

IN THE EMPLOYMENT RELATIONS COURT
AT SUVA
APPELLATE JURISDICTION

ERCA No. 09 of 2019

BETWEEN : **SATISH CHAND**

APPELLANT

AND : **MINISTRY OF EDUCATION, HERITAGE AND
ARTS**

RESPONDENT

BEFORE : **M. Javed Mansoor, J**

COUNSEL : **Mr. D. Nair for the Appellant**
Ms. S. Ali and Ms. S. Pratap for the Respondent

Date of Hearing : **24 March 2022**

Date of Judgment : **5 January 2024**

JUDGMENT

EMPLOYMENT LAW

*Appeal – Employment grievance – Demotion –
Reinstatement – Inadequacy of compensation*

1. This is an appeal against the decision of the resident magistrate given on 8 March 2019, by which she awarded the appellant compensation in a sum of \$2,000.00. The appeal is on the basis that the compensation awarded is not reasonable and proportionate to the humiliation suffered by the appellant as a result of the respondent's actions. The appellant also says that the resident magistrate erred in not ordering costs against the respondent.
2. The appellant filed an employment grievance saying that he was unfairly demoted from the position of assistant head teacher to that of a teacher. The mediator, while certifying that the grievance could not be resolved and referring it to the Employment Relations Tribunal, noted that the appellant was reinstated to his former position of assistant head teacher. The reference to the tribunal was because the appellant sought compensation for the demotion, and the discrimination and disadvantage that he suffered.
3. At the hearing before the tribunal, the appellant gave evidence on his behalf and the acting assistant manager performance and discipline of the ministry of education, Manueli Caginitabale, gave evidence on behalf of the respondent.
4. The evidence is that the appellant, a long standing employee of the respondent, was demoted on 25 October 2016 to the position of teacher after it was alleged that he failed to report an incident of corporal punishment. The demotion resulted in a lower salary to what he was in receipt. He was reinstated to his position on 17 February 2017 pursuant to an appeal to the permanent secretary for education. The appellant retired within a short period of his reinstatement.
5. Although the appellant was reinstated to his substantive position, he was not immediately paid the salary difference suffered as a result of the demotion. According to the employer's evidence, the appellant was not settled the salary difference until about July 2017, which was a delay of about five months. The

appellant insisted that he was entitled to compensation for the losses resulting from the demotion.

6. The parties are not in dispute that the appellant was paid the salary difference for the period of demotion, though this was done some months later. The tribunal notes that upon reinstatement, the worker was sent to the education office before being transferred back to the same school. The resident magistrate has observed that this would have created confusion and uncertainty in the worker, while causing distress and humiliation.
7. Having made these findings and observations, the resident magistrate ordered the employer to pay the appellant a sum of \$2,000.00 for the loss of dignity and humiliation suffered by him. The appellant's complaint is that the resident magistrate should have awarded a significantly higher sum to compensate his losses, and ordered costs in his favour.
8. From the appellant's testimony, it appears that he continued to perform his usual tasks even after he was notified of his demotion. In cross examination, he said the demotion letter was delivered to him about two weeks prior to his reinstatement. The appellant agreed that there would have been a period of two weeks in which others may have become aware of his demotion. Two weeks after receiving the demotion letter, he was reinstated.
9. The resident magistrate questioned the appellant about his distress after being demoted. The court is of the view that the resident magistrate considered the effect of the demotion, and was in the best position to have evaluated the evidence and assess the amount of compensation. The tribunal has exercised its discretion and awarded a sum of \$2,000.00. The assessment of costs is also a matter for the tribunal.
10. The court will not interfere with the resident magistrate's discretion unless it can be shown that the discretion was improperly exercised. That has not been established by the appellant.
11. In the circumstances, the resident magistrate's orders need not be disturbed. The parties will bear their costs.

ORDER

- A. The appeal is dismissed.
- B. Parties will bear their respective costs.

Delivered at **Suva** on this 5th day of **January, 2024**.



A handwritten signature in blue ink, appearing to read "M. Javed Mansoor".

M. Javed Mansoor
Judge