

**BETWEEN:** ANGELYNE DOVO, FREDERICK JOHN GILU, JACK SEMENO, FLOYD RAY MERA, JASON PAKOASONGI, FLORENCE WILLIAM REUR, KENT TARI, DAVID THOMAS, JANE SAO BULESA, TOM LOUGHMAN, HARDISON TABI, JOE JUNIOR NATUMAN, LENNON HURI, JENNIFER WARREN, MINA TASSO, TOM SIMON, ELIZABETH TARI, SAKIUSA KALSAKAU, SAMMY ARON, JELINDA TOA, ADELINE BANI, KEPRY WAKANUMUNE, PAUL TARIKWISI, DANIEL MORRIS, KIRSTY TAVOA, SHERINE TARI SHEM, STEPHEN SAM, CHRIS TAVOA, CHRISTINE LAHUA, JOSEPH EDWARDS, ROSE ARU, CHISTINA TARI, JOSIAH KUATPEN, LENISHA VARI, METSON MARKSON, MACKENZIE BANI, KELLA BELLAM, FREDDY CHARLIE, MOSES NOMPUAT ( 'STATE LAW OFFICE STAFFS')

Claimants

**AND: ATTORNEY GENERAL**

First Defendant

**AND: GOVERNMENT REMUNERATION TRIBUNAL**

Second Defendant

**AND: PRIME MINISTER**

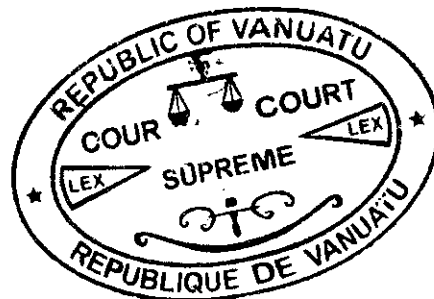
Third Defendant

**AND: COUNCIL OF MINISTERS**

Fourth Defendant

**Date of HEARING:**

1<sup>st</sup> August 2017



**Date of Judgment:** 3<sup>rd</sup> August 2017

**Before:** Justice Ronald Young

**In Attendance:** Ishmael Kalsakau for the Claimants  
John Timakata for the Second Respondent  
John Malcolm and Stephanie Mahuk for 3<sup>rd</sup> and 4<sup>th</sup>  
Respondents

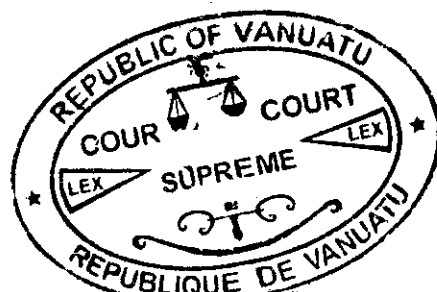
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## JUDGMENT

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### Introduction

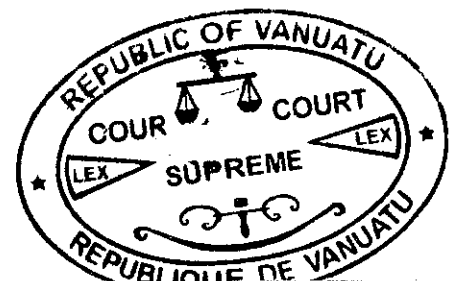
1. In August 2016 the Government Remuneration Tribunal published a determination relating to the salaries of employees in the Courts of Vanuatu, the Public Prosecutors office and the State Law Office. There were two phases to the determination. The second phase was due to commence on 1<sup>st</sup> January 2017. Payment of the new salary rates in the second phase was delayed until Parliament passed an Appropriation Bill to fund the new salaries for the SLO. This Bill was passed by Parliament on 6<sup>th</sup> June 2017 and gazetted on 8<sup>th</sup> June to take effect that day.
2. A few days later, on 27<sup>th</sup> June 2017, the Prime Minister directed the Director-General of Finance not to pay the money appropriated by Parliament to the SLO for the salary increases. The money appropriated was not paid to SLO. And so the lawyers at SLO brought these judicial review proceedings primarily seeking to quash the direction of the Prime Minister and for the money's appropriated by Parliament for SLO salaries to be paid to the SLO.



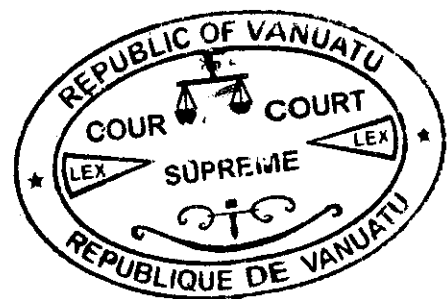
3. The Attorney- General as head of SLO took a neutral stance in these proceedings.  
The Government Remuneration Tribunal and the Prime Minister and Council of Ministers opposed the orders sought.
4. Judicial review is a way of ensuring the accountability of Government by the Courts considering whether the Government has acted within its lawful power.
5. There was no suggestion by the defendants that the Prime Minister's directions in his letter of 27 June 2017 was not susceptible to judicial review. It clearly is. And the claimants have standing to bring these proceedings given the Prime Minister's decision directly affects them.

#### **Background Facts**

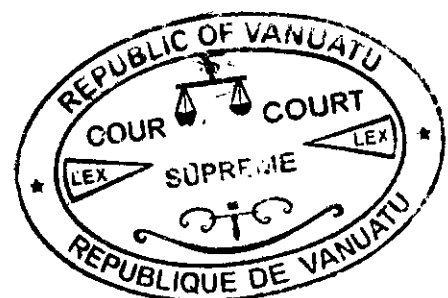
6. There was little dispute about the facts that gave rise to these proceedings. In 2014 a review of salaries within the wider Justice sector was undertaken by the Ministry of Justice. This review in turn was made available to the GRT who adopted it as the basis for a determination.
7. On 8<sup>th</sup> August 2016 the GRT published a determination pursuant to s13(1) of the Government Remuneration Tribunal Act ( CAP 250). The determination related to Judges and Magistrates and the Court staff, the SLO including the Attorney General, the Solicitor- General and the Chief Parliamentary Counsel and the Public Prosecutor and his or her professional and support staff. The determination was to be in two parts. The first from 10<sup>th</sup> October 2016, the second from 1<sup>st</sup> January 2017.



8. The determination as it related to SLO Lawyers had two broad categories; public lawyers, and senior public lawyers. For the public lawyers there were six levels of salary ( PL1-PL6). Each of these levels had an identified set of skills based on, technical expertise, managerial role and authority, legal analysis, decision making and planning level. The senior public lawyer categories were similar but with a higher range of skills required.
9. The salary structure itself was based on these levels but with a number of steps within each level described as grades . For example PL1 had 5 graduated salary grades. And so for public lawyers there were a total of 34 possible salary steps from PL 1.1 (the lowest) to PL 6.5 (the highest). There were similar arrangements for senior public lawyers.
10. The GRT determination made it clear ( see PART 2, 3.1 Setting the Salary) that the responsibility for assessing where an individual employee fell on the “levels” and “grades” provided was that of the “ Employing Body”. All Counsel agreed that person was the Attorney- General for the SLO.
11. The GRT in its determination reminded the “Employing Body” that in setting the salaries regard had to be had to the standards set for each category, prudent business judgment including budgetary matters, the performance guidelines and the need to retain appropriately trained and skilled employees.



12. Prior to the GRT determination SLO had sent to the Judicial Services Commission a note setting out the proposed new salary classification for each employee of the office
13. As at 30 September 2016 the Attorney General undertook an assessment of the position of each employee within SLO and advised them of their salary classification.
14. . A further assessment was undertaken by the Attorney-General in 2017 for the second phase of the 2016 GRT determination effective 1<sup>st</sup> January 2017.
15. On 12 June 2017 the Prime Minister signed an Official Salaries (Amendment) Order (No. 62 of 2017). The Order amended the schedule of the Official Salaries Act (CAP 168) and provided for new salaries for the Attorney-General, the Solicitor- General and Parliamentary Counsel based on the GRT determination.
16. An assessment was made by SLO of the amount required to pay the increases in salary based on the Attorney- General's 2017 assessment. The sum of VT 45.848.200 was then sought to pay this increase by presenting to Parliament a Supplementary Appropriation Bill. This was passed by Parliament on 6<sup>th</sup> June 2017 authorising the payment of this sum to SLO.



17. The Attorney General and each SLO employee on 8<sup>th</sup> June 2017 signed amendments to their contracts reflecting the 2017 classifications. The employees were told they could expect payment of arrears and their new salary on 30<sup>th</sup> June 2017.

18. The Attorney General heard that members of the GRT were unhappy with his assessment of salary for SLO Lawyers. He understood the GRT were trying to convince the Ministry of Finance to withhold the Supplementary Appropriation for the SLO.

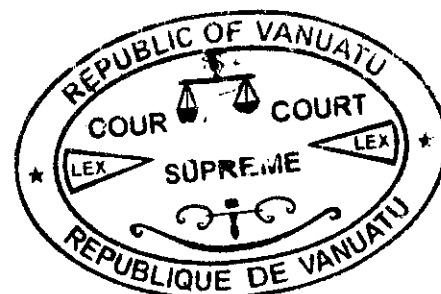
19. On 27<sup>th</sup> June 2017 the Prime Minister wrote to the Director General of Finance instructing them to withhold

*“ all forms of payment pertaining to the proposed salary increase of staff of the State law Office”.*

In addition the Prime Minister advised no payment should be made pursuant to his Order under the Official Salaries Act as it affected the Attorney- General, the Solicitor- General and the Parliamentary Counsel.

20. While the SLO was particularly mentioned the instruction by the Prime Minister was to apply also to the

*“ Staff of the Judiciary and the Office of the Public Prosecutor”*



The Prime Minister said

*“ the instruction will remain in force until such time the Council of Ministers reconsiders the mentioned proposed staff salary increments of the legal sector”.*

*“ Until such time that the Council of Ministers takes a decision on the above mentioned proposed salary increase .....*”

The Director General was told to pay all staff on the earlier September 2016 rate.

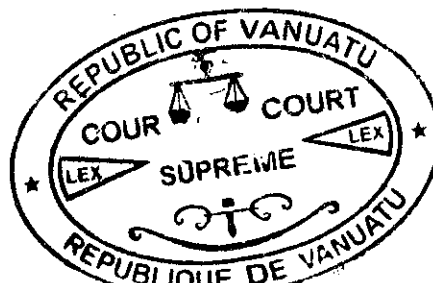
21. The Attorney General on behalf of SLO tried to convince the Government that the Prime Minister had no lawful authority to give such a direction but to no avail.

22. In the meantime it seems the GRT has commenced a review of its 2016 determination. I will return to that question later in this judgment.

### **The Claimants Case**

23. The Claimant’s Judicial Review claim sought a combination of various declarations, quashing orders and prohibition orders.

24. However at trial this was reduced to effectively two. First the Claimants sought an order quashing the direction by the Prime Minister to the Director General of 27<sup>th</sup> June 2017 that the appropriation sum be withheld from the SLO and the direction prohibiting the commencement of the salaries of the Attorney-General the Solicitor General and Parliamentary Counsel.

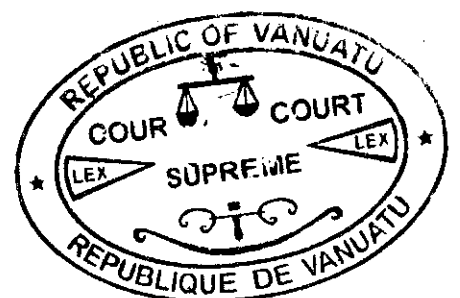


25. The second order sought related to the actions of the GRT in proposing to review the 2016 determination. I will consider this issue later in this Judgment.

26. The Claimant's case is quite simple. The GRT had made a lawful determination as to SLO salaries. Parliament had appropriated money to pay those salaries. The Attorney General had undertaken his obligations in assessing the application of the salary scales to individual employees and had decided in each case the appropriate salary for SLO employees. Therefore all the statutorily required process had been undertaken and the SLO employees had a new lawful salary. And so the Prime Minister had no lawful authority to give any such direction contrary to Parliament's Appropriation Act and contrary his own Order relating to the salaries of the senior officers.

### The GRT Case

27. The GRT case was that the proposed pay rates for most of the SLO lawyers exceeded the maximum amount payable under the GRT 2016 determination. Further two employees were miscategorised. They were administrative employees who had wrongly been included in the legal category. These errors the GRT said meant the Prime Minister was correct to withhold the proposed unlawful payments.





## The Governments Case

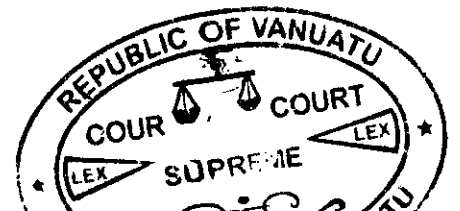
28. The third and fourth defendants submitted that the Attorney- General had not complied with his obligations in setting the salaries of the SLO employees. He had failed to undertake a proper assessment of his individual employees. He had failed to consult the Judicial Services Commission as he was obliged to do. And further in the circumstances it was reasonable for the Prime Minister to halt the appropriation payment so that he and the Council of Ministers could consider the proposed increases in salary for the SLO employees.

## The Statutory Regime and Discussion

29. The Government Remuneration Tribunal Act has its purpose ( S1) the establishment of a tribunal to determine the maximum remuneration for Government employees.

30. The functions of the tribunal are therefore to review and determine such remuneration ( S13 (1) (a). The Act applies, as relevant here to the Attorney General, (S13 (1) (a) (i) ) his staff ( SS vii, viii) and the Solicitor- General and the Parliamentary Counsel (ss (i)) .

31. The Act sets out a process for the GRT to follow when considering a determination (s13 (1) (b) and (c)). Unsurprisingly it involves receiving and considering submissions from all interested bodies including those potentially affected. The result is a determination of the salary scales ( s13(1) (c ) , (2)) for those covered by the determination. A determination is to “ have effect



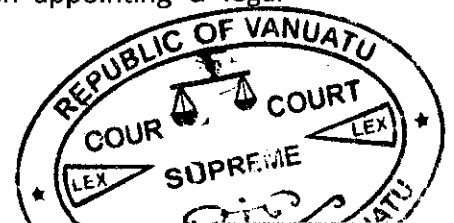
according to its tenor' and no order is required to give effect to the determination (s14).

32. Section 16 sets out the criteria to be applied by the tribunal in making the determination. Section 17 provides for the frequency of determination, not less than 1 year, unless the particular circumstances in s17 (5) apply, and not more than 3 years from the last determination.

33. With respect to the SLO Lawyers the GRT function was therefore to review and determine the maximum remuneration payable to those SLO lawyers as a class of persons in terms of s13. This the GRT did in its 2016 determination. It identified salary scales and the attributes necessary for an employee to be included in each level of salary.

34. The next step in the process for fixing a salary for an individual SLO lawyer is to be found in the State Law Office Act (CAP 242).

35. That Act provides for the appointment of SLO legal officers and for the basic qualifications required of such a person. Section 18 is headed "Terms of Employment". Subsection (1) provides that an appointment as a legal officer is by written contract on terms agreed by the Attorney General. Section 18 (2) provides for the salary and allowances to be set by the Attorney General in consultation with the Judicial Services Commission. And finally S 18 (3) requires the Attorney General to have regard to the budget when appointing a legal



officer. Section 24 provides the salary of legal officers is "*subject to any limitations in any other enactment*".

### **Defendants Submissions**

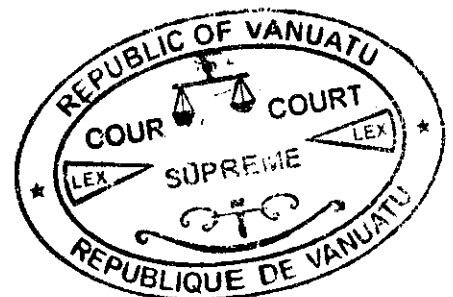
36. It is convenient first to consider the defendant's submissions related as they are to the statutory scheme for the salaries of SLO Lawyers.

37. The GRTs submission was that the payments proposed to be made to individual SLO staff by the Attorney-General pursuant to the June 2017 contracts were mostly in breach of the GRT's 2016 determination and therefore unlawful.

38. This submission is based on a misunderstanding of how the statutory scheme to fix SLO employees' salary works.

39. The first step in a reconsideration of SLO salaries arises when the GRT decides to begin the process for a determination under the GRT Act. This seems to have first occurred sometime in 2014 with the work undertaken by the Justice Ministry.

40. In any event in August 2016 such a determination was released. This, correctly, as the GRT itself identified, did not assess individual employee pay rates. The determination gave classification standards for various levels of assessment of staff. The determination then identified salaries levels which it considered

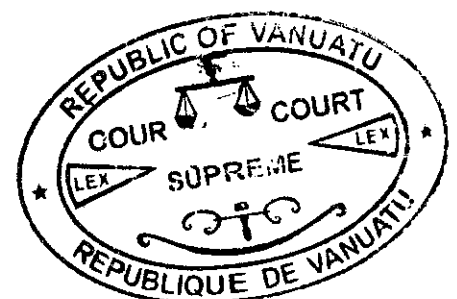


reflected each classification standard. It then gave salary structure levels and a grades within those levels, with salary amounts for those grades.

41. The next process in setting salaries for individual employees is undertaken by the Head of State of the agency which employed the staff who were subject to the determination. In this case the Attorney General. The Attorney General assessed each staff member against the criteria identified by the GRT so that each employee was on a level and salary grade appropriate to their experience and knowledge.

42. The Attorney General carried out this function in this case twice. Once in September 2016 and again in June 2017. In both cases it is undisputed by evidence that he undertook a proper assessment based on the GRT determination.

43. The GRT's submission focussed on Attorney General salary scales in the September 2016 assessment rather than the June 2017 assessment in submitting the 2017 salary levels were in excess of the 2016 determination This was wrong. The salaries which gave rise to the Prime Ministers concern were the 2017 salaries. The pay scales in the 2017 Attorney- General staff assessment were all within the relevant scales as identified by the GRT in its 2016 determination and so were unobjectionable. After discussion with Counsel for the GRT this was accepted.

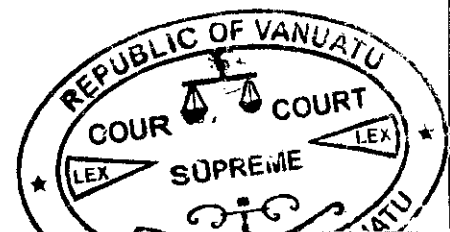


44. The GRT's submission however also exposed a misapprehension on their part as to the correct process for fixing individual salaries. The GRT appeared to consider that in some way the GRT had a role not just in the broad determination of salary scales but in fixing individual employees pay rates for those s13(1)(a) (vii) and (viii) employees. This arose because the GRT complained about the salary levels the Attorney-General had assigned to individual SLO employees. The GRT does have a function in setting pay rates for particular individuals. Section 13 (1) (a) (i) .... vi). It has no role in setting individual rates for employees outside of that limited category. Setting such salaries is the function of the head of the relevant organisation. The head of the relevant organisation's must act within the GRT framework and within the salary levels set. But beyond that it is the head of the organisations decision as what level and grade an individual employee falls within.

45. I therefore reject the GRT's submission that the 2017 SLO salaries as assessed by the Attorney-General were in breach of the GRT's 2016 determination.

46. Part of the complaint by the GRT was that two of the SLO employees who were not lawyers were put in the lawyer category for salary purposes. This submissions was based on a spread sheet of SLO employees in Mr Tioploaroto's (the Director of the GRT) sworn statement.

47. The spread sheet shows that originally the two employees were put in the SLO lawyer category although they were administrative staff. This apparent discrepancy has been fixed in the most recent classifications when the two



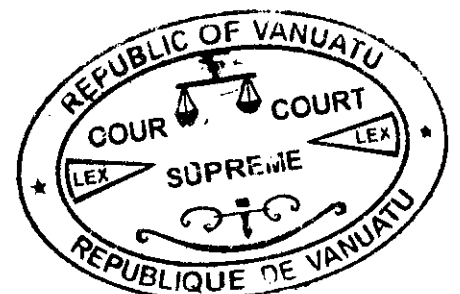
employees have been returned to the administrative category. In any event if these employees had been wrongly categorised the GRT or a representative of the Government could simply have pointed that out to the Attorney General. It would not be a basis for the Prime Minister to give his direction of 27<sup>th</sup> June 2017.

### **Third and Fourth Defendant's case**

48. I now turn to the submissions of the third and fourth defendants.

49. The defendants raised in written submissions, although did not pursue in argument before me, two issues relating to the process used by the Attorney General in setting individual remuneration. They submitted the Attorney General had not carried out a proper process when considering each individual's salary. There were claims in the defendant's sworn statements that the SLO employees had fixed their own salaries.

50. I am satisfied that the Attorney General as he described carried out a proper process to assess individual salaries against the GRT criteria. The Attorney General instructed each head of the units within the SLO to undertake an assessment against the GRT criteria for each employee. Those assessments were then sent to the Attorney General who made the final decision on salary level. The letters sent to each employee after the assessments confirmed that process had been undertaken. I reject this ground of complaint about the Attorney General's process for setting remuneration scales. It is plainly wrong. The SLO lawyers did not set their own salaries.



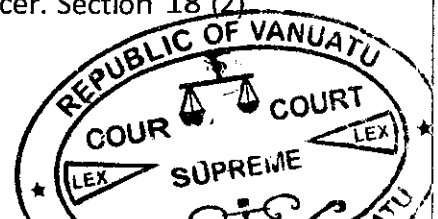
51. The second complaint was that the Attorney General had not consulted the Judicial Services Commission, as he was obliged to do pursuant to s18 (2) of the State Law Office Act, before setting the individual remuneration for SLO employees. The defendants submitted that failure meant the Attorney General's decisions on individual remuneration was unlawful.

52. I am satisfied there was no statutory obligation on the Attorney General to consult the Judicial Services Commission on the individual remuneration decisions he made subsequent to the 2016 GRT determination.

53. The relevant statutory provision is s.18, State Law Office Act. I am satisfied that a proper reading of s17 and s18, together with s24, does not require the fixing of salaries by the Attorney General after a GRT determination to be subject to consultation with the Judicial Services Commission.

54. Section 17 is concerned with the appointment of a new legal officer to the State Law Office. It sets out the expectations of such a person and how the appointment is to be made.

55. Section 18 (1) deals with the contract for new employees and s18 (3) is concerned with the budget for new employees. Given that context I am satisfied that the determination of the salary by the Attorney General and the consultation required under s18 (2) by the Judicial Services Commission is consultation only of the commencing salary for a new law officer. Section 18 (2)



and the requirement to consult therefore does not apply to Attorney General decisions as to staff salary after a GRT determination.

56. I record that Counsel for the 3<sup>rd</sup> and 4<sup>th</sup> defendants accepted that interpretation of s18 (2) was correct.

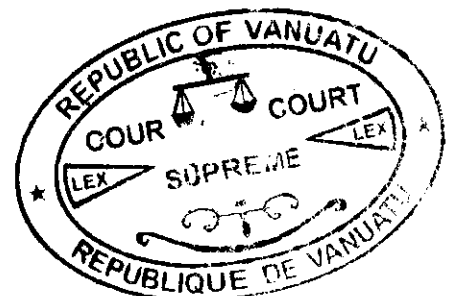
57. The third and fourth defendants also submitted that the Government was concerned that each of the SLO employees salary, after the June 2017 assessment by the Attorney General, was the maximum payable at their level in their particular grade.

58. This illustrated, the defendants said, a proper process had not been undertaken by the Attorney-General when he fixed the salaries of the SLO lawyers.

59. This submission arises from a misunderstanding of the Tribunal's categorisation and salary setting in the 2016 determination. An example illustrates the misunderstanding. In the Public Lawyer salary structure there are 6 levels ( level 1 to level 6) and between 5 and 6 salary grades in each level. The salary for each grade is identified. For example grade 2.1 is VT 1.195.500 and grade 4.6, VT 2.262.100.

60. The Government's complaint is that whenever an employee was graded for example 2.1 or 4.6 they received the pay noted for that grade.

61. This was a maximum for the grade, the Government claimed, and a maximum should not always be given.



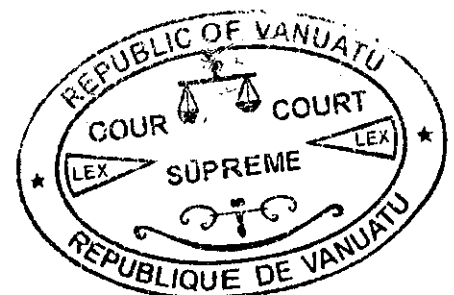


62. This cannot be correct. There are already 34 grades for Public Lawyers. The salary for each of the 34 grades is not a maximum for that grade but the salary for the grade. There is nothing in the determination to suggest each salary grade is a maximum only. If the defendants were correct there would be further subgrades of salary grades. There is nothing to support this interpretation and it would create an extremely complex system. Further the variation between the grades is often modest. For example, the difference between grades 1.4 and 1.5 is VT 32.000 per annum or about VT 600 per week.

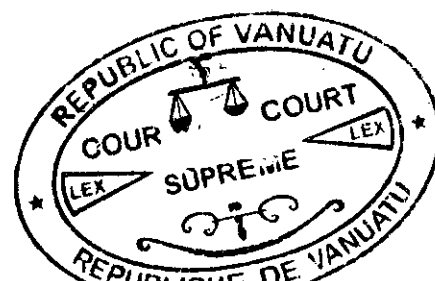
63. I therefore reject this submission. The grade salaries are the salaries for that level and grade. And so the implication suggested by the Government, that this salary allocation suggested a proper process in fixing salaries had not taken place is wrong.

64. The final submissions by the third and fourth defendants related to the lawfulness of the Prime Ministers direction to the Director- General of Finance halting the appropriated sum.

65. It is appropriate therefore to return to the claimant's case. It can be expressed simply. The Prime Minister had no lawful authority to stop that which Parliament had appropriated. The Claimants say the GRT determination was lawful and Parliament passed an Appropriation Act which reflected both the GRT decision and the lawful decisions of the Attorney General in setting individual remuneration.



66. The defendants submit that it was reasonable of the Prime Minister to withhold the 2017 salary payments until "*anomalies were resolved*".
67. Further the defendants submitted they were concerned that the claimants were giving themselves the maximum or above grade entitlements without the necessary consultation.
68. And so the defendants submit some oversight by the Prime Minister was reasonable. And his delay of the payment of the appropriated sum had to be seen in that light.
69. I have already rejected the claim that the claimants were giving themselves salary increases or that they received the maximum salary payable, or that they needed to consult. The defendants have not been able to in fact identify any anomaly in the process by which the salaries of the SLO lawyers were fixed.
70. More importantly the Prime Minister simply had no lawful authority to direct the Director General of Finance not to pay the money appropriated by Parliament to the SLO.
71. Parliament had spoken and the Prime Minister's along with all citizens of Vanuatu were obliged to carry out Parliament's instructions.
72. The defendant's claim that the Prime Ministers decision to call a halt to the proposed salary increases was reasonable (in a Wednesbury sense) misses the



point. It is not a question of reasonableness. It is a question of lawfulness. The Prime Minister had no lawful authority to halt payment.

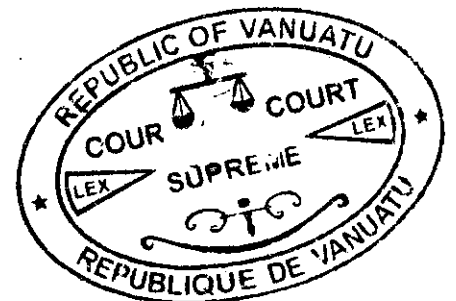
73. The reasonableness or otherwise of his directions is irrelevant. A reasonable direction cannot make an unlawful act lawful.

74. I am satisfied therefore the Prime Minister's action in directing that the sum appropriated by Parliament to the SLO be held pending consideration of the SLO salary determination was unlawful. There is no reason why in my view an order quashing that decision should not be made.

#### **A Review of the 2016 determination**

75. The other ground a review pursued by the claimants related to what appeared to be a proposed review of the 2016 determination by the GRT. The claimants pointed to evidence, including from the GRT itself, that it proposed to undertake s17(5) ( GRT Act) early review of the 2016 determination. Counsel for the second defendant confirmed the review was underway and that the basis for the review in part was the concern about the decisions of the Attorney General in fixing individual remuneration for the SLO lawyers in his June 2017 decision.

76. In the circumstances I simply do not know enough of the facts relating to this possible review by the GRT to give any final decision. However I make these observations.



77. Under s17 (5) the GRT Act the GRT may conduct an early a review of a determination if there are "*particular and special reasons*" that justify a period of less than 1 year.

78. The suggestion is that the particular and special reason here is that the GRT are unhappy with the Attorney General's decision on individual remuneration in the SLO.

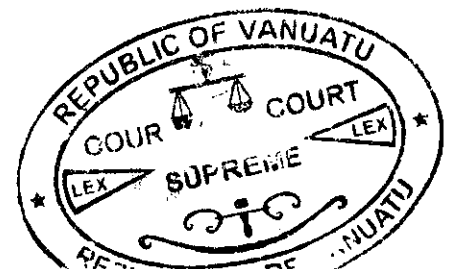
79. As I have noted the decision on individual remuneration is the province of the Attorney General with respect to the SLO. It is not the GRT. And for obvious practical reasons the GRTs could not assess each public servant's salary. Hopefully the GRT will keep these observations in mind when assessing whether they wish to continue with any review based on these grounds.

80. In the circumstances this aspect of the claim is adjourned. It may be brought on for hearing on an urgent basis should that be necessary.

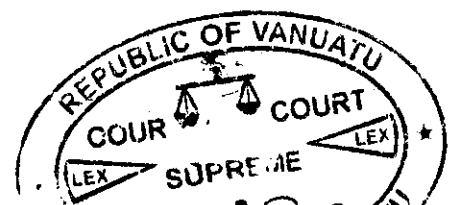
### **The Attorney-General, Solicitor-General and Parliamentary Counsel**

81. The second issue relates to the position of the Attorney General, the Solicitor General and the Parliamentary Counsel.

82. Because of the provisions of the Official Salaries Act they are in a slightly different position than that of other employees of the SLO. It was common ground that the GRT could fix salary levels for senior law officers including the A-G, S-G plus PC. ( s13 (1) (a) (i).



83. In its 2016 determination the GRT noted the three officers should be in Senior Public Lawyer category 3 (SPL3). No specific salaries were identified. The range was VT 6.738.300 to VT 8.009.600. (SPL 3.1-3.4) identified by the GRT.
84. The Official Salaries Act (CAP 168) provides for the salaries of the holders of high State Office. It includes the three officers in this case. The Act provides that those person will be paid the salaries in the schedule to the Act. The Prime Minister, with the Council of Minister's authority may vary the schedule.
85. On 12<sup>th</sup> June 2017 the Prime Minster signed an Official Salaries Act Order to commence 1<sup>st</sup> January 2017 declaring the salaries of the Attorney General to be VT 8.009.600 ( SPL 3.4), the S-G VT 6.738.000 ( SPL 3.1) and the PC to be VT 6.738.300 ( SPL 3.1).
86. This rather different process to set the salaries of these three officers seems to be designed to avoid those officers effectively deciding their own salary. All three are part of the SLO and would otherwise have their salary set by the Attorney General. This awkward conflict is avoided by the Official Salaries Act which gives the Prime Minister and the Council of Ministers formal oversight of these salaries. Once the Prime Minster has signed the Order under s3 of the Act the new salary is to be paid to the officer holders ( here the A-G, SG and PC) ( s1) .
87. It follows therefore the Prime Minster had no lawful authority to call a halt to the Order he had signed in his 27 June letter to the Director General of Finance. The Official Salaries Act required the salaries to be paid to these three office holders.



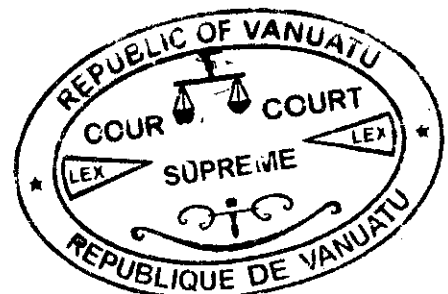
88. The Prime Minister's direction that the salary to these 3 office holders not be paid will be quashed. I note s3(2) prohibiting any subsequent change to the salary of these office holders being made which is to " the detriment of the holder of the office".

### Other matters

89. Finally when I was timetabling this case it became apparent that not only had the salary determinations for SLO been halted by the Prime Minister's letter of 27 June but so had those for employees covered by the Judicial Services and the Public Prosecutors office. I advised counsel that it would be wrong to have successive judicial review claims relating to the same subject matter subsequently filed by the JS and the PPO. During the hearing of this case I asked counsel to advise what the position was with respect to these two other bodies.

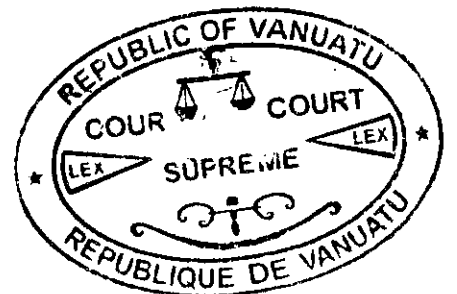
90. Counsel for the claimants suggested the position with respect to those other two bodies was the same as the SLO. One possible difference was that there was nothing to suggest the Government's concern about the SLO salaries was mirrored in the salaries of the other two bodies. This could only have strengthened the position of JS and PPO.

91. Counsel for the defendants could not suggest any reason why those two bodies should be treated differently than the SLO. I agree. However those two bodies are not parties to these proceedings and so no formal orders can be made.



## Orders of the Court

- I. I quash the direction of the Prime Minister dated 27 June 2017 to the Director General of Finance when he said “ *..you are hereby instructed to withhold all forms of payment pertaining to the proposed salary increase of staff of the State Law Office.*”
- II. And I quash the direction of the Prime Minister when he said..... “ *you are advised to pay all staff of the legal sector on the salary that was awarded to those staff in the August 2016 GRT Determination*”. This quashing relates however only to the State Law Office staff given the other staff of the “Legal sector” are not parties to these proceedings.
- III. And I quash the direction of the Prime Minister in the letter of 27 June 2017 when he said “*you are also hereby notified that Order no. 62 of 2017 should not be affected until the Council of Ministers deliberate on the proposed increments.*”
- IV. The intent of orders (i) and (ii) is that the VT 45.748.200 being the sum in the Appropriation Act relating to the increase in salary for State Law Office employees should now be released to the State Law Office.
- V. The application to quash the decision of the GRT to undertake a supplementary review of the August 2016 determination is adjourned for reasons set out in this judgment. It may be brought on for hearing on an urgent basis at the request of the claimants.



- VI. All other declarations, quashing orders, mandatory orders and prohibition orders sought are refused.


**Costs**

92. The claimants are entitled to costs as taxed on a reasonable basis from the second third and fourth defendants. The costs award will need to take into account that for part of these proceedings the claimants were self-represented. For this period they are entitled to out of pocket expenses but no other costs. For the period when they had representation they are entitled to costs against the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> defendants. I make no order as to costs relating to the 1<sup>st</sup> defendant.

93. Finally I reserve leave to all parties to return to Court for any issues or orders overlooked in this judgment which require consideration.

Dated at Port Vila this 3<sup>rd</sup> day of August 2017

BY THE COURT

  
Ronald Young  
Judge

