

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 0511 OF 2008

In the Matter of the Grand Court Rules, Order 53

And in the Matter of an application for Judicial Review by the Plaintiffs

BETWEEN:

CARLOS POWELL
and
ADRIAN ROWE

FIRST PLAINTIFF
SECOND PLAINTIFF

AND: ATTORNEY GENERAL OF THE CAYMAN ISLANDS
(For and on behalf of the Public Works Department and
the Royal Cayman Islands Police Department)

DEFENDANT

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 applicants:

Carlos Powell
Bodden Town
Grand Cayman

AND

Adrian Rowe
Prospect,
Grand Cayman

Judgment, order, decision or other proceeding in respect of which relief is sought:

1. The decision of the Director of Public Works Department not to reinstate the Plaintiffs. This is evidenced by the Director's letters both dated 15th July, 2008 addressed to each of the Plaintiffs. (see Exhibit "AR-4" to the Affidavit of Carlos Powell and Exhibit "AR-4" to the Affidavit of Adrian Rowe.
2. The decision of the Director of Public Works Department not to provide the Plaintiffs with a written decision and/or transcript of the hearing between the Plaintiffs and the Defendant, at the Offices of the Portfolio of Civil Service on 4th September, 2008. This is evidenced by letter dated 29th September, 2008 from the Director of Public Works Department to Facey-Clarke & Associates (exhibit 5 to Affidavit of Carlos Powell, page 2, para. 5).
3. The decision of the Director of Public Works Department not to provide the Plaintiffs with a copy of the affidavits in support of obtaining search warrants to search the Plaintiffs homes on 21st September, 2007.

Relief Sought:

A Mandatory Order (Order of Mandamus):-

1. That the Director of the Public Works Department reinstate the Plaintiffs to their respective positions pursuant to section 40(5) of the Public Service Management Law 2005 Personnel Regulations, 2005.
2. That the Director of the Public Works Department delivers forthwith, a sworn copy of the Affidavits supporting an application for a search warrant of Mr. Powell's and Mr. Rowe's homes on 21st September, 2007, regarding suspicion of official corruption. The search warrants were issued pursuant to section 90 of the Penal Code (2006 Revision).

3. That the Director of the Public Works Department delivers a written decision as well as a transcript of a hearing which took place between the Plaintiffs and the Defendant on 4th September, 2008 in accordance with Section 53(2) of the Public Service Management Law (2007 Revision).
4. That the Director of the Public Works Department delivers forthwith, signed copies of performance appraisals for the Plaintiffs over the past four years.
5. For an Order that the costs of and incidental to this application may be paid by the Defendant or the Director of Public Works Department or as the Court so directs.
6. Any other Order, relief and/or directions as this Honourable Court deems fit
7. Alternatively, should the Court not grant an order that the Plaintiffs be reinstated, for any other order or directions with respect to the future conduct of these proceedings.

Name and address of applicant's attorneys

Margeta Facey-Clarke
Facey-Clarke & Associates, P.O. Box 2545GT,
Unit 119, Ground Floor, Elizabethan Square,
George Town, Grand Cayman
Tel: (345) 946-8111 Fax: (345) 946-8141
email: mclarke@candw.ky

Dated this ^{30th} 28th day of October, 2008



Facey-Clarke & Associates
Attorneys-at-Law for the Plaintiffs

This Application was filed by Facey-Clarke & Associates, Attorneys-at-Law for the Petitioner herein whose address for service is that of the said Attorneys-at-Law, Ground Floor, Unit 119, Elizabethan Square, Grand Cayman

GROUNDS ON WHICH RELIEF IS SOUGHT

1. The Director's refusal and/or failure to reinstate the First Plaintiff and Second Plaintiff to their respective positions of manager and supervisor is inconsistent with the Public Service Management Law, 2005 (Personnel Regulations, 2006) section 40(5).
2. The Director's failure to provide a copy of the supporting affidavit in order to obtain search warrants of the Plaintiffs homes on 21st September, 2007, now that the police have completed their investigations, is unfair to the Plaintiffs.
3. The Director of the Public Works Department has refused and/or failed to deliver a written decision of a hearing which took place between the Plaintiffs and the Defendant on 4th September, 2008 pursuant to Section 53(2) of the Public Service Management Law (2007 Revision). Time for delivery of such decision in writing has elapsed.
4. The Plaintiffs intend to rely on their respective affidavits filed herein in support of their application.

Dated this 30th day of October, 2008



Facey-Clarke & Associates
Attorneys-at-Law for the Plaintiffs

These Grounds were filed by Facey-Clarke & Associates, Attorneys-at-Law for the Plaintiff herein whose address for service is that of the said Attorneys-at-Law, Ground Floor, Unit 119 Elizabethan Square, Grand Cayman