

**OVERSEAS TERRITORY OF MONTSERRAT
THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
(CIVIL)**

No: MNIHCV2015/0021

BETWEEN:

REUBEN T MEADE

AND

THE DEPUTY GOVERNOR OF MONTSERRAT

THE ATTORNEY GENERAL



Before:

The Hon. Justice James Bristol

Appearances:

Mr. Fitzroy Buffonge for the Applicant

Mrs. Sheree Jemmotte-Rodney for the Defendants

TRANSCRIPT OF ORAL JUDGEMENT

The facts as stated are not in dispute in the affidavits of both the Claimant and the Defendants. In essence the Claimant is seeking declarations that he is entitled to the full pension of a former Premier pursuant to section 3(1) of the Legislator's Conditions of Service Act and there is no issue in his having satisfied the preconditions for the entitlement to that pension. The Claimant is still a Member of the legislature. He has not ceased to be a Member.

Section 3 (1) entitled the Claimant in the circumstances stated therein, he has satisfied those circumstances to be paid a pension. The words, “he shall be paid a pension”, in my view, those words mean that he shall be entitled to be paid a pension. There has been much discussion on the effect of section 3(3) on the entitlement to a pension under section 3(1). Subsection 3 to section 3 says that the Premier’s pension shall be payable only under the circumstances set out in section 5 and the question therefore before the Court, as agreed by the parties, is whether subsection 3 of section 3 is inconsistent with subsection 1 of section 3 and therefore the Court should apply the principles of statutory interpretation to obviate or remove that absurdity or inconsistency.

In other words section 3(1) gives a pension but 3(3) seems to take it away by introducing further qualifications as set out in section 5. In my view, there is no inconsistency or absurdity. Section 3(1) is the qualification section. It is to be read as I stated before “shall be paid” shall mean “shall be entitled to be paid.” The timing of such payment is introduced by subsection 3 which brings in section 5 and among other things the Claimant should cease to be a legislator. This makes sense because a pension is not granted while a person is working. If the Claimant had stopped being a legislator the pension is payable. If he subsequently becomes once more either a Premier or a legislator as envisioned by section 3(2) then by that section in particular the proviso thereto he will be entitled to be paid the allowance of a legislator or Premier but at the rate of the pension if that be the higher amount.

Further, Counsel for the Defendants concede that the commuted gratuity was incorrectly paid and that is not an issue before the Court.

In the circumstances turning to the declarations. Declaration 1 is refused.

The declaration at 2 is refused based on the interpretation of section 3 above. Counsel for the Claimant has indicated to the Court that the Claimant is being paid legislator's allowance as opposed to the Premier's pension.

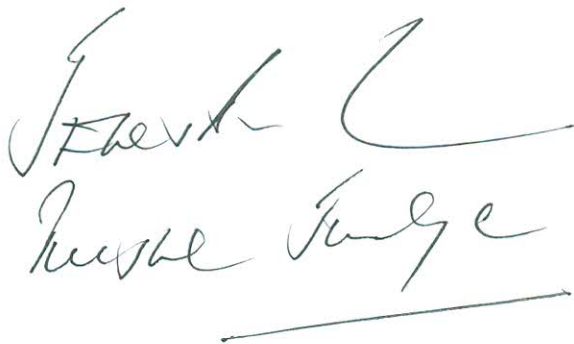
The declaration at 3 is refused.

The Order at 4 is refused.

Declaration 5 is refused.

Declaration 6, 7 and 8 is not granted as the Defendants concede that the gratuity ought not to be paid and these reliefs withdrawn.

There will be no order as to costs.


Justice Fothergill