

**Commonwealth of The Bahamas**  
**In the Supreme Court**  
**Common Law and Equity Division**  
**Claim No. 2021/CLE/gen/01555**

**IN THE MATTER** of the Public Service Commission Regulations

**AND**

**IN THE MATTER** of The General Orders

**B E T W E E N**

**NORMAN BASTIAN**

**Claimant**

**AND**

**THE ATTORNEY GENERAL OF THE BAHAMAS**

**Defendant**

**Before:** Her Ladyship The Honourable Madam Justice Cheryl Bazard KC

**Appearances:** Mr. Obie Ferguson KC along with Mr. Keod Smith and Mr. Sidney Campbell for the Claimant

Ms. Kayla Green Smith along with Mr. Navardo Fraser and Mr. DeVaughn Rolle for the Defendant

**Hearing Dates:** 13 November, 2025 and 14 November, 2025

**Whether the decision to place the Claimant on administrative leave for more than 13 months is ultra vires the Public Service Commission Regulations and General Orders – Whether the Defendant breached General Orders 1110 for failing to follow the correct procedure exactly without delay at all stages and minimum delay- Whether the Defendant breached General Order 1110 for failing to provide the Claimant with evidence being relied on in in writing or details requiring the Claimant to remedy same – Whether the Defendant breached General**

**Order 1110 by failing to advise of the status of the investigation or the outcome of the investigation – Whether the failure to follow the procedure has diminished the value of the disciplinary action and constitutes an abuse of process and is unlawful, unreasonable and procedurally improper – Whether the Defendant breached General Order 1112 by failing to provide the Claimant with details in writing of the evidence of the details of the allegation which was allegedly under investigation – Whether the Defendant’s use of administrative leave breached General Order 1125 – Whether action taken by the Defendant was tantamount to disciplinary action which required that Claimant be given a fair hearing – Whether the Defendant has breached Regulation 35 of the Public Service Commission Regulations by failing to provide the Claimant with a copy of every document the Defendant relied on in its enquiry involving the allegation of misconduct – Whether the Claimant is entitled to reinstatement – Whether the Claimant is entitled to damages and other reliefs.**

### **RULING**

**BAZARD, J:**

[1.] This is a cause of action by the Claimant seeking redress for alleged breaches of provisions of the Public Service Commission Regulations and General Orders owing to his administrative leave from the Department of Immigration (“Department”) for the period January 29, 2021 to March 14, 2022 owing to the investigation by the said Department over allegations received from one Mercilia Allen regarding sexual harassment. The Court received written legal submissions offered by Counsel for the Claimant and the Defendant as well as oral legal submissions made at the closing of the matter.

#### **Background**

[2.] The then Plaintiff, now Claimant filed an Originating Summons on 17 December 2021 seeking the following:-

- 1. A Declaration that the Administration (sic) Leave that the Plaintiff is currently serving is unlawful and ultra vires (sic) the Public Service Commission Regulations and The General Orders;**
- 2. An Order that the Plaintiff be reinstated as a Bahamas Immigration Officer with the Department of Immigration immediately;**
- 3. Damages;**
- 4. Any other relief or Order that the Court deems just; and**
- 5. Costs**

[3.] In support of the Application, the Claimant filed an Affidavit on 2 February, 2022 and 15 September, 2022. The Claimant also filed a Supplemental Affidavit on 29 January, 2024 and a Witness Statement on 22 August, 2025. The Witness Statement was the only document relied on

for evidentiary purposes. The Claimant also relies on Skeleton Arguments and authorities filed on 21 October, 2025 as well as oral submissions on 14 November, 2025.

[4.] The Defendant filed an Affidavit of Rudolph Ferguson on 3 January, 2024, an Affidavit of Dwight Beneby on 16 May, 2022 and the witness statement of Stephen La-Roda on 5 November, 2025. The Defendant relied solely on the witness statement of Stephen La-Roda filed on 5 November, 2025. The Defendant further relied on Skeleton Submissions filed on 17 October, 2025 as well as oral submissions made on 14 November, 2025.

### *The Originating Summons*

[5.] The Claimant was a Chief Immigration Officer at the time of the filling of the Originating Summons. His tenure at the Department of Immigration began on 3 September, 1979 and per paragraph 2 of his witness statement was "... terminated effective 27<sup>th</sup> January 2023 by letter dated 18<sup>th</sup> March 2025, which receipt I acknowledged on 26<sup>th</sup> March, 2025." I will return later to the process resulting in the Claimant's termination.

### **Issues**

[6.] The issues to be determined by the Court are essentially as stated in the Originating Summons.

- 1. Whether the Claimant's administrative leave from 29 January, 2021 to 14 March, 2022 was unlawful and ultra vires the provisions of the Public Service Commission Regulations and General Orders;**
- 2. Whether the Claimant is entitled to the Declaratory relief as a result of the alleged violations;**
- 3. Whether the Claimant is entitled to any damages as a result of the alleged violations;**
- 4. Whether the Claimant is entitled to be reinstated as a Bahamas Immigration Officer with the Department of Immigration.**

### **Evidence**

[7.] The Claimant's evidence is found in his Witness Statement filed on 22 August, 2025. As it relates to the matter before the Court, he avers as follows:-

**"7. I was placed on administrative leave in 2021 as outlined in my affidavit in the matter CLE/gen/0155 filed in the Supreme Court on 2 February 2022. I requested a copy of the complaint which was not given to me. In the Affidavit reference is made to the letter of 29<sup>th</sup> January 2021 that placed me on administrative leave for one month pending a decision to interdict, for allegations of misconduct, pursuant to GO 1125 and with no loss of emoluments. This was done without notice to the Union and my attorneys in breach of the IA and due process contained in GO that permits me to know the case I am to meet. This period was extended for further periods of 1 month by letters of 9<sup>th</sup> March 2021 and 7<sup>th</sup> May 2021, again without notice to the Union and attorney in breach of the IA and due process as contained in Go and the Regulations."**

[8.] At paragraph 9, he continued:

**“9. Months later my counsel filed the originating summons at issue against the administrative leave, seeking resolution of the matter. In March 2022, I learned from Counsel that the AG’s office indicated it received directions for me to return to work on March 14<sup>th</sup>, 2022. While I returned to work on March 14<sup>th</sup> 2022 I have yet to receive the requested copy of the complaint requested, nor have the results of the investigation been communicated to me to explain the reason I was removed from the workplace for some 14 months and at cost to be (sic) personally, and still the case at issue remains unfinished in the court by this very action for which damages and other claims have been sought.”**

[9.] At paragraph 11 of his Witness Statement, he states:

**“11.....I have not received the results or outcome of the investigation that precipitated the administrative leave in respect of the allegations of sexual harassment of Mercilia Allen, which breaches GO in that disciplinary actions must be followed exactly otherwise its value is significantly eroded.”**

[10.] Paragraphs 3 to 6, 10, 12 to 37 of the Claimant’s Witness Statement have no relevance to the case at hand and do not factor in this decision.

*Letters of Administrative Leave*

[11.] The letters referred to in the Witness Statement of the Claimant read as follows:-

11.1 Letter of 29 January, 2021

**Ministry of Financial Services, Trade & Industry and Immigration  
P.O. Box N-4843, 3<sup>rd</sup> Floor, East Wing, Campbell’s Maritime Centre  
West Bay Street, Nassau, N.P., Bahamas  
Our reference: MFS/IMMPF/273  
29<sup>th</sup> January, 2021**

**Mr. Norman Bastian  
Chief Immigration Officer  
ufs Director of Immigration  
Department of Immigration  
Ministry of Financial Services, Trade & Industry  
and Immigration  
Nassau, Bahamas  
Dear Mr. Bastian**

**RE: REPORT OF ALLEGATIONS OF MISCONDUCT**

**Please be advised that an investigation is being conducted with regards to certain allegations of misconduct made against you by Mrs. Mercilia Allen. As a result, you are immediately being placed on administrative leave with pay, for a period of one (1) month pending the outcome of said investigation, in accordance with policy:**

**“Pending a decision as to interdiction, the officer may, if it is considered necessary in the public interest, be prohibited by the Permanent Secretary, from carrying out his duties, but he may not be deprived of any portion of his emoluments (General Order 1125)”.**

**Kindly acknowledge receipt of this letter by appending your signature and date to the attached copy which should be returned to the Director within forty-eight (48) hours of receipt thereof.**

**Yours sincerely**

**Janice Miller**

**Permanent Secretary”**

**11.2. Letter of 9 March, 2021, states:**

**Ministry of Financial Services, Trade & Industry and Immigration  
P.O.Box N-4843, 3<sup>rd</sup> Floor, East Wing, Campbell’s Maritime Centre  
West Bay Street, Nassau, N.P., Bahamas**

**Our reference: MFS/IMMPF/273**

**9<sup>th</sup> March, 2021**

**Mr. Norman Bastian**

**Chief Immigration Officer**

**ufs Director of Immigration**

**Department of Immigration**

**Ministry of Financial Services, Trade & Industry  
and Immigration**

**Nassau, Bahamas**

**Dear Mr. Bastian**

**RE; REPORT OF ALLEGATIONS OF MISCONDUCT**

**Please be advised that an investigation is being conducted with regards to certain allegations of misconduct made against you by Mrs. Mercilia Allen. As a result, you**

are immediately being placed on administrative leave with pay, for a period of one (1) month pending the outcome of said investigation, in accordance with policy:

“Pending a decision as to interdiction, the officer may, if it is considered necessary in the public interest, be prohibited by the Permanent Secretary, from carrying out his duties, but he may not be deprived of any portion of his emoluments (General Order 1125)”.

Kindly acknowledge receipt of this letter by appending your signature and date to the attached copy which should be returned to the Director within forty-eight (48) hours of receipt thereof.

Yours sincerely

Janice Miller

Permanent Secretary”

11.3 Letter of 7 May, 2021, states:

Ministry of Financial Services, Trade & Industry and Immigration  
P.O.Box N-4843, 3<sup>rd</sup> Floor, East Wing, Campbell’s Maritime Centre  
West Bay Street, Nassau, N.P., Bahamas  
Our reference: MFS/IMMPF/273  
29<sup>th</sup> January, 2021

Mr. Norman Bastian  
Chief Immigration Officer  
ufs Director of Immigration  
Department of Immigration  
Ministry of Financial Services, Trade & Industry  
and Immigration  
Nassau, Bahamas

Dear Mr. Bastian

**RE: REPORT OF ALLEGATIONS OF MISCONDUCT**

Further to my previous letter dated 9th March, 2021 this is to advise that investigation is still being conducted with regards to certain allegations of misconduct made against you by Mrs.

**Mercilia Allen. As a result, administrative leave with pay is extended for a further period of one (1) month pending the outcome of said investigation, in accordance with policy:**

**“Pending a decision as to interdiction, the officer may, if it is considered necessary in the public interest, be prohibited by the Permanent Secretary, from carrying out his duties, but he may not be deprived of any portion of his emoluments (General Order 1125)”.**

**Kindly acknowledge receipt of this letter by appending your signature and date to the attached copy which should be returned to the Director within forty-eight (48) hours of receipt thereof.**

**Yours sincerely**

**Janice Miller**

**Permanent Secretary”**

**11.4. Memorandum of 31 August, 2021:**

**To Mr. Clarence Russell**

**Director of Immigration**

**Department of Immigration**

**Hawkins Hill**

**NASSAU, The Bahamas**

**Our Reference: MFS/ADM/15/5(A)**

**Date: 31<sup>st</sup> August 2021**

**RE: NORMAN BASTIAN**

**I have been directed by the Minister of Financial Services, Trade and Industry and Immigration to cause Mr. Norman Bastian to be reassigned to the Citizenship Unit, Monarch House.**

**Please facilitate.**

**Permanent Secretary”**

**11.5 Letter of 9 March, 2022**

**Mr. Donovan Gibson**

**Munroe & Associates**

**Counsel and Attorneys-at-Law**

#83 East Bay Street  
Nassau, The Bahamas

Dear Mr. Gibson:

Re: Norman Bastian v. The Attorney General CLE/gen/01555 of 2021

We refer to the above captioned matter.

Please note that we have been instructed to advise that the Plaintiff Chief Immigration Officer Norman Bastian (CIO Bastian) is directed to return to work with effect from the 14<sup>th</sup> March, 2022. CIO Bastian will be posted in the Permits Section of the Department of Immigration.

We certainly look forward to hearing from you.

Yours sincerely,

Kayla J. Green-Smith

Assistant Director of Legal Affairs

(for) Attorney General”

### **Finding of facts**

[12.] It is unrefuted that the Claimant was placed on administrative leave for a period of 14 months. Further, it is accepted that the Claimant did not receive a copy of the complaint made by Mercilia Allen. In fact, the Defendant in its Amended List of Documents filed on 11 November, 2025, listed the **“Report by former Superintendent Stephen La-Roda on allegations made against CIO Norman Bastian with reference to (1) Collusion in the investigations of marriages of convenience, and (2) His attempts to use his position of authority to coerce a female civilian into granting him sexual favours dated 22 January 2021.”** as a document that he objected to producing on the ground that it was privileged and the reason for the privilege was that is a “Matter of National Security.”

[13.] Counsel for the Claimant in his Statement of Facts and Issues filed on 21<sup>st</sup> October, 2025 contends “...*that the administrative leave imposed on him was illegal, ultra vires, and (sic) abuse of process not being solely for temporary investigation, but as a defacto (sic) disciplinary suspension, the effective (sic) of which also negatively impacted his emoluments during the period of unlawful leave.*”

### **The Case for the Defendant**

[14.] The Defendant relied solely on the Witness Statement of the Director of Immigration Mr. Stephen La-Roda filed on the 5<sup>th</sup> November, 2025.

[15.] At paragraphs 5, 6 and 7 he avers:-

**“5. On the 13<sup>th</sup> of January, 2021, Ms. Marilyn Stubbs, (Personal Assistant II) sent a Memorandum to the then Permanent Secretary Janice Miller advising of a complaint. The**



**Complaint was received at Monarch House on the 8<sup>th</sup> of January 2021. The complaint was from Mrs. Mercillia Allem (sic) against Chief Immigration Officer (CIO) Norman Bastian containing allegations of misconduct including sexual advances toward the complainant."**

**"6. On the 8<sup>th</sup> of February, 2021 the complainant Mrs. Mercillia Allen went to the Police Criminal Investigation Department and reported that Chief Immigration Officer Norman Bastian had made sexual advances toward her and requested police action. In the same day the victim's cellular phone was submitted to the Police where records of communication were extracted from the victim's cellular phone."**

**"7. In the month of February, 2021 Chief Immigration Officer Norman Bastian came into the Police Criminal Investigation Department where he was arrested and interviewed under caution with respect to Sexual Harassment."**

[16.] It should be noted that the Claimant was never charged with any offence relating to the complaint laid and investigation done by the Criminal Investigation Department.

[17.] At paragraph 15, he continued:

**"15. It is important to note that CIO Norman Bastian was paid his complete salary for the complete duration of the period he was placed on Administrative Leave and was never deprived of any of his emoluments. Therefore, even after the completion of the investigation, there is no portion of emolument to be restored to him."**

[18.] Director La-Roda never mentions the exact date when the investigation was completed. In cross-examination the only information elicited was as follows:-

**"Q: The letter dated 31 August, 2021, was the investigation finished?**

**A: Yes."**

[19.] Incidentally, Director La-Roda was tasked to investigate the complaint against CIO Norman Bastian in his capacity as Superintendent of Immigration. The results of his investigation were given to Mr. Clarence Russell.

Cross-examination revealed the following response:

**"Q: What was not national security issues?**

**A: The directive was to investigate allegations of sexual harassment.**

**Q: What was the result of your investigation for misconduct that was not national security issues?**

**A: The finding was that there was cause for concern."**

[20.] Director La-Roda was pointedly asked whether the Claimant was given a copy of the report:

**"Q: At any point in time when dealing with the investigation, did you give Bastian a copy of the report?**

**A: No.**

**Q: Do you know if he was given a copy of the report?**

**A: I don't know.**

.....

**Q: Was there any circumstances that Mr. Bastian was allowed to be heard on the allegation?**

**A: Nothing in my bundles."**

[21.] With respect to adherence to General Order 1041, the following question was put:

**"Q: Would you not agree that the individuals are being admonished by General Orders to deal with matters as soon as possible?**

**A: Yes.**

.....

**Q: How much time it took for you to finish your work and send it up to Mr. Russell?**

**A: My recollection was about 5 days.**

#### **The Law**

[23.] **Article 108 of the Constitution states:-**

**"Subject to the provisions of this Constitution power to make appointments to public offices and to remove and to exercise disciplinary control over persons holding or acting in such offices is hereby vested in the Governor-General, acting in accordance with the advice of the Public Service Commission."**

[24.] The Claimant was duly appointed pursuant to this Article.

[25.] **Regulation 37(1) and (2) of the Public Service Commission Regulations provides:**

**"(1) Where the authority empowered to dismiss any public officer considers that the interests of the public service require that such public officer should cease forthwith to exercise the powers and functions of his office, the authority may interdict him from the exercise of those powers and functions, if disciplinary proceedings for his dismissal are being taken or are about to be taken or if criminal proceedings are being instituted against him.**

**(2) An officer who is interdicted shall, subject to the provisions of regulation 38, received such emoluments, not being less than one half, as the authority empowered to dismiss him thinks fit."**

[26.] General Order 1110 provides:-

**"General Order 1110:**

**All acts of misconduct (defined in General Order 1041) by public officers shall be dealt with in accordance with the provisions of The Public Service Commission Regulations and in accordance with the procedure laid down in this Chapter as soon**

as possible after the time of their occurrence. The value of disciplinary action is largely lost unless the correct procedure is followed exactly and unless such action is taken without delay at all stages.” (Emphasis added)

[27.] General Order 1041 provides:-

**“General Order 1041:**

Misconduct consists of any act contrary either to specific rules or regulations or against the general interests of efficient Public Service. Specific acts of misconduct are set out in this Chapter and in Chapter 9. In addition, disciplinary action can be taken for general misconduct to the prejudice of discipline and the proper administration of Government business for example, corruption, dishonesty, false claims, the falsification of records or; their suppression or failure to keep them, and the like.”

[28.] General Order 1120 provides:-

**“General Order 1120:**

It is the duty of a supervising officer who becomes aware of the misconduct of an officer subordinate to him to report it to his Head of Department, who shall investigate the matter, and if circumstances warrant, bring the matter to the attention of his Permanent Secretary.”

[29.] General Order 1121 provides:-

**“General Order 1121:**

Where a Permanent Secretary or Head of Department who is empowered to dismiss an officer considers that the interests of The Public Service require that such officer should cease to exercise the powers and functions of his office, he may, in accordance with Regulation 37(1) of The Public Service Commission Regulations, interdict him from the exercise of those powers and functions...”

[30.] General Order 1125 provides:-

**General Order 1125:**

Pending a decision as to interdiction, the officer may, if it is considered necessary in the public interest be prohibited by the Permanent Secretary or by the Head of Department, where there is no post of Permanent Secretary, from carrying on his duties, but he may not be deprived of any portion of his emoluments.”

[31.] The Public Service Commission Regulations provides under Part V and in particular sections 31, 35 and 37:-

**“31. Any act of misconduct by any public officer shall be dealt with under this part of these Regulations *as soon as possible after the time of its occurrence.*”**

**“35. (1) Subject to paragraph (3) of this regulation, any public officer, in respect of whom a *disciplinary inquiry* is to be held, shall be entitled at or before the commencement of the inquiry to receive, free of charge, a copy of every document**

that is to be relied on for the purpose of, or in connection with, establishing his guilt, or in default thereof, to be allowed access thereto.

“35(3). Nothing in this regulation shall entitle any person to receive any copy of any official document (not being a document given in evidence at any inquiry) or any recorded reason for any decision reached at any inquiry.”

“37. (1) Where the authority empowered to dismiss any public officer considers that the interests of the public service require that such public officer should cease forthwith to exercise the powers and functions of his office, the authority may interdict him from the exercise of those powers and functions, if disciplinary proceedings for his dismissal are being taken or about to be taken or if criminal proceedings are being instituted against him.”

“37. (3) Where any disciplinary proceedings mentioned in paragraph (1) do not result in the dismissal of the officer or in the award against him of any punishment, the whole of any emoluments withheld from him shall be restored to him when the final decision is made; but where any punishment, not amounting to dismissal, is awarded against him, there shall be restored to him such proportion, if any, of any emoluments withheld from him as in the opinion of the authority is justified in the circumstances of the case.”

No punishment was meted out to the Claimant as provided for in Regulation 40.

### **Discussion and Analysis**

[32.] The issues can be summarized as follows: whether the Claimant's Administrative Leave from January 29, 2021, to March 14, 2022, was unlawful and ultra vires to the Public Service Commission Regulations, and whether the Claimant is eligible for Declaratory Relief, Damages, and Reinstatement as a Bahamas Immigration Officer with the Department of Immigration.

[33.] **Section 2 of the Public Service Commission Regulations** defines the Permanent Secretary as one who “...*exercises supervision over the Department concerned or over the Department in which the office concerned holds a post as the case may be.*”

[34.] The letters issued to the Claimant were issued under Permanent Secretary Miller.

[35.] **Section 32 of the said Regulations** sets out the grounds for criminal prosecution, it notes,

“32. When a preliminary investigation or a disciplinary inquiry discloses that an offence against any law may have been committed by a public officer, the empowered officer, unless action by the police has been or is about to be taken, shall consult the Attorney-General as to whether a prosecution should be instituted and, if he does not advise a prosecution, as to whether disciplinary action should be taken or continued under the appropriate regulation. In the latter case the charges framed against the officer shall be approved by the Attorney-General before the officer is required to answer them or before the inquiry proceeds.”

[36.] **Section 40 of the said Regulations** sets out the punishment that can be imposed, namely:

#### **1. Dismissal**

2. Reduction in rank
3. Reduction in salary
4. Deferment of increment
5. Withholding of increment
6. Reprimand
7. Forfeiture of any part of any emoluments

[37.] It should be made clear that no punishment was imposed on the Claimant. The only action taken was that the Claimant was placed on administrative leave during the period of investigation.

[38.] General Order 1102 states that:

**“The following powers have been delegated by the Governor General to Permanent Secretaries, and in the case of Departments that have not been integrated within Ministries, to Heads of Departments.”**

[39.] The Department of Immigration in 2021 sat within the Ministry of Financial Services, Trade & Industry and Immigration. As such, the delegated power sat with the Permanent Secretary.

[40.] Further, Public Service (Delegation of Powers) Order states:

**“2. The power –**

**(b) to remove any such officer from any such office or to exercise disciplinary control over any such officer holding any such office save in any case where the officer has been convicted on the same facts of a criminal offence; ....shall be exercisable, subject to the provisions of this Order, by the officers for the time being lawfully exercising the functions of the offices specified in Part II of the said Schedule in respect of the Ministries and Departments of Government with which they are respectively concerned.**

Part II lists, *inter alia*, the Permanent Secretary.

[41.] In considering Order 1125 of the General Orders which deals with interdiction, Osadebay, J. in **Bahamas Air Traffic Controllers Union et. al. v. Government of The Commonwealth of The Bahamas et. al.** BS 2001 SC 23 drew a clear distinction between interdiction and administrative leave under General Order 1125. He opined:

**“It seems clear in this case that the applicants have not been interdicted and order 1123 above does not apply.**

**I accept the evidence by the respondents and the submission of Mr. Evans that at the time that group A applicants were placed on three (3) months “administrative leave” or “garden leave” no decision to institute disciplinary proceedings against them had been taken. It was necessary to keep them away from their workplace or from their employment to enable the Ministry to carry out a proper investigation of the occurrences at the Nassau International Airport on the 21<sup>st</sup> March, 2001.**

I accept that order 1125 of the General Orders confers on the Permanent Secretary or the Head of Department the power or authority to prohibit a public officer, in this case the applicants, from carrying out their duties if it is considered necessary in the public interest to do so, but in doing so he may not deprive such officer or officers of any portion of their emoluments.

[42.] This position was reaffirmed in *Dean v. R. et al*, PUB/jrv/00003 of 2003, where Longley J. (as he then was) opined the following:

**“18. It is now settled by the decision of the Court of Appeal in the case of *the Government of the Commonwealth of The Bahamas and others and Bahamas Air Traffic Controllers Union and others (civil Appeal no. 20/01)* that General Order 1125 is not disciplinary. It is only ‘facilitatory’ to quote Justice of Appeal Justice Ganpansing . Consequently, where action is taken pursuant to General Order 1125 the applicant loses no benefits or salary to which he is otherwise entitled during the administrative or ‘garden’ leave which is granted in the interest of the public. And indeed no prejudice was alleged in these proceedings.**

**19. While the letter granting the administrative leave indicated that an investigation would have been undertaken, no disciplinary action was considered necessary. Accordingly, none was taken and the applicant reported to the Ministry of Housing on 2<sup>nd</sup> September 2004.”**

**25. To my mind the letter signed by the Permanent Secretary, Ministry of Labour placing the applicant on administrative leave was a power vested in the Permanent Secretary pursuant to a General Order 1125 and was in no way usurpatory of the powers of appointment or discipline that are vested in the Governor General.”**

[43.] Accordingly, it can be concluded that administrative leave is not considered a disciplinary action, but rather a neutral, investigative tool that allows the employer to maintain the employee’s status while determining a course of action. The employee continues to receive their full salary and benefits throughout this period. It is a temporary, authorized absence from duty where an employee is removed from the workplace while remaining on full pay and benefits. The leave itself is not a disciplinary action but a precautionary measure.

[44.] While General Orders 1125 confers a discretionary power on the Permanent Secretary, that discretion must be exercised lawfully, reasonably, and fairly. In the *Bahamas Air Traffic Controllers Union* case *supra*, Justice Osadebay emphasized the following:

**“It is accepted that order 1125 of the General Orders confers on the Permanent Secretary or a Head of Department a discretionary power. Such discretionary power must be exercised in accordance with the law. It must be exercised reasonably: *Associated Provincial Picture Houses Ltd. V. Wednesday Corporation* [1948] 1 KB 223. Its exercise must be “just and fair.”**

[45.] Similarly, in *Comptroller of Customs and the Attorney General v. Ralph B. Munroe*, Civil Appeal No. 18, 1999 (CA unreported), the Court noted the following:-

**“...and Lord Wrenbury in *Roberts and Hopwood* (1925) AC 578 at 613, had this to say, “a person in whom is vested a discretion must exercise his discretion upon reasonable grounds. A discretion does not empower a man to do what he likes merely because he is minded to do so. He must in the exercise of his discretion do not what he likes but what he ought. In other words, he must, by use of his reason, ascertain and follow the course which reason directions. He must act reasonably.”**

[46.] The following dicta was also considered in the *Munroe case*:

**“The Courts, while claiming no authority in themselves to dictate the decision that ought to be made in the exercise of such a discretion in a given case, are yet in duty bound to declare invalid a purported exercise of the discretion where the proper limits have not been observed. Even then a court does not direct that the discretion be exercised in a particular manner not expressly required by law, but confines itself to commanding the officer by writ of mandamus to perform his duty by exercising the discretion according to law: *Cuming Campbell Investments Pty. Ltd. V. Collector of Imposts* (1938) 60 CLR 741).**

[47.] In the *Wednesbury case*, Lord Greene M.R. opined:

**“I think Mr. Gallop in the end agreed that his proposition that the decision of the local authority can be upset if it is proved to be unreasonable, really meant that it must be proved to be unreasonable in the sense that the court considers it to be a decision that no reasonable body could have come to. It is not what the court considers unreasonable, a different thing altogether. If it is what the court considers unreasonable, the court may very well have different views to that of a local authority on matters of high public policy of this kind....The effect of the legislation is not to set up the court as an arbiter of the correctness of one view over another. It is the local authority that are set in that position and, provided they act, as they have acted, within the four corners of their jurisdiction, this court, in my opinion, cannot interfere.”** (Emphasis Added)

[48.] In applying these principles to this case, the Court finds no evidence that the Permanent Secretary acted arbitrarily, capriciously, or for any improper reason, nor outside the authority given by General Orders 1125. The Claimant kept his full pay and all benefits of his office during his administrative leave. The purpose of placing him on leave was to allow a proper investigation.

[49.] Although the period of administrative leave was extended, the Claimant suffered no financial prejudice, loss of rank, or reduction in benefits. The Claimant returned to work on 14 March 2022. He received instructions to do so by letter dated 9 March 2022 from the Office of the Attorney General and the Ministry of Legal Affairs. Upon his return, the Claimant was posted to the Permits Section of the Department of Immigration, in his substantive rank of Chief Immigration Officer.

[50.] The Court observes that the Claimant sought early retirement, as evidenced by his letter dated 1 February 2023 to the Director of Immigration, titled “Re: Vacation Leave Entitlement.” The letter's main content stated:

**“I have decided to apply for early retirement and to determine the exact date, I need to have the amount of vacation leave I have accumulated with effect from February 1, 2023.**

**It should be noted that I have not taken or enjoyed official vacation leave since 2013, as a result of being interdicted or being placed on Administrative Leave.**

**Would you kind (sic) cause the Human Resources Unit to calculate the Leave Entitlement, as soon as it is possible?**

**Your assistance is greatly appreciated.”**

This letter was in the claimant’s Trial Bundle of Documents filed 21 October, 2025.

[51.] The Claimant’s employment with the Department of Immigration ended on January 27, 2023. Before that date, he was never dismissed, demoted, or faced any penalties outlined in Regulation 40 of the Public Service Commission Regulations.

[52.] By letter dated 18 March, 2025 under the signature of Ms. Gina Thompson in her capacity as Permanent Secretary of the Ministry of Labour and the Public Service, the Claimant was advised as follows:-

**“Dear Sir**

**By Order No. 269/2025 dated 19<sup>th</sup> February 2025 Her Excellency the Governor-General, acting in accordance with the advice of the Public Service Commission, given at its Meeting of 21<sup>st</sup> January, 2025, has approved your retirement in the public interest in accordance with Public Service Commission Regulation 45, and General Order No 1041, by reason of misconduct with effect from 27<sup>th</sup> January, 2023.”**

[53.] The Claimant signed for and acknowledged the said letter on 26 March, 2025.

[54.] In light of the foregoing, the Court finds that the Claimant has failed to establish that his placement on administrative leave was unlawful, ultra vires, unreasonable, or in breach of the principles governing the exercise of administrative discretion. As the Claimant remained on full pay and benefits, suffered no disciplinary sanction, was returned to duty, and thereafter voluntarily sought early retirement, no basis exists for granting declaratory relief, damages, or reinstatement. The claim is accordingly dismissed.



## CONCLUSION AND DISPOSITION

[55.] Having considered the evidence and the relevant submissions of Counsel, the Court hereby finds and declares:-

1. The Claimant's placement on Administrative Leave was not unlawful or ultra vires to the Public Service Commission Regulations and General Orders;
2. The Claimant is not entitled to any declaratory relief;
3. The Claimant has not suffered from any disciplinary action resulting in loss and is not entitled to any damages;
4. The Claimant is not entitled to be reinstated as a Bahamas Immigration Officer;
5. Costs to the Defendant to be taxed if not agreed.

[56.] I wish to record my gratitude to Counsel on both sides for their patience with my handwritten note-taking of the evidence, which I tried to record as accurately as possible.

Dated the 18<sup>th</sup> day of February, A.D., 2026

*Cheryl Bazard KC, J.*  
Justice Cheryl Bazard KC