

IN THE COURT OF APPEAL, FIJI ISLANDS
ON APPEAL FROM THE HIGH COURT OF FIJI

Civil Appeal No. Misc 18/2006
(High Court Civil Action No. HBJ 0030 of 2003S)

BETWEEN:

METUISELA MUA

Applicant

AND

THE MINISTER OF FINANCE

AND

THE PERMANENT SECRETARY FOR FINANCE

& NATIONAL PLANNING

AND

THE ATTORNEY-GENERAL

Respondents

Applicant in person

Ms. M. Rakuita for the Respondents

DECISION

[1] This is an application for leave to appeal out of time against a judgment of the High Court delivered on 11 December 2003.

- [2] In January 1979 while on peace keeping duties as a member of the Royal Fiji Military Forces the Applicant suffered gunshot injuries to his hip.
- [3] Some 20 years later the Applicant retired from the public service. He applied for a disability pension under the provisions of Section 37 of the Pensions Act 1986. In support of his application he supplied a medical report which concluded that he was suffering from 55% permanent disability.
- [4] In October 2002 the application for a disability pension was refused. After the application had been received, the Applicant had been medically examined at the request of the second Respondent and on this occasion the medical examination suggested that the Applicant's disability was only 5%.
- [5] In September 2003 the Applicant obtained leave to move for judicial review of the decision to refuse him a disability pension. In December 2003 judicial review was refused. This application for leave to appeal from the High Court was not filed until September 2006.
- [6] In his supporting affidavit, the Applicant refers to the fact that following the attempted coup in May 2000 he was charged with a number of offences as a result of which he was imprisoned in April 2005. He was apparently released from prison in January 2007.
- [7] The Applicant's suggestion is that the events of May 2000 and their consequences for him somehow impaired his ability to file an appeal against the December 2003 judgment within the six

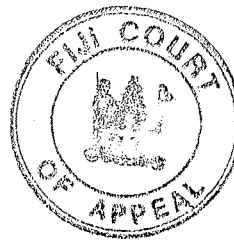
weeks period required by the Court of Appeal Rules. The Applicant also suggested that his counsel had been heavily engaged with other matters and that he has had difficulty paying him.

[8] In my opinion none of the grounds advanced for not proceeding with the application for leave to appeal can possibly excuse the very nearly three years delay which has occurred.

[9] Although the draft Notice of Appeal complains of numerous errors of law by the High Court, I can detect no obvious flaw in the way in which the judge approached the matter. The prospects of success, were leave to appeal granted, appear to me to be remote.

RESULT

1. The application is dismissed.
2. No order as to costs.



A handwritten signature in cursive script, appearing to read "M.D. Scott", is written over a horizontal line.

M.D. Scott
Resident Justice of Appeal

20 April 2007