

NOTICE TO PARTIES OF THE COURT'S MEMORANDUM OF REASONS FOR DECISION

SUPREME COURT CIVIL APPEAL NO COA2019CV00002BETWEENTHE PUBLIC SERVICE COMMISSION1ST APPELLANTANDTHE ATTORNEY GENERAL OF JAMAICA2ND APPELLANTANDDALE AUSTINRESPONDENT

TAKE NOTICE that this matter was heard by the Hon Mr Justice Brooks P, the Hon Mrs V Harris JA and the Hon Mrs Justice Dunbar-Green JA on the 20th day of February 2023, with Mr Garth McBean KC instructed by Garth McBean & Co for the appellants and Mr Dale Austin in person and Ms Deborah Patrick-Gardner instructed by Hugh Wildman & Co for the respondent.

TAKE FURTHER NOTICE that the court's memorandum of reasons as delivered orally in open court by Brooks P is as follows:

[1] Mr Dale Austin ('the respondent') has raised a preliminary objection to the appeal filed by the Public Service Commission and the Attorney General of Jamaica ('the appellants') against a judgment made in his favour by the Full Court on 28 November 2018. He contends that "the issues in the appeal have now become academic as factual developments in the matter have disposed of the dispute in the appeal".

[2] The case before the Full Court concerned whether the termination of Mr Austin's temporary employment as an Assistant Crown Counsel in the Attorney-General's Chambers had been lawful. The Full Court held that the termination was unlawful. The appellants have filed an appeal from that decision.

[3] Since the decision was handed down, Mr Austin has been appointed to the post of Assistant Crown Counsel based on the recommendations of the authorities at the Attorney-General's Chambers and independently of the Full Court's decision.

[4] Also since the Full Court's decision, the practice of employing people on a temporary basis within the public service, as Mr Austin was, has been discontinued.

[5] Consequently, this appeal is an academic exercise in respect of the Full Court's decision and the cases cited by Mr Austin demonstrate that this court will not embark on an academic exercise unless certain requirements are met, such as, the court's satisfaction that the matter is of some general importance.

[6] This is not a matter of general importance. It turned on a particular set of circumstances and the authorities have available to them a method of preventing another occurrence.

[7] For those reasons, the court will not hear arguments on the merits of the appeal.

[8] The court, therefore, orders as follows:

- 1. The preliminary objection succeeds.
- 2. The appeal is dismissed as being solely of academic interest.
- 2. Costs to the respondent to be agreed or taxed.