

Public Service Commission v Linda Lai Swee Lin
[2001] SGCA 10

Case Number : CA 69/2000
Decision Date : 12 February 2001
Tribunal/Court : Court of Appeal
Coram : Chao Hick Tin JA; Lai Kew Chai J; L P Thean JA
Counsel Name(s) : Jeffrey Chan and Hema Subramanian (Attorney-General's Chambers) for the appellant; Harpreet Singh Nehal, Rama S Tiwari and Adrian Kwong (Drew & Napier) for the respondent
Parties : Public Service Commission — Linda Lai Swee Lin

JUDGMENT: (Costs)

Cur Adv Vult

1. The general principles upon which the court awards costs are too well settled to need any repetition. They have been authoritatively laid down by the Court of Appeal in England in *Re Elgindata Ltd (No. 2)* [1993] 1 All ER 232 and approved and adopted by this Court in *Tullio v Maoro* [1994] 2 SLR 489, and restated in *Tang Liang Hong v Lee Kuan Yew and anor* (in Civil Appeal Nos. 63-64, 111-112 and 135 of 1997, 3 December 1997, unreported). See also *Rajabali Jumabhoy & Ors v Ameer Ali R Jumabhoy and Ors* [1998] 2 SLR 489.

2. We turn first to the costs below. The application before the court was *ex parte*, but under O 53 r1(3) of the Rules of Court the cause papers were required to be served, and were served, on the Attorney-Generals Chambers. As a result of such service, Mr Jeffrey Chan, senior state counsel, appeared on behalf of the appellant and argued against the orders sought. He was unsuccessful; but before us he was. Following the general principles, costs both here and below should follow the event. The question is whether there were any circumstances which would deprive the appellant of such costs, in whole or in part.

3. In the court below, the appellant raised two issues: first, the matters complained of (assuming they were true) were not susceptible to judicial review; and secondly, the respondent was out of time in her application before the court. Substantial arguments and time were devoted to both the issues. In the appeal, the appellant again advanced lengthy submissions in the appellants case and written skeletal arguments on both the issues. The respondent replied to the submissions on both the issues in the respondents case. However, at the hearing before us the appellant abandoned the second issue and argued only on the first issue. By then, substantial costs had been incurred in disputing that issue. The appellant must bear part of these costs.

4. In considering the question of costs, we cannot ignore what we have said in 7, 8 and 12 of the judgment. Although there were various facts and matters raised by the respondent which were not admitted, clearly there was no denying that there were serious breaches of the Instructions Manual on the part of those concerned which led to the present litigation. In our view, such conduct is relevant in our consideration of the costs: *Bostock v Ramsey Urban District Council* [1900] 2 QB 616, 622; *Donald Campbell And Company Ltd v Pollak* [1927] AC 732, 815.

5. Having regard to these matters which we have considered, we think that a fair order should be that the appellant be awarded only 50% of the costs of the appeal and below. We so order.

Yong Pung How
Chief Justice

LP Thean
Judge of Appeal

Chao Hick Tin
Judge of Appeal

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