

IN THE SUPREME COURT OF  
THE REPUBLIC OF VANUATU  
(Civil Jurisdiction)

Civil  
Case No. 22/2604 SC/CIVL

**BETWEEN: Smith Wuwut Koro**  
Claimant

**AND: Police Service Commission Board**  
First Defendant

**AND: Republic of Vanuatu**  
Second Defendant

Date: 31 May 2023  
Before: Justice V.M. Trief  
Counsel: Claimant – in person  
First and Second Defendants – Mr J. Wells

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**DECISION AS TO DEFAULT JUDGMENT APPLICATIONS, STRIKE OUT APPLICATION  
AGAINST THE SECOND DEFENDANT'S DEFENCE AND STRIKE OUT APPLICATION  
AGAINST THE FIRST AND SECOND DEFENDANTS' SUBMISSIONS**

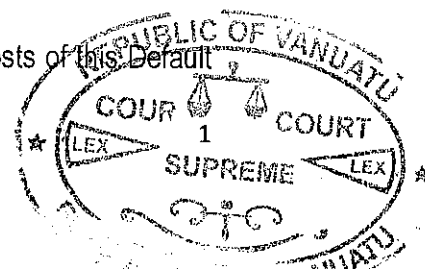
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A. Introduction

1. This is the decision in relation to a number of interlocutory applications made by the Claimant Smith Wuwut Koro. By way of background, the Claim filed on 20 September 2022 seeks damages in relation to the termination of his employment with the Vanuatu Police Force ('VPF').

B. Default Judgment Application

2. On 8 November 2022, Mr Koro filed Default Judgment Application. At that point, the Defendants the Police Service Commission and the State had not filed a Defence. They had chosen instead to pursue a strike-out application on the basis of non-compliance with s. 6 of the *State Proceedings Act* and after that, having informed the Court, to make an offer of settlement to Mr Koro. In any event, the Default Judgment seeks relief that is not available in a default judgment including immediate reinstatement of Mr Koro's employment with the VPF. In the circumstances, the Default Judgment Application must be declined and dismissed.
3. Costs must follow the event. The Defendants are entitled to their costs of this Default Judgment Application.



C. Claimant's Strike out Application against the Second Defendant's Defence

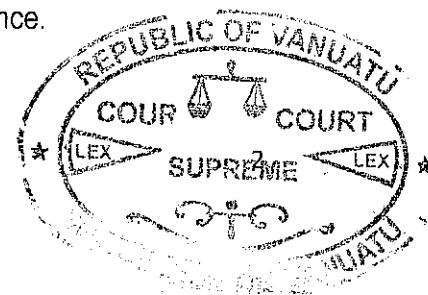
4. On 14 April 2023, Mr Koro filed Strike out Application against the Second Defendant's Defence seeking orders that the Defence filed on 24 March 2023 be struck out, and that default judgment or summary judgment be entered.
5. There were multiple grounds advanced for the strike-out sought but in essence they were a complaint that the Defence was not filed within 14 or 28 days of service of the Claim. As already set out, the parties were involved in other interlocutory steps. If settlement could not be agreed, then a Defence would need to be filed subsequently which was also a course intended to minimise costs.
6. For the reasons given, there is no merit in the grounds advanced hence the Claimant's Strike out Application against the Second Defendant's Defence must be declined and dismissed.
7. Costs must follow the event. The Defendants are entitled to their costs of this Strike out Application against the Second Defendant's Defence.

D. Request for Default Judgment (Damages)

8. On 17 May 2023, Mr Koro filed Request for Default Judgment (Damages) on the ground that the Defendants had not filed any Defence within 28 days of being served with the Claim in this proceeding. It is correct that no Defence was filed within that time but as already set out above, instead there was a strike-out application on the basis of non-compliance with the *State Proceedings Act* and then further delay with the State putting an offer of settlement to Mr Koro. Only if unsuccessful would a Defence need to be filed.
9. On 24 March 2023, a Defence was filed.
10. As a Defence has been filed and in the circumstances, the Request for Default Judgment (Damages) must be declined and dismissed.
11. There is no order for the costs of this Request for Default Judgment (Damages).

E. Claimant's Strike out Application against the First and Second Defendants' Submissions in Response to the Claimant's Default Judgment Application and Strike Out Application against the Second Defendant's Defence

12. On 16 May 2023, the Defendants filed Submissions in Response to the first two Applications opposing them.
13. On 19 May 2023, the Claimant filed Strike out Application against the First and Second Defendants' Submissions in Response to the Claimant's Default Judgment Application and Strike out Application against the Second Defendant's Defence.



14. Submissions are the legal arguments made by the parties. They cannot be struck out like a Claim can.
  15. There is no merit whatsoever to this Application. It must be declined and dismissed.
  16. There is no order for the costs of this Application.
- F. Result and Decision
17. The Claimant's Default Judgment Application filed on 8 November 2022 is **declined and dismissed**.
  18. The Defendants are entitled to their costs of this Default Judgment Application.
  19. The Claimant's Strike out Application against the Second Defendant's Defence filed on 14 April 2023 is **declined and dismissed**.
  20. The Defendants are entitled to their costs of this Strike out Application against the Second Defendant's Defence.
  21. In opposition to the first two Applications, the Defendants filed Submissions in Response to those Applications on 16 May 2023. Accordingly, I fix the quantum of costs in relation to those two Applications in the sum of VT25,000 which the Claimant is to pay to the Defendants **by 4pm on 21 June 2023**.
  22. The Claimant's Request for Default Judgment (Damages) filed on 17 May 2023 is **declined and dismissed**.
  23. There is no order for the costs of this Request for Default Judgment (Damages).
  24. The Claimant's Strike out Application against the First and Second Defendants' Submissions in Response to the Claimant's Default Judgment Application and Strike out Application against the Second Defendant's Defence filed on 19 May 2023 is **declined and dismissed**.
  25. There is no order for the costs of this Strike out Application against the First and Second Defendants' Submissions.
  26. I urge Mr Koro to cease filing interlocutory applications and focus instead on preparation of this matter towards trial as soon as possible.

**DATED at Port Vila this 31<sup>st</sup> day of May 2023**

**BY THE COURT**

*VM Tineo*  
Justice Viran Molisa Tineo

