

# **Harold Chang (Appellant) v The Hospital Administrator and 2 others (Respondents) (Trinidad and Tobago)**

**Case ID: JCPC 2022/0013**

**Jurisdiction: Court of Appeal of the Republic of Trinidad and Tobago**

## **Case summary**

### **Issue**

- 1) Whether the trial Judge erred in law when he:
  - i. Admitted correspondence generated after payment of Mr Chang's salary had ceased as fresh evidence regarding the decision to retire Mr Chang;
  - ii. Applied the presumption of regularity of decisions of public bodies to the decision to retire Mr Chang;
  - iii. Failed to exercise his discretion to join the Public Service Commission to the case as a party.
- 2) Whether the Court of Appeal erred in considering matters in the case relating to the early retirement of Mr Chang under Chapter 23 of the Pensions Act, without having ruled on the lawfulness of the Public Service Commission's decision to retire Mr Chang.
- 3) Whether the Court of Appeal erred in law by failing to join the Public Service Commission to the case as a party.
- 4) Whether the Court of Appeal erred in failing to give effect to Section 121 of the Constitution of Trinidad and Tobago (governing the appointment of individuals to the public Service Commission and tenure of their offices) and/or the JCPC decision in *Endell Thomas v Attorney General of Trinidad and Tobago* [1982] AC 113 relating to the removal of a public sector employee from office.

### **Facts**

The Appellant, Harold Chang was a medical doctor who since December 1981 had served as Specialist Medical Officer in the Ministry of Health, performing his duties from the Port of Spain General Hospital. From 1994 the Port of Spain General Hospital became owned, operated, managed and controlled by the North West Regional Health Authority ("the NWRHA") where Mr Chang was rostered to perform his duties. As such Mr Chang became responsible for the supervision of doctors who were employees of the NWRHA. He was not satisfied with this change in the circumstances of his employment. By letter dated 26 April 2002, Mr Chang applied to the Public Service Commission ("PSC") for early retirement from the public service. On 1 May 2002 Mr Chang amended his request for early retirement to include the words "with effect from 1 May 2002". Mr Chang was absent from work between 1 May 2002 and 9 September 2002. There was a dispute between the parties as to the reasons for this. With effect from 10 September 2002, payment of Mr Chang's salary was stopped. Having changed his mind, on 16 September 2002 Mr Chang attempted to withdraw his application for permission to retire. On 22 October 2002, Mr Chang wrote to the Respondents seeking information on the reason for the stoppage of payment of his salary and requested that payment be resumed. Further letters were sent on 21 November 2002. These attempts were not fruitful, and it became clear that the PSC had retired Mr Chang. On 5 December 2002 Mr Chang sought and obtained leave for instituting judicial review proceedings against the Respondents for failure or refusal to pay his salary.

### **Parties**

#### **Appellant(s)**

Harold Chang

**Respondent(s)**

- (1) The Hospital Administrator
- (2) Port of Spain General Hospital
- (3) The Permanent Secretary

**Appeal****Justices**

Lord Hodge, Lord Briggs, Lord Burrows, Lady Rose, Lord Richards

**Hearing start date**

11 July 2023

**Hearing finish date**

11 July 2023

**Watch hearing**

11 July 2023 [Morning session](#)