

REPUBLIC OF TRINIDAD AND TOBAGO

IN THE HIGH COURT OF JUSTICE

Claim No. CV2016-01252

**IN THE MATTER OF AN APPLICATION FOR JUDICIAL REVIEW PURSUANT TO
PART 56 OF THE CIVIL PROCEEDINGS RULES 1998 AND PURSUANT TO
SECTION 6 OF THE JUDICIAL REVIEW ACT CHAP 7:08**

AND

**IN THE MATTER OF AN APPLICATION WITHOUT NOTICE BY: MONA
POOCHOON, JOYCELYN RAMPERSAD, BEVERLEY-ANN OTTLEY-Mc LEAN,
LYNETTE LALL SINGH, JOYCELYN WILLIAMS, MARGARET MATHEWS-
FREDERICK & BERNADINE CUPID, PUBLIC SERVANTS ATTACHED TO
THE MINISTRY OF NATIONAL SECURITY, FOR LEAVE TO APPLY FOR
JUDICIAL REVIEW**

Between

**MONA POOCHOON
JOYCELYN RAMPERSAD
BEVERLEY-ANN OTTLEY-Mc LEAN
LYNETTE LALL SINGH
JOYCELYN WILLIAMS
MARGARET MATTHEWS-FREDERICK
BERNADINE CUPID**

Claimants/Applicants

And

THE PUBLIC SERVICE COMMISSION

Defendant/Respondent

**APPLICATION OF MONA POOCHOON, JOYCELYN RAMPERSAD, BEVERLEY-
ANN OTTLEY-Mc LEAN, LYNETTE LALL SINGH, JOYCELYN WILLIAMS,
MARGARET MATTHEWS-FREDERICK & BERNADINE CUPID FOR LEAVE TO
APPLY FOR JUDICIAL REVIEW PURSUANT TO PART 56.3 OF THE CIVIL
PROCEEDINGS**

Before the Honourable Mr. Justice Robin N. Mohammed

Appearances:

Mr Ravi Rajcoomar instructed by Mr Irshaad Andre Ali for the Claimants/Applicants

Ms Josefina Baptiste-Mohammed and Ms Monica Smith instructed by Ms Nisa Simmons for the Defendant/Respondent

**DECISION ON THE CLAIMANTS' APPLICATION
OF THE 10TH JULY, 2017 FOR LEAVE TO CROSS-EXAMINE**

[1] The Claimants are all public servants attached to the Ministry of National Security of Trinidad and Tobago. By Court order dated the 9th May, 2016, they were granted leave to apply for judicial review against the Defendant, the Public Service Commission (the "Commission") seeking several reliefs that revolve around the Commission's refusal to appoint and/or promote the Claimants to the substantive office of Human Resource Officer 1 ("HR I") and/or to require them to sit an examination to be considered for such promotion during the years of 2011, 2012 and 2014 when they applied for the post. Attendant to the grant of Leave was an Order prohibiting the Commission from conducting the requisite examinations until the determination of this Judicial Review Claim.

[2] The Fixed Date Claim Form along with the affidavit in support seeking Judicial Review was filed on the 13th June, 2016. The Claimants deposed that they currently hold substantive posts as Clerks as well as Administrative and Accounting assistants while also stationed as Acting Human Resource Officers at levels I, II & III. Due to their longstanding experience in the public service coupled with the experience gained from their acting appointments, they deposed that they have acquired the necessary seniority, qualifications, knowledge and skills to be appointed to the substantive position of HR I. They also state that they acted to their detriment in obtaining the requisite

degree/certification in Public Administration based on representations made by the Commission.

- [3] Thus, on becoming aware of advertised vacancies for the HR I post within the Commission in the aforementioned years and more recently, by virtue of a **Memorandum dated the 4th September, 2014**, the Claimants duly applied and had a legitimate expectation that they would be appointed.
- [4] It was not until the Commission's press release of the 18th September, 2015, that the Claimants learned of the Commission's decision to hold an examination for the selected candidates shortlisted for the office of HR I. A list of the selected candidates were posted on the Commission's website on the 5th October, 2015 and the Claimants were included on that list.
- [5] Feeling aggrieved by the fact that they were required to sit an examination in order to be promoted, the Claimants sought legal advice pursuant to which they issued a pre-action letter on the 7th October, 2015 requesting that they be immediately and unconditionally promoted retroactively. In response, the Commission issued correspondences on the 20th January, 2016 and the 29th February, 2016 indicating the Commission's decision (i) refusing any such promotion on the basis of **Regulation 18 of the Public Service Commission Regulations** ("PSC Regulations") and (ii) that the Claimants would not be exempt from sitting the examination.
- [6] By this decision, the Claimants contend that the Commission has acted in breach of both the **Policy decision of the 11th February/April, 2000** and the **Cabinet Minute #835 dated the 8th April, 2010**, and therefore, has acted unreasonably, irrationally and unlawfully. Further, in bypassing the Claimants for their promotion, the Commission has promoted less qualified officers to the Human Resource Series without requiring them to sit an examination. As a result, the Claimants' claim a loss of the salary that they should have received had they been appointed to HR I and, by extension, lowered pensions and other retirement benefits.
- [7] The **affidavit in response of Ms Marcia Pile-O'Brady** was filed on the **1st September, 2016** on behalf of the Commission. She attested to being the Acting Deputy Director of

Personnel Administration with the Commission from the 12th December, 2015. Based on this position, she deposed that she had access to and thus was able to investigate the affairs, file books, documents and papers of her department.

- [8] On her version of events, prior to this most recent notice of vacancy for the post of HR I, Cabinet had placed a temporary hold on appointments and promotions to the Human Resource Series in November, 2003, a stay that was not lifted until the **8th April, 2010**. Thus, any officers to be promoted thereafter were required to meet the following criteria: (i) they had to have been included in the **2001 Order of Merit List** for appointment in the Human Resource Series in addition to Acting or holding temporary appointments in these positions and (ii) if not holding substantive appointments in the Human Resource Series, then be Acting in offices of the Human Resource Series for more than 2 years before or after the said **8th April, 2010** and possessed the relevant qualification and skills along with a satisfactory performance appraisal during their period of acting appointment.
- [9] On the 24th August, 2010, the Commission appointed/promoted officers who were on the **Order of Merit List** to the position of HR I. Ms Pile-O’Brady deposed that the Claimants were not part of that list and thus, were not selected for promotion.
- [10] Further promotions occurred in 2011 and 2012 for officers who met the criteria. Ms Pile-O’Brady maintained that the Claimants had not complied with the said Regulation as they had not yet completed **2 years before or after the said 8th April, 2010 (the “benchmark date criteria”)** in their respective acting positions to be eligible for promotion.
- [11] A further notice of vacancy for HR I positions were issued by a **Memorandum dated 26th March, 2013**. Ms Pile-O’Brady deposed that the Commission had taken a decision, pursuant to **Regulation 14 of the PSC Regulations**, to include other officers, in addition to those who had the necessary requirements, who had been acting for two years at the time of the advertisement to write the examination. In doing so, the Commission had effectively revoked its decision taken on the 27th July, 1998 and the 11th February, 2000. Such revocation was published officially in July, 2014.
- [12] The Claimants’ grievance arose out of their applications pursuant to both the 2011 and 2012 vacancies as well as the more recent **Circular Memorandum issued on the 4th**

September, 2014, which gave notice of further vacancies for the HR I post. 970 persons in total applied. However, it was determined that only 609 were eligible. Out of those 609 eligible persons, 361 were shortlisted to write examinations. A press release informing the short listed persons of the examination was issued on the 5th September, 2015.

[13] The applications of Ms Beverley Ann Ottley-Mc Lean and Mrs Margaret Matthews-Frederick were, however, deemed incomplete as neither submitted copies of their birth certificate as is required. As a result, they were not shortlisted¹. With respect to Ms Poochoon's application, the Commission had issued a letter dated the 7th February, 2014 informing her that she was not a candidate on the **2001 Order of Merit List**.

[14] Further, in response to the list of promoted officers whom the Claimants allege had unfairly bypassed them for promotion, Ms Pile-O'Brady stated that this list does not indicate the dates on which these promoted officers were first appointed to act in the Human Resource Series, which, she deposed, predates the Claimants' acting appointments. In support, Ms Pile-O'Brady provided her own list to show that the promoted officers had satisfied the necessary criteria for promotion. Further, she denied that the Claimants were entitled to any loss of earnings because they were currently in receipt of "acting allowances".²

[15] The Claimants were granted permission to file a reply affidavit by Court Order dated the 13th October, 2016. Directions were also given for the Defendant to file an application to discharge the interim injunction granted on the 9th May, 2016.

[16] In the reply affidavit of the 17th October, 2016, the Claimants deposed that they had made several unsuccessful attempts to obtain a copy of the said **2001 Order of Merit List** to ascertain whether the Defendant had acted in a transparent manner in making appointments to the post of HR I in the period December, 2002 to August, 2010. In any event, the weight which the Defendant has evidently placed on the single consideration

¹ Para 31 of Affidavit in response filed on the 1st September, 2016

² Para 45 ibid

of the benchmark date criteria in deciding eligibility to be promoted to HR I is, on their case, contrary to **Regulations 18 of the PSC Regulations**³.

[17] Further, based on the procedure set out by Ms Pile-O’Brady at paragraph 12 of her response affidavit, the Claimants deposed that it was clear that the policy requiring the Claimants to sit an examination was a novel one. Further, this new policy described by Ms Pile-O’Brady in paragraphs 24 – 26 was never communicated to the Claimants until the press release of September, 2015. In any event, the criteria for promotion required by Regulation 18 is multifaceted and not based solely on the length of an acting appointment. It followed that, in the Claimants’ estimation, the Commission failed to take into account all of the Claimants’ skills, experience and training, etc., and thus, is guilty of applying inconsistent and/or contrary policy in consideration of the Claimants’ eligibility for promotion to the post of HR I as compared to other candidates.

[18] When the parties met on the 22nd June, 2017, the injunction granted on the 9th May, 2016 was discharged on the condition that the Commission undertake to reserve 7 vacant offices of HR I until the determination of this action. Additionally, the Claimants gave notice of their intended application to cross-examine Ms Marcia Pile-O’Brady on her affidavit in response and the Court gave directions for the filing of the said intended application. However, it was ordered that should the Defendant object to such application, then parties were to file and exchange written submissions.

[19] **The Claimants’ Application for leave to cross-examine Ms Marcia Pile-O’Brady was filed on the 10th July, 2017 (the “Claimants’ Application”)** detailing the several paragraphs in question and the reasons for seeking leave to cross-examine. Notification of the Defendant’s intention to object to the Claimants’ Application was duly given and by consent application filed on the 9th October, 2017, the parties asked for the deadline of the 31st October, 2017 to file written submissions.

[20] As is evident from both parties’ submissions, the law relating to the permissibility of cross-examination in judicial review proceedings is quite clear. The authorities are in

³ Para 11 of reply affidavit filed on the 1st October, 2016

agreement that it is a rare occurrence and will only be allowed if there is a dispute on a critical factual issue and it is necessary to resolve that issue by cross-examination⁴.

[21] Thus, in determining the Claimants' Application to have Ms Marcia Pile-O'Brady attend for cross-examination, the Court must therefore consider the following:

- 1) **Whether there is a complete conflict over a question of fact between the Claimants and the Commission?**
- 2) **If so, does the case turn on this conflict of fact? and**
- 3) **Whether there is no proper alternative to resolve this material conflict other than by cross-examination.**

The Claimants' Application:

Paras 11, 12, 13, 22, 37, 38, 39 & 44:

[22] Grounds: The Claimants contend that three factual issues arise from these paragraphs that require cross-examination to resolve: (i) whether the Claimants were eligible to be promoted to the position of HR I without having to sit an examination; and (ii) whether the Commission took into account the factors which it was statutorily bound to consider in making such appointments; and (iii) whether such account, if any, included a proper consideration of **Regulation 18 of the PSC Regulations**.

[23] **Regulation 18 of the PSC Regulations as appended to the Constitution of Trinidad and Tobago Act, Chap 1:01**, which deals with the principles of selection for promotion, states as follows:

- 1) *"In considering the eligibility of officers for promotion, the Commission shall take into account the seniority, experience, educational qualifications, merit and ability, together with relative efficiency of such officers, and in the event of an equality of efficiency of two or more*

⁴ Para 10 of *Gopichand Ganga and Ors v Commissioner of Police* CV 2006-01420; Lord Denning MR in *George v Secretary of State for the Environment* [1979] JPL 382

officers, shall give consideration to the relative seniority of the officers available for promotion to the vacancy.

2) *The Commission, in considering the eligibility of officers under subregulation (1) for an appointment on promotion, shall attach greater weight to—*

a. seniority, where promotion is to an office that involves work of a routine nature, or

b. merit and ability, where promotion is to an office that involves work of progressively greater and higher responsibility and initiative than is required for an office specified in paragraph (a).

3) *In the performance of its functions under subregulations (1) and (2), the Commission shall take into account as respects each officer—*

a. his general fitness;

b. the position of his name on the seniority list;

c. any special qualifications;

d. any special courses of training that he may have undergone (whether at the expense of Government or otherwise);

e. the evaluation of his overall performance as reflected in annual staff reports by any Permanent Secretary, Head of Department or other senior officer under whom the officer worked during his service;

f. any letters of commendation or special reports in respect of any special work done by the officer;

g. the duties of which he has had knowledge;

h. the duties of the office for which he is a candidate;

i. any specific recommendation of the Permanent Secretary for filling the particular office;

j. any previous employment of his in the public service, or otherwise;

k. any special reports for which the Commission may call;

l. his devotion to duty.

4) *In addition to the requirements prescribed in subregulations (1), (2) and (3), the Commission shall consider any specifications that may be required from time to time for appointment to the particular office.”*

Whether the Claimants were eligible to be promoted without having to sit an examination?

[24] While not referenced by the Claimants in their Application, the material paragraph of the response affidavit which sets out the criteria for the requirement of an examination is contained in paragraph 24. Here, Ms Pile-O’Brady deposes that *“The Commission made a decision that besides the qualified applicants, to include officers who had been acting for two years at the time of the advertisement would be required to write the examination.”*

[25] The Claimants’ response is contained at paragraph 20 of the reply affidavit, in which they merely state that they were never informed of this change in policy. It is therefore evident that the Claimants are not disputing the fact that this change of policy occurred and/or that there is now a requirement for candidates to sit an examination.

[26] **In the circumstances, there is no factual dispute that would require cross-examination to resolve.**

Whether the Commission took into account all the factors which it was statutorily required to do, in particular under Regulation 18?

[27] The Claimants challenge the Commission’s selection procedure at paragraphs 9 & 10 of the reply affidavit on the following grounds: (i) that the Commission erroneously placed too much weight on the benchmark date criteria in their selection process; and (ii) that

the Commission failed to take into account the Claimants' seniority, experience, qualifications, etc.

[28] In response, Ms Pile-O'Brady set out the procedure used in appointing officers at paragraph 12. From this procedure, the Court is aware that the Commission relied on (i) a list from the relevant heads of department of officers already acting in the Human Resource Series; (ii) the benchmark date criteria, which they state was in keeping with the seniority of the substantive offices in the Public Service; and (iii) Regulation 18 of the PSC Regulations.

No mention of the **2001 Order of Merit List** was made and further, it was stated conclusively at paragraph 13, that the Claimants were not eligible precisely because they did not meet the benchmark date criteria.

[29] **Regulation 18(2) (a)**, as cited above, permits the Commission to place greater weight on seniority only in situations where the promotion is to an office that requires work of a routine nature. **Subregulation (2) (b)** however, says that greater weight should be placed on merit and ability when promoting to an office of greater responsibility and initiative.

[30] Thus, paragraph 38 of her affidavit, where Ms Pile-O'Brady states that the minimum experience for the office of HR I includes the obtaining of a degree, suggests to this Court that HR I post would fall into the category of **Regulation 18 (2) (b)** and thus, be deemed an office involving work of a progressively greater and higher degree of responsibility and initiative. In such circumstances, the Regulations prescribe that greater weight should be placed on merit than seniority in the promotion.

Unfortunately, however, there is no explanation from Ms Pile-O'Brady's affidavit evidence as to the criteria for being listed on the **2001 Order of Merit List** and more importantly, whether greater weight was placed on inclusion in this List or on the benchmark criteria in promoting officers.

Additionally, there seems to be some confusion between paragraphs 13 and 22 of Ms Pile-O'Brady's affidavit—the former stating that the Claimants were refused promotion solely because they did not meet the benchmark date criteria and the latter expressing that

they were refused promotion because they failed to be included on the **2001 Order of Merit List** in addition to failing to meet the benchmark date criteria.

Thus, there is before the Court facts in dispute as to the criteria used in selecting candidates for promotion as well as to whether the procedure for promotion was in compliance with **Regulation 18**. Secondly, I am of the considered opinion that the case also turns on these conflict. A determination on whether the Commission's selection procedure breached Regulation 18 first requires a resolution of the issue of fact of what criteria was used for promotion. There is nothing else before the Court in terms of evidence that can assist the Court in resolving this dispute and thus, clarification must be brought by way of cross-examination.

[31] In light of the foregoing analysis, the Court is of the view **that cross-examination is required with respect to paragraphs 9, 10, 11, 12, 13, 22, 33, 37, 38, 39 & 44 of Ms Marcia Pile-O'Brady's affidavit** to clarify the following issues and/or facts:

- 1) The contents of and/or criteria for being listed on the **2001 Order of Merit List**;
- 2) Whether the Commission took into consideration the candidates' inclusion on the **2001 Order of Merit List** when deciding to promote them; and
- 3) If they did, whether the Commission placed greater weight on the **2001 Order of Merit List** or on the benchmark date criteria.

Paragraphs 40 – 43:

[32] Grounds: Cross examination is needed to clarify or resolve the following issues and/or facts: (i) whether the promoted officers were indeed better qualified and/or eligible than the Claimants; and (ii) the details of the substantive appointment dates of the promoted officers compared to the Claimants so as to ascertain seniority.

[33] At paragraph 37 of the Claimants' affidavit filed on the 13th June, 2017, they listed several persons who had been promoted by the Commission to the position of HR I during the period 2008 to 2016 and claim that those promoted officers were "*less eligible and/or qualified*". In support, the Claimants compared their substantive appointment dates to argue that they, the Claimants, were senior to the promoted officers.

[34] In response, Ms Pile-O’Brady deposed that while, on a comparison of the substantive dates of appointment, the Claimants were indeed senior, the Claimants failed to state and/or do a comparison of the more important date, being the date at which they had been promoted to the position of Acting HR I.⁵

[35] The Claimants’ reply was as follows: (i) that the Commission was wrong to attach the weight it did to the acting appointment date of the promoted officers; (ii) that the Commission failed to take into account the fact that the Claimants’ posts as acting clerical assistant would have given them the necessary experience for the promotion; (iii) that the Commission failed to detail the particulars of service of the promoted officers to properly assess their eligibility; (iv) That the Commission’s appointment of officers to HR I in the past led the Claimants to have a legitimate expectation that they would also be appointed⁶.

Whether the promoted officers were better qualified?

[36] The criteria used to promote the promoted officers, which is an issue of fact, is not disputed. It is clear from Ms Pile-O’Brady’s affidavit that weight was placed on the fact that they held positions as Acting HR I officers longer than the Claimants even though the Claimants were employed in the Ministry before them. This fact is not disputed by the Claimants. Thus, to my mind, there is no conflict of fact existing. Whether the Commission erroneously placed too much weight on the tenure of the candidates’ Acting posts is a matter of law, as per the guiding provisions in Regulation 18, to be dealt with by submissions.

The details of the substantive appointment dates to ascertain seniority:

[37] The more material question to be answered here is whether the Commission was even required to look at the substantive appointment dates of the promoted officers as opposed to the date at which the officers began acting as HR I in assessing their seniority/eligibility. This is the true disputed issue between the parties and is one which can be answered by reference to Regulation 18 and any other relevant learning to be dealt with by submissions to the Court.

⁶ See paras 27 - 31

[38] **Accordingly, this Court sees no reason to cross-examine Ms Pile-O’Brady on paragraphs 40 – 43 of her affidavit.**

Paragraphs 14 – 21:

[39] Grounds: Cross-examination is needed to resolve the following factual disputes and/or issues: (i) whether the Claimants held the post of Acting HR I for the requisite 2 years prior to the promotions to qualify them for eligibility.

[40] In these paragraphs, Ms Pile-O’Brady set out the dates and tenure of the Claimants’ posts as Acting HR I officers to depose that at the time of promotions, none of the Claimants had satisfied the benchmark date criteria.

[41] The Claimants’ response was that their posts as Acting Clerical Assistants gave them the necessary exposure and experience for the promotion and proceeded to outline the nature of their work in these position.⁷

Therefore, by their response, the Claimants have not challenged the fact that they did not meet the benchmark date criteria. Rather, they are in effect challenging whether the use of the benchmark date criteria was proper and asserting that their experience otherwise should have been accounted for.

[42] **This is therefore not a conflict of fact and no cross-examination is necessary.**

Paragraphs 24 – 27:

[43] Grounds: Cross examination is needed to resolve the following factual disputes and/or issues: (i) what was the reason and/or considerations for the change of policy in the selection procedure of candidates for promotion.

[44] A cursory examination of the issue suggests that it is not an issue of fact. It is not a question of whether there was a change of procedure or whether the Commission failed to consider certain factors in changing the procedure. Rather, it asks for a particularization of the considerations that led to this change. Indeed, the Claimants’ response at paragraph 20 of their affidavit confirms that they only sought to challenge the change of procedure

⁷ See paras 14 - 17

by stating that they were never informed of same and therefore, had no idea that an examination was now required until the press release of September, 2015.

Accordingly, there is no factual dispute between the parties' affidavits over the change of procedure as both accept that it occurred. In any event, as Ms Pile-O'Brady deposed, **Regulation 14 of the PSC Regulations** places ultimate discretion within the Commission to decide appointments based on competition i.e. examination. Regulation 14 states:

1) *“Whenever in the opinion of the Commission it is possible to do so and it is in the best interest of the particular service within the public service, appointments shall be made from within the particular service by competition, subject to any Regulations limiting the number of appointments that may be made to any specified office in the particular service.”*

[45] **Thus, the Commission is not required to disclose the reasons for their change of policy and thus, cross-examination on this issue will not be permitted.**

Paragraphs 6, 38 & 45:

[46] Grounds: Cross-examination is needed to resolve the following factual disputes and/or issues: (i) whether the Claimants lacked experience and training for the office of HR I; (ii) whether the Commission's reliance on the **2001 Order of Merit List** was proper considering that the Claimants were never provided with a copy; and (iii) whether the Claimants have suffered any loss of earnings to due to the Commission's refusal to promote them.

Whether the Claimants lacked experience:

[47] At paragraph 38, Ms Pile-O'Brady deposed that the minimum requirements of an Administrative Assistant, which she then set out, were not equivalent to that of an Acting HR I.

[48] The Claimants, in response at paragraph 26 of their reply affidavit, did not challenge the minimum requirements as set out in the response affidavit but rather, deposed that despite

these differences in requirements, they still had the necessary experience to be eligible for promotion.

This, therefore, is not a dispute of fact between the parties but rather asks whether the Claimants gained the necessary experience to be eligible for promotion. Such an issue can be resolved by an examination of **Regulation 18** and is therefore an issue of law.

[49] **Cross-examination on the above-mentioned paragraphs is therefore denied.**

Whether the Commission was wrong to rely on the 2001 Order of Merit List considering that the Claimants were never provided with a copy:

[50] Similarly, at paragraph 6, Ms Pile-O’Brady deposed that a copy of the **2001 Order of Merit List** could not be located, a fact to which the Claimants’ agreed by admitting that they were never provided with a copy of same⁸.

[51] **There is therefore no conflict of fact on this issue and cross-examination on same is unnecessary.**

Whether the Claimants have suffered any loss of earnings:

[52] At paragraph 45, Ms Pile-O’Brady denied the Claimants’ assertion that they suffered loss of earnings based on the fact that they were in receipt of acting allowances for their posts as acting HR I officers.

[53] In reply, the Claimants did not deny that they were in receipt of acting allowances, but contended that the salaries they currently receive were less than they would have received had they been promoted.⁹

Thus, while it can be said that there is a conflict of fact over whether the Claimants have indeed suffered any loss of earnings between their current salaries and that of a HR I post, such conflict can be resolved from a comparison of the salaries of an HR I officer compared to that of the Claimants’ current position as is provided for by the Claimants in their Reply affidavit as attachment “R.3”.

⁸ See para 5

⁹ See paras 32 & 33

[54] The Court therefore finds that there is no need for cross-examination to resolve this conflict of fact between the parties.

DISPOSITION:

[55] Accordingly, in light of the foregoing analyses, the order of the Court is as follows:

ORDER:

1. That the Claimants be permitted to cross-examine Ms Pile-O'Brady on her affidavit in response filed on the 1st September, 2016 but only in relation to the following paragraphs, namely, paragraphs 9, 10, 11, 12, 13, 22, 33, 37, 38, 39 & 44;
2. The issue of costs on the Claimants' application filed 10th July, 2017 is hereby reserved.

Dated this 18th day of January, 2018

Robin N. Mohammed
Judge