

No. 53

Application for Leave to Apply for Judicial Review (0.53, r.3)



G039

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 2013

BETWEEN: PAULINE EVADNE COLE ROBERTS

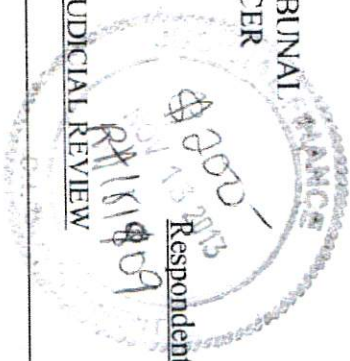
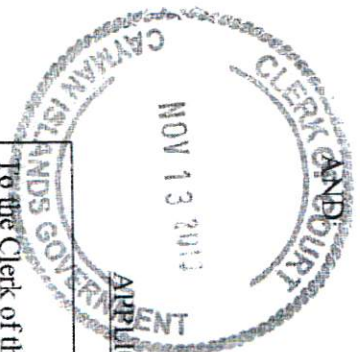
Plaintiff/Applicant

THE IMMIGRATION APPEALS TRIBUNAL  
THE CHIEF IMMIGRATION OFFICER

Respondents

APPLICATION FOR LEAVE TO APPLY FOR JUDICIAL REVIEW

To the Clerk of the Court, Law Courts, George Town, Grand Cayman



Name, address and description of applicant(s)	
	<p>The Applicant, Pauline Evadne Cole Roberts of 107 Bogy sand Road, West Bay, Grand Cayman, Cayman Islands, a citizen of Jamaica, having appealed to the Immigration Appeals Tribunal against the refusal of an application for the Grant of Permanent Residency by the Caymanian Status and Permanent Residency Board pursuant to Sections 15 and 16 of the Immigration Law (2012 Revision) as read with section 30 (3) of the Immigration Law 2012 Revision and the Second Schedule of the Immigration Regulations (2010 Revision)</p>

<p>Judgment, order, decision or other proceeding in respect of which relief is sought</p>	<p>The decision of the Immigration Appeals Tribunal dated 7<sup>th</sup> October 2013 dismissing the Applicants appeal against the refusal of a grant of a right to permanently reside in the Cayman Islands on the basis that the Applicant had achieved insufficient points to qualify for consideration of the grant of permanent residency.</p>
<p>Relief Sought</p>	<ol style="list-style-type: none"> <li>1. An order of <i>Certiorari</i> quashing the said decision of the Immigration Appeals Tribunal;</li> <li>2. An order of <i>Mandamus</i> directing the Immigration Appeals Tribunal to rehear the application in accordance with the Second Schedule to the Immigration Regulations (2010 Revision) for a right to permanently reside on the basis that: <ol style="list-style-type: none"> <li>i) The Immigration Appeals Tribunal acted unreasonably and in breach of the rules of natural justice after having determined that sufficient grounds of appeal had been made out by the Applicant it allocated only 93 points to the Applicant in accordance with the point system as set forth in the Second Schedule to the Immigration Regulations (2010 Revision). In allocating the said 93 points the Tribunal failed to take into account matters which ought to have been properly taken into account in the allocation of points namely the positive change in the Applicants financial position Under Factor 5 and further details of her contributions to the community under Factor 6.</li> <li>ii) The Immigration Appeals Tribunal failed in their duty to be consistent in the manner in which it allocated points under the point system contained in the Second Schedule to the Immigration Regulations (2010 Revision) to the Applicant and in so doing acted contrary to the cardinal principal of good public administration that all persons who are in a similar position shall be treated similarly.</li> <li>iii) The Immigration Appeals Tribunal acted in a discriminatory and arbitrary manner and in a manner in which no reasonable Tribunal would behave by failing to provide the Applicant with any rational or fair basis or reasons for their allocation of 93 points in accordance with the Second Schedule to the Immigration Regulations (2010) Revision specifically the allocation of only 5 points for Funds and Salary under Factor 5 and its allocation of only 5 points under Factor 6 Contribution to the Community.</li> </ol> </li> </ol>

iv) The Applicant had a legitimate expectation that upon her appeal being successful in that sufficient grounds of appeal had been made out the Immigration Appeals Tribunal would have a duty to assess her rehearing in accordance with the point system in place at the time her appeal was found to have succeeded and that to now assess her application in accordance with the revised point system would be unfair and would deprive the Appellant of her legitimate expectation to be assessed in accordance with the point system in place at the time of the success of her appeal.

3. An order of *Mandamus* directing the Chief Immigration Officer to permit the Applicant to continue to work for her employer James Charles Bege Hempton Chapman until the hearing of the application for judicial review of the decision of the Immigration Appeals Tribunal dated October 7<sup>th</sup> 2013.

4. Such further, consequential, or other relief as to this Honourable Court seems just;
5. Costs

Name and address of applicant's attorneys, or, if no attorneys acting, the address for service of the applicant

Bodden & Bodden Attorneys at Law  
Grand Pavilion Commercial Centre  
820 West Bay Road  
P.O. Box 10335  
Grand Cayman KY1-1003.  
Ref: SAB/srt

Signed

*Bodden & Bodden*

Dated this 7th day of  
November, 2013

#### GROUNDNS ON WHICH RELIEF IS SOUGHT

The Applicant seeks leave to apply for judicial review on the basis that the decision made by the Immigration Appeals Tribunal on the 7<sup>th</sup> October 2013 to dismiss the appeal of the Applicant against a refusal by the Caymanian Status and Permanent Residency Board of a grant of the right to permanently reside in the Cayman Islands following the successful outcome of her appeal against such refusal was either: (i) unreasonable, (ii) procedurally irregular or (iii) irrational, because the Immigration Appeals Tribunal failed to take into account the full particulars and the individual facts in this case, to give reasons for its allocation of points under the point system contained in the Second Schedule of the Immigration Regulations (2010) Revision or to be consistent in the manner in which it allocated the points to this Applicant.

NOTE: The Applicant's Attorney respectfully request a hearing of this application for leave to apply for judicial review pursuant to Order 53, Rule 3 (3) of the Grand Court Rules.