

ROYAL COURT  
(Samedi Division)

215.

19th October, 1994

Before: The Bailiff, and  
Jurats Coutanche and Hamon

Between: The Jersey Civil Service Association  
and the 2/300 Branch in Jersey of the  
Association of Clerical, Technical  
and Supervisory Staff First Plaintiffs

and

Ian Philip Le Breton and Jennifer  
Diane Holley (née Thelland), wife  
of Michael Andrew Holley Second Plaintiffs

And: The Establishment Committee of the  
States of Jersey Defendant

Preliminary point: *locus standi* of First Plaintiffs.

Advocate M.H. Clapham for the Plaintiffs.  
The Solicitor General for the Committee.

JUDGMENT

THE BAILIFF: There are two plaintiffs to this action: the Jersey  
Civil Service Association and the 2/300 Branch in Jersey of the  
Association of Clerical, Technical and Supervisory Staff; and Mr.  
5 Ian Philip Le Breton and Jennifer Diane Holley (née Thelland),  
wife of Michael Andrew Holley. The defendant is the Establishment  
Committee of the States of Jersey.

10 The complaint of both plaintiffs, very briefly, is that,  
contrary to an agreement made and given by letter to a number of  
people whom I can call protected civil servants in 1982, that form  
of protection was unilaterally withdrawn by the Committee in 1988.

15 The preliminary point taken, however, by the Solicitor  
General, or the Establishment Committee, is that the first  
plaintiffs have no *locus standi* in this action. They do not have

sufficient interest as defined in the Rules of the Supreme Court and elsewhere to join in this action. They themselves do not necessarily ask for the same relief as the second plaintiffs. The first plaintiffs declare that paragraph 3 of the 1982 agreement, to which I have briefly referred, remains binding on the defendant save to the extent that any one or more of the protected postholders may have agreed otherwise. The second plaintiffs, as may one may expect, asked the Court to order that their salaries be reinstated to their correct levels and payment of arrears should be made to them.

One has to look very briefly at the background at this stage to decide whether it would be right for the Court to rule that the first plaintiffs have established a proper interest in this matter. It is not necessary to do this in great detail, except to say that there has evolved a system of negotiation with a joint council consisting of two halves, one being the official side and the other the staff side. It was the first plaintiffs themselves who were responsible for nominating those who would sit on the staff side of the joint council and of course the official side consisted not just of officials but, as we were told by Miss Le Masurier as secretary of long standing to the staff side, of members of the Establishment Committee. Therefore it is clear to us that that body was a form of delegated negotiators, if the Court may put it like that.

The Court is satisfied, from what both sides have told us, that that body could not take over for itself the negotiations leading to binding agreements within the joint council because the States had given the power of settling salaries and terms of service of the civil servants first to a Board by rules and subsequently to the Committee by order. It is quite clear that neither the Board nor the Committee could delegate those powers, either by rules dealing with the joint body, nor by orders, again, dealing with a joint body; neither could do that. The most that could be done would be for a decision of the joint body to be submitted to the Committee - as indeed it was and has been for many years - and for the Committee to put its *imprimatur* on the agreement. But it was the Committee that retained the final decision whether to implement it or not.

Having said that, it is clear that the agreement of 1982 for the protected persons, arising from a Hay evaluation of the whole of the Civil Service structure and pay, was offered to each civil servant by Personnel and Management Services, the executive arm of the Establishment Committee, and therefore it was an offer by the Establishment Committee to each civil servant involved and was accepted by some 336 of them, whose numbers with the fluxion of time, changes in the structure which they have accepted and agreed, retirement and so on, are now reduced, we are told, to some 20 or 30; the figure is really irrelevant to the issue we have to decide.

The first point, therefore, is whether the Court is satisfied that the first plaintiffs have an interest in asking the Court to make an appropriate declaratory judgment. The Court is satisfied that they have such an interest. They have been involved for a very long time on behalf of their members, either directly or indirectly through the joint council, and are sufficiently connected with the issue and with the members of the Civil Service who belong to either or both of these unions for us to be quite satisfied that there is sufficient interest for the first plaintiffs to be heard by this Court and accordingly the Court allows them to proceed with the rest of their submissions.

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Authorities

4 Halsbury 1(1) (1989 re-issue): paras 163-165.

Chitty on Contracts (26th Ed'n: 1989):

Vol 1: paras 901-928.

Vol 2: paras 3851-93, 3914-32, 3953, 3984-7, 3994-7.

Craven -v- Island Development Committee (1970) JJ 1425.