

THE EASTERN CARIBBEAN SUPREME COURT:

**IN THE HIGH COURT OF JUSTICE
CIVIL DIVISION**

SAINT LUCIA

Claim Number: SLUHCV2025/0262

BETWEEN:

NATIONAL SKILLS DEVELOPMENT CENTRE

Claimant

-and-

ALISON ST ANGE

Defendant

Before the Honourable Mr. Justice Alvin S. Pariagsingh

Appearances: Ms. Isa E.M. Cyril for the Claimant
Mr. Huggins Nicholas for the Defendant

2025: October 08
2026: January 19

**JUDGEMENT
Claim for Judicial Review, Delay.**

[1] **PARIAGSINGH, J:** - By its Fixed Date Claim filed on 24 June 2025, the Claimant seeks the following relief:

- 1) "An order of certiorari to quash the decision of the Labour Tribunal dated 9 March 2017 in the matter of Alison St Ange v National Skills Development Centre;
- 2) A declaration that:
 - a) the Labour Tribunal was not properly constituted, as its Chairperson was not an attorney-at-law, contrary to section 425 of the Labour Act, Cap. 16:04;
 - b) the Labour Tribunal acted ultra vires the Labour Act and its decision is therefore null and void.

- c) A declaration that the Labour Tribunal's decision was irrational, procedurally unfair, breached the rules of natural justice, and was contrary to the weight of the evidence.
- d) An order for costs;
- e) Such further or other relief as the Court considers just."

THE EVIDENCE:

[2] In support of the claim, the Claimant relies on the evidence of Ms Selma St. Prix. Her evidence is that the Claimant worked with the NSDC until she was dismissed on 16 February 2015. After her dismissal, the Claimant made a complaint to the Labour Tribunal, which delivered a decision on 9 March 2017. Ms St. Prix says that the NSDC was never served with a written copy of that decision and only became aware of its contents years later through "informal communications" and court proceedings commenced by the Claimant to enforce it.

[3] She describes the failure to serve the decision as a breach of natural justice, claiming that it deprived the NSDC of any opportunity to consider its legal options within the proper timeframe. She also expresses dissatisfaction with the Tribunal's reasoning, stating that the findings were "irrational" and contrary to the evidence presented at the hearing. According to her, the Tribunal ignored witness testimony and internal records which showed the Defendant's alleged misconduct, which, in the NSDC's view, justified dismissal.

[4] Ms St. Prix further raises two additional complaints: first, that the Defendant's application to the Tribunal was out of time and should have been referred to the Labour Commissioner instead of being filed directly; and secondly, that the Chairperson of the Tribunal was not a qualified attorney-at-law, as required by **section 425(1) of the Labour Act**¹. She argues that this rendered the Tribunal's decision ultra vires and void.

[5] Beyond these points, her affidavit does not provide a timeline of events between 2017 and 2025, nor does it include any correspondence, requests, or steps showing that the

¹ Cap. 16.04 of the Revised Laws of Saint Lucia (the Act)

NSDC attempted to obtain the decision earlier. In short, aside from a vague reference to becoming aware of the decision through correspondence, no date is given. Further, there is no transcript or other type of record of the proceedings before the Tribunal. The only document from the Tribunal placed before the Court is its decision.

- [6] There is also no indication of when the Claimant first learned of the Tribunal's ruling or what caused the long delay in seeking judicial review. Her evidence also entirely omits the fact that the Claimant was represented by counsel, Mr Leevie Herelle, and by the same attorney who now brings this claim, Ms Isa Cyril, at the Tribunal. Counsel participated in the hearing, led evidence, cross-examined witnesses, and made submissions. No objection was taken before the Tribunal that it lacked jurisdiction to hear the complaint.
- [7] In opposition to the claim is the evidence of the Defendant. She presents a different account. She confirms that she was dismissed in February 2015 and that she filed her complaint before the Labour Tribunal, which heard and determined the case in her favour. She contends that the Claimant cannot now deny the Tribunal's jurisdiction or claim to have been unaware of its decision, having failed to take the jurisdiction point before it.
- [8] The Defendant's evidence is that her lawyer advised her that **section 9** of the Act allows an employee to bring a direct complaint to the Tribunal where fundamental rights, such as natural justice or protection against discrimination, have been breached. She relies on this to say that her case was properly before the Tribunal without the need for a referral from the Labour Commissioner.
- [9] She also accuses the Claimant of abusing the process of the Court, stating that the judicial review application was only filed in 2025, years after the Tribunal's decision, in an attempt to block enforcement of her award. She notes that six years had already passed since the decision, which would have entitled her to seek execution, and claims that the Claimant is using judicial review as a tactic to delay payment rather than as a genuine legal challenge.

[10] Finally, she points out that the Claimant's representatives could have objected to the Tribunal's jurisdiction during the hearing but did not do so. Having participated fully in the process, she says, the Claimant cannot now "approve and disapprove"; that is, it cannot accept the process when it suits it and reject it later when it does not.

THE PREVIOUS PROCEEDINGS:

[11] It is necessary to set out the record of the proceedings referred to in [2] above. By a claim filed on 21 September 2021, the Defendant (the Claimant in the enforcement claim) commenced proceedings against the Claimant (in this claim) in Claim Number SLUHCV2021/0391 (the enforcement claim).

[12] In the enforcement claim, the Defendant sought to recover against the Claimant the sums awarded by the Tribunal as a civil debt. Filed together with the Claim Form was a Statement of Claim, at paragraph 5 of which the Defendant pleaded the decision of the Tribunal as the basis for her claim.

[13] The Claimant in this claim, being the Defendant to the enforcement claim, filed an Acknowledgement of Service on 7 October 2021 and a Defence on 29 October 2021. Both filings were made by Mr Leevie Herelle, who also acted for the Claimant in the Tribunal proceedings. At paragraph 5 of that Defence, the Claimant (Defendant to the enforcement claim) pleaded as follows:

"Paragraph 5 is denied. At no stage has the Labour Tribunal delivered its ruling to the Defendant and/or the Defendant's attorneys. As far as the Defendant and/or its attorneys are aware, the Labour Tribunal has never contacted the Defendant and/or its attorneys with respect to any ruling which it handed down in this matter. The Defendant and its attorneys have no idea how the Claimant would have obtained a supposed ruling of the Labour Tribunal in this matter."

[14] The Claimant (Defendant to the enforcement claim) took the preliminary point that the claim disclosed no cause of action. This Court heard the preliminary point and agreed with the Claimant (Defendant to the enforcement claim) that it was not necessary to re-establish liability through a civil claim. All that was required was compliance with **section**

450 of the Act, upon which the award of the Tribunal would be enforceable as a judgment of the High Court. The claim was struck out with no order as to costs.

[15] On 20 May 2025, the Claimant in the enforcement claim, who is the Defendant to this claim, made an application in the claim which had been struck out, seeking certain orders, including leave to enforce the judgment after the expiry of six years. It was brought to Counsel's attention that the claim had been struck out.

[16] I recite the above record for context. Attached to the enforcement claim as "A.S.1" was a full copy of the signed decision of the Tribunal.

[17] From this, even ignoring the "informal correspondence" referred to by Ms. St. Prix in her affidavit, I am satisfied that the Claimant has notice of the Tribunal's decision at latest, in October 2021 when the enforcement claim was served. Using this later date, the Claimant took four (4) years to bring this claim, with absolutely no explanation of the delay.

[18] More so, no section, rule or practice direction has been relied on to establish that there was an obligation on the Defendant to serve the decision of the Tribunal on the Claimant, who was also a party to the proceedings, represented by two attorneys.

ISSUES:

[19] The issues to be determined are as follows:

- 1) whether there has been undue delay in making the application for judicial review;
- 2) if so, whether there is "good reason" for the delay such that the Court ought allow this claim to proceed notwithstanding any delay;
- 3) whether, even if good reason were shown, the grant of relief would cause hardship, prejudice, or detriment to good administration so as to justify the refusal of relief; and

- 4) if the Claimant surmounts the delay hurdle, whether the relief sought ought to be granted.

THE CLAIMANT'S SUBMISSIONS:

[20] The Claimant contends that under the Act, an employee who believes that their rights under the Act have been breached must first bring the matter to the Labour Commissioner. **Sections 402 to 416 of the Act** make it clear that the Commissioner is responsible for promoting conciliation, conducting inquiries, and referring matters to the Tribunal where necessary. The Tribunal only acquires jurisdiction when the Commissioner makes such a referral or where the Act specifically permits a direct complaint. In this case, the Claimant argues, there was no referral from the Labour Commissioner and no statutory provision permitting the Claimant to apply directly to the Tribunal. As a result, the Tribunal's proceedings were unlawful, ultra vires, and void ab initio.

[21] The Claimant also relies on several alleged procedural and substantive irregularities. It claims that the Tribunal was improperly constituted because the person who acted as Chairperson, Mr Victor Poyotte, was not an attorney-at-law, as required by **section 425(1) of the Act**. This, it says, was a mandatory qualification intended to ensure legal competence and procedural fairness, and non-compliance invalidated the proceedings. The Claimant further asserts that the Tribunal failed to properly evaluate the evidence placed before it, ignored testimony showing that the Defendant had engaged in misconduct, and gave no adequate reasons for preferring her account. The award of six weeks' notice and payment of salary and allowances from the date of dismissal is described as irrational and contrary to the evidence presented.

[22] A significant part of the Claimant's case is the assertion that it was never served with a copy of the Tribunal's written decision. In her affidavit, the General Manager, Ms Selma St. Prix, states that the Claimant only became aware of the decision years later, when the Defendant began taking steps to enforce it. The failure to provide the written decision, she says, denied the Claimant a fair opportunity to consider its position, obtain

legal advice, or bring an appeal or judicial review within the normal timeframe. She describes this as a fundamental procedural impropriety and a breach of natural justice. The Claimant maintains that because the Tribunal acted without jurisdiction and the process was legally defective, the decision is a nullity which can be challenged at any time, notwithstanding the passage of eight years.

THE DEFENDANT'S SUBMISSIONS:

[23] The Defendant resists the application in its entirety. Her position is that the claim is hopelessly out of time, unsupported by evidence, and an abuse of the Court's process. She says the Claimant's true motive is to avoid compliance with the Tribunal's decision and to frustrate her enforcement efforts, rather than to correct any genuine error of law.

[24] The Defendant highlights the extraordinary delay of eight years between the date of the Tribunal's decision and the filing of this claim in 2025. She points out that judicial review must be pursued promptly and that there is no explanation in the Claimant's evidence to justify this prolonged delay. The assertion that the Claimant was unaware of the decision, she says, is not credible. The Claimant was represented throughout the Tribunal hearing by counsel, Mr Leevie Herelle and Ms Isa Cyril, who participated fully, examined witnesses, and made submissions. Having taken part in the process, the Claimant must have known that a decision was forthcoming. The Defendant argues that any responsible party would have made inquiries if a written decision was not received, and the complete absence of correspondence or follow-up from 2017 to 2025 demonstrates a lack of diligence rather than any procedural failure by the Tribunal.

[25] The Defendant also disputes the Claimant's jurisdictional argument. She says her complaint properly fell under **section 9 of the Act**, which permits a person to make a direct complaint to the Labour Tribunal where there has been a breach of the fundamental principles of employment. Those principles include the right to equal treatment, to fair process, and to freedom from discrimination. Her dismissal, she says, was effected without a hearing or any opportunity to defend herself and therefore involved a breach of those basic employment rights. For that reason, she was entitled

to apply directly to the Tribunal, and the absence of a referral from the Labour Commissioner does not invalidate the proceedings.

[26] The Defendant further argues that the Tribunal was properly constituted in accordance with **sections 425 and 426 of the Act**. Even if the Chairperson was unavailable, the Act permits the Deputy Chairperson to preside whenever it is expedient to do so. The allegation that the Tribunal was illegally composed is therefore misconceived.

[27] Finally, the Defendant accuses the Claimant of approbating and reprobating. Having willingly participated in the hearing, made submissions, and accepted the Tribunal's authority at the time, the Claimant cannot now, years later, deny the Tribunal's jurisdiction. She says that the organisation's delay in acting and its attempt to reopen the matter after she sought enforcement amount to a manipulation of the judicial process. She therefore urges the Court to strike out the claim as an abuse of process, to refuse any extension of time, and to award her costs.

ANALYSIS:

[28] The core question before the Court remains whether there is any genuine or sufficient explanation for the long delay in bringing this claim for judicial review. The Labour Tribunal delivered its decision in March 2017, and the Claimant did not file its claim until 2025, some eight years later. Although this application is brought pursuant to **section 448 of the Act**, which provides a statutory right to apply for judicial review without prescribing a specific time limit, the law on delay remains strict. Courts have consistently held that such applications must be brought within a reasonable time, informed by principles of promptness, finality and good administration.

[29] The Claimant says the organisation was never formally served with a copy of the Labour Tribunal's written decision and that it only became aware of the decision "through informal communications and court proceedings" years later. She adds that this failure to serve the decision denied the organisation an opportunity to consider its legal position or to act within the normal timeframe for review.

[30] While that might appear, at first glance, to raise a concern about procedural fairness, the affidavit offers no details about when the Claimant first learned of the decision, what steps it took to obtain a copy, or why it remained inactive for nearly eight years. No letters, requests, or contemporaneous notes have been exhibited. It therefore stands as a bare assertion without chronology or proof.

[31] As stated above, even if the Claimant did not have notice of the Tribunal's decision in 2017 when it was given, the onus was on counsel representing the Tribunal to be proactive and ascertain the status of the decision and not sit back and wait for some communication from the Tribunal. In any event, when the enforcement claim was served in October 2021 and the Tribunal participated in that claim by filing a defence and attending court, I am satisfied that at the latest they knew or ought to have known of the decision and taken immediate action to bring this claim. They did nothing for approximately four (4) additional years.

[32] On the other hand, the affidavit in reply filed by the Defendant makes clear that the Claimant was represented at the hearing by counsel, participated fully, and raised no objection to the Tribunal's jurisdiction. If the Claimant knew that a decision was pending, and it plainly did, then the ordinary duty of diligence required it to make timely enquiries. In my respectful view ignorance of a written decision, without more, does not justify years of silence.

[33] Although **CPR Part 56** does not apply of its own force to an application brought under **section 448 of the Act**, the principles governing delay in judicial review remain instructive. In line with the approach discussed in **Maharaj v National Energy Corporation**² and **Fishermen and Friends of the Sea v Environmental Management Authority**³, the Court must consider whether there was undue delay, whether any good reason has been shown to excuse it, and whether granting relief would cause hardship, prejudice or detriment to good administration. These principles serve not merely private convenience but the wider public interest in legal certainty.

² [2019] UKPC 6

³ [2018] UKPC 24

[34] In **Maharaj**, Lord Lloyd-Jones emphasised that judicial review must be pursued promptly and that even where no express statutory time limit is prescribed, delay may justify refusal of relief. The Privy Council reaffirmed that the absence of prejudice is not, by itself, sufficient to excuse delay, and that strong reasons are required where public decisions are challenged long after they are made.

[35] The same approach appears in **Fishermen and Friends of the Sea**, where Lord Carnwath observed that time limits and promptness requirements exist to ensure certainty for those affected by public decisions. Fordham's **Judicial Review Handbook**⁴ likewise stresses that promptness is integral to the public interest in orderly administration.

[36] The lapse of eight years in this case is extreme. Even where applicants show strong grounds on the merits, delays measured in months are routinely held to be fatal. Here, the explanation advanced amounts to an unsupported allegation of non-service. The Claimant could easily have requested the decision from its own lawyers, the Labour Department or directly from the Tribunal, yet it did not. The absence of any record of follow-up strongly suggests acquiescence rather than inadvertence.

[37] Moreover, the Defendant has shown tangible prejudice. She has waited since 2017 to enforce the award, during which time the Claimant has resisted payment and now seeks to invoke judicial review only after enforcement proceedings began. That pattern of conduct gives the impression of a tactical use of judicial review to delay or frustrate execution. Courts have condemned such conduct as an abuse of process, particularly where a party sleeps on its rights and seeks to revive stale disputes: see **R v Institute of Chartered Accountants in England and Wales, ex p Andreou**⁵.

[38] Reopening this matter now would also be detrimental to good administration. As Carnwath LJ observed in **Trim v North Dorset District Council**⁶ "it is in the public

⁴ (8th ed., paras 26.1–26.4)

⁵ (1996) 8 Admin LR 557, 562–563

⁶ [2010] EWCA Civ 1446 at [23]

interest that the legality of the formal acts of a public authority should be established without delay.”

[39] On the evidence, I find that there was undue delay in bringing this claim. There is no good reason to extend time or permit the claim to go forward, as doing so would cause hardship to the Defendant and be contrary to the good administration of justice. On the issue of delay alone, the claim therefore fails.

[40] In the event that I am wrong on delay, I would nevertheless have dismissed the claim on the merits for the reasons that follows:

Jurisdiction:

[41] Jurisdiction is a preliminary point that ought to have been taken before the Tribunal. At the material time when this claim was heard by the Tribunal, the Claimant was represented by not one but two attorneys-at-law. It fell upon them not to participate in the proceedings, but rather to frontally raise their challenge to jurisdiction. They did not do so. The Claimant cannot approbate by attending and fully participating in the proceedings and now seek to reprobate by attacking the decision on jurisdiction, a point which they failed to take in the first instance.

[42] Additionally, the point on jurisdiction has no merit. **Section 425 of the Act** delineates the composition of the Tribunal. It is comprised of seven (7) members. **Section 425(1)(a) of the Act** mandates that the Chairperson must be an attorney-at-law of at least three years’ standing, with experience or qualifications in industrial relations, chosen by the Minister. There are no prescriptions that the other six persons who comprise the Tribunal, or any of them, must be an attorney-at-law.

[43] **Section 425(2) of the Act** provides for the Deputy Chairperson to be selected by the members. By parity of reasoning, if the other six members of the Tribunal are not attorneys-at-law, which is permitted by **section 425(1) of the Act**, then the Deputy Chairperson will necessarily be a non-attorney.

[44] **Section 426 of the Act** provides that the Tribunal shall sit in Divisions. A Division must comprise a quorum of three (3) persons: the Chairperson (an attorney-at-law) **or** the Deputy Chairperson, who, as stated above, need not be an attorney-at-law, and two members, one of whom is a representative of the trade unions and one of whom is a representative of employers' organisations.

[45] **Section 426(2) of the Act** provides for the Deputy Chairperson to act as Chairperson in any matter before the Tribunal where, in the opinion of the Chairperson, it is expedient to do so. It is clear, in my view, that the Chairperson has the authority to authorise the Deputy Chairperson to act as Chairperson in any matter before the Tribunal where, in his or her opinion, it is expedient to do so.

[46] Accordingly, there is no merit in the argument that Mr Victor Poyotte, the Deputy Chairperson, not being an attorney-at-law and chairing the proceedings, invalidated them.

Wrong mode of commencing complaint:

[47] As above, I find no merit in this argument.

[48] Firstly, this point, like the jurisdiction point, ought to have been taken before the Tribunal.

[49] Secondly, the complaint filed by the Defendant, which was exhibited to the Claimant's affidavit in support, applied directly to the Tribunal for relief. The grounds of the application relate to a breach of the right to natural justice and to a dismissal which is not one covered by the Labour Code. These grounds entitled the Defendant to apply directly to the Tribunal pursuant to **section 9 of the Act**.

Irrationality:

[50] The Claimant contends that the decision was irrational having regard to the evidence.

[51] This ground is the least meritorious. The Claimant filed no evidence of what transpired before the Tribunal, the evidence given, or the notes of cross-examination to allow the

Court to consider this, even assuming that it was a proper ground, which I hold it was not.

[52] **Section 448 of the Act** gives a party aggrieved the right to apply to the Court for judicial review on five statutory grounds. With the greatest deference to Counsel, I believe that the Claimant has conflated the cause of action of judicial review with the process of judicially reviewing the decision of the Tribunal provided for in **section 448 of the Act**.

[53] “Judicial review” as provided for in the Act is more analogous to an appellate process, where the High Court judicially reviews the decision of the Tribunal on specified grounds. See **Labour Tribunal v St. Lucia Electricity Services Limited (LUCELEC)**⁷. It is not judicial review *simpliciter*.

[54] The applicability of **CPR Part 56 to sections 448 and 449 of the Act** was addressed by Cenac-Phulgence J in **Water and Sewerage Company Inc. v Andie P. Jn Panel**⁸, where the Court held:

“Given the above, firstly, it is my view that Part 56 of the CPR cannot apply as sections 448 and 449 define the parameters of judicial review of a Tribunal’s decision. Secondly, the section does not provide for an appeal and therefore neither does Part 60 of the CPR apply. Sections 448 and 449 of the Labour Act create their own framework in relation to challenges to decisions of the Labour Tribunal by way of judicial review. The outcome is similar to that of judicial review but within the legislative framework outlined in the Labour Act.”

[55] I associate myself with that reasoning.

[56] The five statutory grounds for review listed in the Act are:

- 1) the Tribunal did not have jurisdiction in the proceedings;
- 2) the Tribunal exceeded its jurisdiction in the proceedings;
- 3) the decision was obtained by fraud;
- 4) the decision is ultra vires; or

⁷ SLUHCVP2019/0002, per Chief Justice Pereira

⁸ SLUHCVP2021/0479 (unreported), at paragraph 40

5) the decision is erroneous in law.

[57] In my view, a challenge by judicial review does not encompass reviewing findings of fact or the treatment of evidence. The challenge is confined to jurisdiction, excess of jurisdiction, fraud, ultra vires, or error of law. Accordingly, even if the Court had before it a transcript of the proceedings before the Tribunal, the assessment of the evidence would not, in my view, in the absence of an allegation of fraud or an error of law, fall within any of the statutory grounds of review.

DISPOSITION:

[58] The Court finds that, the delay here is both unreasonable and inexcusable. There is no credible explanation, no record of efforts to obtain the decision, and no prompt action once the Claimant allegedly became aware of it. Meanwhile, the Defendant has been left in limbo for nearly a decade. Permitting this claim to proceed now would plainly prejudice her and would seriously undermine confidence in the finality of decisions of the Labour Tribunal.

[59] Accordingly, I find that the claim was not made promptly, that no good reason has been shown for extending time, and that the delay has caused substantial prejudice and detriment to good administration.

[60] In any event, the Claimant's challenge to jurisdiction, wrong mode of bringing the complaint and the decision being perverse to the weight of the evidence before the Tribunal are all without merit in my view.

[61] On the issue of costs, I see no good reason to depart from the general rule that costs follow the event. Additionally, the Claimant chose not to comply with the Pre-Action Protocols. Compliance with the Pre-Action Protocols is mandatory except in exceptional circumstances where compliance is not practical. It is not discretionary or optional.

Following the approach approved in **Vijay Singh v Public Service Commission**⁹, the Claimant must pay the Defendant's costs of this claim.

ORDERS:

[62] For the reasons set out above I make the following orders:

- 1) The Claimant's claim filed on the 25th June 2025 is dismissed.
- 2) The Claimant shall pay the Defendants costs of this claim to be assessed (following the detailed costs assessment procedure) if not agreed within 21 days of this judgment.

**Alvin Shiva Pariagsingh
High Court Judge**

By the Court,

Deputy Registrar of the High Court.

⁹ [2019] UKPC 18