial, it was agreed that the resignation date of the claimant from the force was 5<sup>th</sup> July, 2009. Prior to this, while on leave from the Force, the claimant was engaged in full time practice as a private attorney at law. The claimant had sought, but failed to obtain permission to work as an attorney at law, while still a member of the force. In a letter dated 20<sup>th</sup> may, 2009, he was told to cease and desist from the practice of law or tender his resignation as a police officer. In 10<sup>th</sup> September, 2009, the claimant received a letter from the then commissioner of police stating that the effective date of the claimant's resignation was 5<sup>th</sup> July, 2009. Therefore, the claimant cannot claim for salary or vacation after that period. The most the claimant could ask for would be salary between May 2009 and July 2009. However, due to a misunderstanding within the administration of the police, the claimant was actually paid half salary, as if on suspension, until December 2012. Therefore, in actual fact, the claimant was paid far more than he was due by the Police Force.
- [8] The same logic applies to the claimant's claim of vacation leave or payment in lieu, for the period between May 2009 and November 2011. If the effective date of the resignation of the claimant is July 2009 leave could only be claimed for May, June and July 2009. As stated above, the claimant has been paid far more in error than he could claim was due to him.
- [9] The claimant is seeking a declaration that he is entitled to damages for embarrassment to the claimant's reputation. This allegedly arose from an incident that took place in the magistrate's court in December 2010. At that time the claimant was still accepting half pay from the force. If the claimant was accepting this money it is reasonable to assume that he felt that he was still on suspension from the Force and therefore a member of the force. At no time had he received permission to practice at the private bar from the relevant authorities in the Force. Therefore, when

he was confronted by the third named defendant, both parties to the discussion that ensued where laboring under the same misunderstanding; that the claimant was still a member of the force and he had not received permission to practice at the private bar. The claimant provides no evidence of the alleged embarrassment suffered, or losses incurred as a result of the incident.

[10] The claimant is claiming to be entitled to retire with all pension and gratuity benefits. However, section 47 (1) of the Police Act cap 330 states as follows:-

47. (1) "Subject to the provisions of subsections (2) and (3), no pension shall be granted to any Inspector, subordinate police officer or constable who has not attained the age of fifty years unless the Commission is satisfied by the findings of a Medical Board that such Inspector, subordinate police officer or constable is incapacitated by some infirmity of mind or body for further service in the Force and that such infirmity is likely to be permanent."

[11] The claimant had provided no proof that he has attained the age of 50, nor has evidence been provided that he falls into any of the other categories required to receive pension before 50, e.g. infirmity of mind or body. Therefore, the claimant is not entitled to a pension, gratuity or any other benefits that accrue on retirement.

[12] The court is unable to make any of the declarations sought by the claimant.



**Brian Cottle**  
High Court Judge