

# INDUSTRIAL DISPUTES TRIBUNAL

Dispute No.: IDT 41/2019

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## SETTLEMENT OF DISPUTE

BETWEEN

SOUTH EAST REGIONAL HEALTH AUTHORITY/  
BUSTAMANTE HOSPITAL FOR CHILDREN

AND

DR. SANDRA WILLIAMS-PHILLIPS

AND THE

***AWARD***

I.D.T. DIVISION

HON. MRS. JUSTICE MARJORIE COLE-SMITH - CHAIRMAN  
(Retd.)

MRS. JACQUELINE IRONS, J.P. - MEMBER

MRS. CHELSIE SHELLIE-VERNON - MEMBER

MAY 26, 2021

*ed*



**INDUSTRIAL DISPUTES TRIBUNAL**

**AWARD**

**IN RESPECT OF**

**AN INDUSTRIAL DISPUTE**

**BETWEEN**

**SOUTH EAST REGIONAL HEALTH AUTHORITY/ BUSTAMANTE HOSPITAL  
FOR CHILDREN  
(THE COMPANY)**

**AND**

**DR. SANDRA WILLIAMS-PHILLIPS  
(THE DISMISSED WORKER)**

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**REFERENCE:**

By letter dated **October 9, 2019** the Honourable Minister of Labour and Social Security in accordance with Section **11A (1)(a) (i)** of the Labour Relations and Industrial Disputes Act (hereinafter called “the Act”), referred to the Industrial Disputes Tribunal for settlement, in accordance with the following Terms of Reference, the industrial dispute described therein:-

The Terms of Reference were as follows:

*“To determine and settle the dispute between South East Regional Health Authority/Bustamante Hospital for Children on the one hand and Dr. Sandra Williams-Phillips on the other hand over the termination of her employment.”*





## **DIVISION:**

The Division of the Tribunal which was selected in accordance with Section 8(2) (c) of the Act and which dealt with the matter comprised:

- |   |   |                                |
|---|---|--------------------------------|
| Hon. Mrs. Justice Marjorie Cole-Smith (Retd.) | - | Chairman                       |
| Mrs. Jacqueline Irons, J.P.                   | - | Member, Section 8(2) (c) (ii)  |
| Mrs. Chelsie Shellie-Vernon                   | - | Member, Section 8(2) (c) (iii) |

## **REPRESENTATIVES OF THE PARTIES:**

The **Company** was represented by:

- |                               |   |                                     |
|-------------------------------|---|-------------------------------------|
| Mrs. Cheryl Dennis Wright     | - | Attorney-at-Law                     |
| Mrs. Natalie Carby            | - | Attorney-at-Law                     |
| Mrs. Samantha Wood-Tolan      | - | Attorney-at-Law                     |
| Mrs. Charmaine Robinson-Evans | - | Industrial Relations Manager        |
| Ms. Simone Baker              | - | Personnel Manager                   |
| Ms. Marcia Ebanks             | - | Acting Industrial Relations Manager |

The **Dismissed Worker** was represented by:

- |                      |   |                                 |
|----------------------|---|---------------------------------|
| Mrs. Sharon Anderson | - | Industrial Relations Consultant |
| Mr. Lauren Marsh     | - | Industrial Relations Consultant |

In attendance was:

- |                              |   |                  |
|------------------------------|---|------------------|
| Dr. Sandra Williams-Phillips | - | Dismissed worker |
|------------------------------|---|------------------|

## **SUBMISSIONS AND SITTINGS:**

Briefs were submitted by both parties who made oral submissions during eighteen (18) sittings held between February 19, 2020 and November 23, 2020.

## **BACKGROUND TO THE DISPUTE:**

1. The South East Regional Health Authority (SERHA) hereinafter referred to as the Authority is a statutory body established by the Government of Jamaica to manage the public health facilities: hospitals and health departments in the parishes of Kingston, St. Andrew, St. Catherine and St. Thomas. Bustamante Hospital for Children (BHC) falls under SERHA. It is situated at Arthur Wint Drive, Kingston 5 and caters to children from across Jamaica and other neighbouring Caribbean countries. It is the only facility of its kind in the Caribbean.





2. By letter dated July 27, 2009, Dr. Sandra Williams-Phillips was employed in the capacity of Consultant Cardiologist (MDG/MO 4) at the South East Regional Health Authority (Bustamante Hospital for Children) on a thirty-six (36) month contract effective August 3, 2009.
3. By letter dated January 18, 2010, Dr. Williams-Phillips contract of employment was terminated effective January 20, 2010. Please see below the letter of termination:

*January 18, 2010*

*Dr. Sandra Williams- Phillips  
Priory Court, Town House #5  
2 Devon Road  
Kingston 10*

*Dear Dr. Williams Phillips:*

*You are hereby advised, subject to the provisions of item 11 (i) of your contract of employment, that your services are terminated with effect from 2010 January 20.*

*Your terminal payment will include:*

<i>Salary for the period 2010 January 1-19</i>	<i>-</i>	<i>\$ 139,399.16</i>
<i>Meal Allowance</i>	<i>-</i>	<i>\$ 1,397.42</i>
<i>Upkeep Allowance</i>	<i>-</i>	<i>\$ 21,451.62</i>
<i>On-Call Allowance</i>	<i>-</i>	<i>\$ 158,053.64</i>
<i>Salary in lieu of notice</i>	<i>-</i>	<i>\$ 225,183.25</i>
<i>Seven (7) days vacation leave</i>	<i>-</i>	<i>\$ 75,061.09</i>

*Please note that the requisite statutory deductions will apply to all relevant figures quoted above.*

*Kindly acknowledge receipt of this letter by signing and returning the attached duplicate.*

*The Authority thanks you for the service you have given and wishes you success in your future endeavours.*





*Yours truly*

*SOUTH EAST REGIONAL HEALTH AUTHORITY*

*Beulah Stevens (Mrs.)*

*Regional Director (Acting)*



4. Dr. Williams-Phillips challenged her termination. The Ministry of Labour and Social Security was asked to intervene, however, the dispute was not resolved and hence the matter was referred to the Industrial Disputes Tribunal for determination and settlement.

**THE AUTHORITY'S CASE:**

5. The Authority called three (3) witnesses in support of its case; Mrs. Carvel Vaz, who acted vice Ms. Beverly Needham as Chief Executive Officer (CEO) from August 2009 to November 2009, Dr. Michelle-Ann Richards-Dawson, Senior Medical Officer (SMO) of the Bustamante Hospital for Children and Mrs. Nerine Belnavis-Waite, who acted at the time, as Director of Human Resource Management and Industrial Relations.
6. Early in Dr. Williams-Phillips tenure there were several complaints about her behaviour which were deemed as highly unsatisfactory and did not engender team spirit or motivate individuals. She was very aggressive and intimidatory in her interaction with medical professionals at all levels within and outside the organization. Her actions made it extremely difficult to foster good working relationship which is required in the organization. Her behaviour were of grave concern. Of particular concern was the longstanding personal conflict between herself and a Former Paediatric Cardiologist who played an integral role at the Bustamante Hospital for Children through her association as Director, Chain of Hope, Jamaica, a local arm of a UK Charitable Group, an organization which has been instrumental in the development of the cardiac surgery program at Bustamante Hospital for Children since 2001.
7. Mrs. Vaz (Acting CEO) gave evidence that from time to time Dr. Williams-Phillips would lodge complaints or concerns that she had; some were of a medical nature, others related to how things were done. She referred her to the SMO who was at the time Dr. Sonia Henry-Heywood because she had technical responsibility for the



medical services. As it relates to the administrative aspects of her concerns, Mrs. Vaz said she would not just refer her to the SMO but would also communicate to the SMO the issues that Dr. Williams-Phillips had. There was also another set of staff that would complain to her about how the clinic was operated and changes that were made by Dr. Williams-Phillips without consultation. Complaints from doctors about Dr. Williams-Phillips shouting at them and speaking down to them in the presence of patients. Mrs. Vaz said that she advised them to put it in writing but they did not.

8. Mrs. Vaz also testified that there were various concerns raised by Dr. Williams-Phillips about a senior member of the cardiology team and the general treatment of patients. Again, she said that she referred her to the SMO. Mrs. Vaz said that she was aware that the SMO met with Dr. Williams-Phillips and discussed with her, her concerns.
9. It is Mrs. Vaz evidence that Dr. Williams-Phillips would have been at Bustamante Hospital for Children for three (3) months and hence, a performance evaluation report was due to be completed. Mrs. Vaz said that she was the one who asked the SMO about same for Dr. Williams-Phillips as it was customary where she was coming from to do an interim probationary report. If the person is not performing or is under performing and if there are areas of weaknesses it is highlighted in the performance report. The idea of that, she said, was to work on the weaknesses so they don't become chronic and at the end of the six (6) months you would have been seeing some improvements. She said that the SMO would be the Rating Officer and she (Mrs. Vaz) the Reviewing Officer. Subsequently, a Performance Evaluation Report was conducted in respect of Dr. Williams-Phillips. Prior to conducting the review of the Performance Evaluation Report, Mrs. Vaz said that she only knew Dr. Williams-Phillips for three (3) months. Mrs. Vaz made it clear that she did not have any qualification in the medical field and relied mainly on her Human Resource knowledge to review the appraisal of Dr. Williams-Phillips.
10. The interim Probationary Performance Evaluation was done by Dr. Sonia Henry-Heywood prior to her demitting office. Dr. Williams-Phillips received a number of 'D' ratings relating to her communication skills and fostering teamwork and camaraderie with co-workers in general to which she did not agree. Dr. Sonia Henry-Heywood commented that:





*"Dr. Phillips is technically competent as a Paediatric Cardiologist. She is able to manage cases appropriately and to made appropriate referrals. She also takes the initiative to make contacts for patient management. However Dr. Phillips had conflicts with a senior member of the Cardiology team and made decisions without consultation with her supervisor (The S.M.O). This resulted in a 'D' rating for factor 10. Meetings were held with Dr. Phillips who subsequently apologized and this has resulted in an improvement in her behaviour."*

11. Mrs. Carvel Vaz, who reviewed Dr. Williams-Phillips Performance Evaluation Report stated in her comments that:

*"I am in agreement with the raters comments as it relates to the technical competence of Dr. Sandra Williams Phillips as demonstrated in the reduction in waiting time for Echos. Her professional relationship is daunted by personal issues with a fellow colleague, which has resulted in confirmed reports to the Medical Council without the intervention of the Senior Medical Officer.*

*As a consequence she is not mindful of the role of the team, and the importance of settling disagreements at the local level resulting in disruption. The ratings of "D" at factors 8, 10, 12, 17, 19 are appropriate for the period under review.*



*While I understand her keen interest in patient care management, this, in most instance is affected by her impulsivity, which blocks her vision for effective management and garner team spirit.*

*Several meetings were held with the officer which has resulted in some improvements. The objectives of the Cardiology programme at Bustamante will not be met until Dr. Phillips and fellow cardiologist settle anomalies, if this cannot be attained outplacement should be considered."*



12. Dr. Michelle-Ann Richards-Dawson testified that she has been at Bustamante Hospital for Children for many years, and she took office as the SMO after the retirement of Dr. Sonia Henry-Heywood on December 1, 2009 and became Dr. Williams-Phillips direct report. Dr. Richards-Dawson said that she had concerns about Dr. Williams-Phillips conduct as well as her performance. She stated that as a team leader there are essential qualities which are required in order for any department and organization to progress. She highlighted concerns about her technical competences, general understanding of her own specialty and delegating authority as well as accepting ultimate responsibility.
13. Dr. Richards-Dawson noted that Dr. Williams-Phillips' co-operation with professional colleagues, internal and external to the organization were poorly rated. Her effectiveness in administrative decision making and understanding her role between the professional and the administrator were also poorly rated. This was of concern to her. Dr. Williams-Phillips was unapproachable and confrontational with both junior and senior staff. Her inability to discuss matters in a professional and amicable manner posed a hindrance to patients care and resulted in avoidance behaviour by some members of staff in order to prevent confrontation with her.
14. Dr. Richard-Dawson also gave evidence as it relates to an overseas team from USA and the UK that have been associated with Bustamante Hospital for Children since 1960. She said they too had challenges dealing with Dr. Williams-Phillips. The situation was so bad that one member of the visiting team indicated that he will not return to Jamaica and to date has not done so. She also noted Dr. Williams-Phillips effectiveness in encouraging and offering new ideas and solutions.
15. Dr. Richards-Dawson said that from her own personal interaction with Dr. Williams-Phillips she observed that her behaviour was highly unsatisfactory. In light of these concerns, she reviewed her contract along with the Performance Evaluation Report and recommended that Dr. Williams-Phillips' probationary Performance Evaluation be carefully examined along with her contract of employment. She further suggested that consideration be given for the termination of Dr. Williams-Phillips contract. She strongly suggested that in light of the problems identified that the issues should not be ignored and be addressed with urgency.





16. Based on the recommendation, a meeting was held on Monday, January 4, 2010 with Dr. Williams-Phillips, herself (Dr. Richards-Dawson), Mrs. Beverley Needham, CEO and the then Personnel Manager, Mrs. N. Dobson to advise Dr. Williams-Phillips of the recommendation for her contract to be terminated. However, Dr. Williams-Phillips was advised that Bustamante Hospital for Children could not take a final decision and that she would be advised based on the feedback from the HR Subcommittee. Dr. Phillips was also informed at the said meeting on January 4, 2010 that she can make her position on the recommendation known, as under the law, she has a right to do so.

17. A letter dated January 6, 2010 was sent to Mrs. Beulah Stevens, Regional Director over the signature of Ms. Joan Guy Walker, Parish Manager (Acting), Kingston and St. Andrew Health Services, outlining the concerns of the Bustamante Hospital for Children and the recommendation for the termination of Dr. Sandra Williams-Phillips' contract of employment.

18. Mrs. Belnavis-Waite, Acting Director Human Resource and Industrial Relations in her evidence stated that there were several correspondences sent to the regional office regarding the unsatisfactory behavioural concerns of Dr. Phillips. She said that on receipt of the correspondence dated January 6, 2010 from Mrs. Guy-Walker, she submitted a Memo dated January 12, 2010 to the Chairman, Human Resources Subcommittee, advising of the recommended termination of Dr. Williams-Phillips. This was submitted for the Committee's discussion and further recommendations to the Board of Directors. The decision was made by the Board to terminate her contract.

19. By letter dated January 18, 2010, Dr. Williams-Phillips contract of employment was terminated. An internal Memo dated January 18, 2010 was sent from Mrs. Nerine Belnavis-Waite to Mrs. Jennifer Small, Director of Finance, advising of the termination of the service of Dr. Sandra Williams Phillips and requesting preparation of terminal payments.

20. South East Regional Health Authority indicated that efforts to contact Dr. Williams-Phillips via telephone were unsuccessful. Hence, a letter was prepared for Dr. Williams-Phillips dated January 21, 2010 over the signature of Ms. Beverley





Needham, advising her to return the assigned telephone and accessories on or before January 29, 2010.

21. South East Regional Health Authority contends that they followed due process as they complied with clause 11(1) of Dr. Williams-Phillips' contract of employment which states that the Authority may at any time terminate the engagement of Dr. Williams-Phillips on giving her one (1) months' notice in writing, or paying to her one (1) month's salary in lieu of notice. They further contended that any claim of loss requested by Dr. Sandra Williams- Phillips ought to be rejected by the Tribunal.

**THE DISMISSED WORKER'S CASE:**

22. Dr. Sandra Williams- Phillips was invited by the then Senior Medical Officer (SMO) Dr. Sonia Henry-Heywood in March 2009 as a sessional Cardiologist at the Bustamante Hospital for Children. There was marked improvement in the Paediatric Cardiology Cardiac care and with echocardiograms. As a result, Dr. Henry-Heywood wrote a recommendation in June 2009 for Dr. Williams- Phillips to be employed on full time contractual basis in the position of Paediatric Cardiologist (MDG4). She was successful in the formal interview and her appointment commenced on August 3, 2009 for a period of thirty- six (36) months under a renewable contract.
23. Dr. Williams-Phillips reported to Dr. Henry-Heywood with whom she had an amicable and cooperative professional relationship. As far as she was concerned the next in her chain of command was the Technical Director of SERHA. She did not report to the Chief Executive Officer (CEO).
24. It is Dr. Williams-Phillips' evidence that she was not given a job description but based on her knowledge and experience she knew what the job entailed.
25. During Dr. Williams- Phillip's tenure at the hospital, the Cardiac Services were greatly improved. She had a good relationship with the staff but had concerns as to how patient care was treated. She made several complaints to Mrs. Vaz (Acting CEO) but she referred her to the SMO. Mrs. Vaz, she said did not take any action to address her issues. As a result, she made a complaint to the Medical Council about a retired Senior Paediatric Consultant's conduct and treatment of patients.





26. She provided questionnaires for Doctors to use when treating patients and also made cards for patients to present to their dentists because as a heart patient, there are antibiotics that should not be administered. It is also her evidence that she was blocked from performing cardiac catheterization in her list of duties for cardiac patients at Bustamante Hospital for Children. She testified that an Overseas Mission was scheduled to visit the hospital and she should have been the Cardiologist to present the cases for evaluation. However, she was asked to allow another Senior Cardiologist to lead the team. She said she decided to 'step back' to allow for same.
27. Prior to Dr. Henry-Heywood's departure, a Probationary Performance Evaluation for the period August 3, 2009 to November 2009 was completed. This evaluation stated that she was technically competent, was effectively performing the duties of her contract and that she met the requirements of the job. There were 5 "D" ratings that Dr. Williams- Phillips received for which she was not in agreement. Her reasons for the disagreement was that she only had a problem with one individual. She further stated that the "D" ratings were in contradiction to the "A" and "B" ratings that she received.
28. Dr. Sandra Williams- Phillips was also concerned that Mrs. Carvel Vaz was asked to review the Performance Evaluation Report completed by Dr. Sonia Henry-Heywood on November 30, 2009. She stated that Mrs. Vaz was not capable of effectively accessing her work because she did not possess the qualification or technical competence to evaluate the work of a Cardiologist nor was she in her chain of command.
29. Subsequently, on the retirement of Dr. Henry-Heywood, Dr. Michelle Ann Richards-Dawson took over as the SMO on December 1, 2009 and became Dr. Williams-Phillips's immediate supervisor. Dr. Richards-Dawson supervised Dr. Williams-Phillips for a period of thirty (30) days effective December 1, 2009 to January 19, 2010. However, she made a recommendation on December 31, 2009 to terminate Dr. Williams Phillips contract of employment.
30. Dr. Sandra Williams- Phillips pointed out that Mrs. Belnavis-Waite, Director of Human Resource (Acting) received a correspondence dated January 6, 2010 requesting consideration for her termination. The letter submitted was not





35. Dr. Williams- Phillips further contended that she was unjustifiably terminated on the grounds that the dismissal was unjust, unreasonable and unfair and that she faces the reality that she will never be able to work again to amass a pension. She is also faced with legal liabilities in her long road to justice commencing almost eleven (11) years.
36. She said that after her termination, she established a medical practice at a hospital but had to close down because she was not receiving referrals. She also had another medical practice elsewhere which is also not doing well.
37. Dr. Williams-Phillips asked that the Tribunal finds that her dismissal was unjustifiable and that she be reinstated at another hospital monitored by SERHA with full salary from January 19, 2010 to November 23, 2020 or the date of the award, whichever is later. She stated that she should be compensated in the sum of \$120 million, \$72 million of which represents loss of wages and \$48 million for pecuniary losses.

#### **FINDINGS OF THE TRIBUNAL:**

38. The Tribunal after careful examination of the evidence presented by both parties is now tasked with arriving at a conclusion as to the settlement of this dispute. In doing so, there are a few questions that the Tribunal must ask itself but needs to highlight an important point. The evidence before this Tribunal is that even though Dr. Williams-Phillips as well as other members of staff sought redress for grievances relating to their employment which they had a right to, and Mrs. Vaz correctly referred them to the SMO, nothing further was done to resolve those issues, notwithstanding the fact that the grievances were unresolved.
39. The first question is, was Dr. Sandra Williams-Phillips on probation?  
Dr. Richards-Dawson when asked the following question by a Member of the Panel, had this to say:

*Question:*

*What led you to the conclusion that Dr. Williams Phillips was on probation?*

*Answer:*

*The communication from HR was that it was a probationary period of six (6) months on the contract.*





accompanied by an investigatory document or any document to prove that a disciplinary hearing was convened. She stated that Mrs. Belnavis-Waite did not investigate the issues surrounding the request for the consideration of termination or peruse her contract during the period for which the request was made.

31. Dr. Sandra Williams- Phillips felt that the failure of Mrs. Belnavis-Waite to launch an effective investigation into the request for a consideration of the termination of her contract proves that the Human Resource arm of SERHA acted impulsively to Dr. Richards-Dawson recommendation for her dismissal and did not seek to ensure that due process was followed before terminating her.

32. Dr. Williams-Phillips' evidence was that on Tuesday, January 19, 2010 while working in the X-Ray Department doing a final echocardiogram, she received a telephone call from Mrs. Beverley Needham, Chief Executive Officer verbally terminating her employment and she was told to leave the hospital compound immediately or she would be escorted out by the Security.

33. Dr. Williams-Phillips received a registered slip from Half Way Tree Post Office dated January 22, 2010 requesting that she return the CUG, to the Authority. She visited the SERHA's offices in New Kingston to do same on February 4, 2010 and received two envelopes. One envelope contained the dismissal letter dated January 18, 2010 and the other envelope had a cheque dated January 19, 2010 for work done in January 2010 and payment in lieu of notice. It is also her evidence that she attended SERHA on several occasions to speak to the Technical Director concerning an appeal, but each time she was informed that she was in meetings. She also tried to contact other personnel but was unsuccessful in speaking to anyone.

34. Dr. Williams-Phillips contends that SERHA breached the Labour Relations and Industrial Disputes Act, the Labour Relations Code, the Employment (Termination and Redundancy Payments) Act 1974 and the Memorandum of Understanding for the Public Sector, paragraph 1-10 dated April 18, 2008 which expired March 11, 2010. She said that there was a violation of her fundamental rights which included the right to be informed of charges, the right to confront her accuser, the right to be represented and the right to an appeal.





40. The Tribunal, however, after careful examination of Dr. Williams-Phillips' contract found that there was no mention of a probationary period.

41. The second question to be answered is, was Dr. Williams-Phillips dismissed for cause?

It is the Company's case that Dr. Williams-Phillips contract was terminated in accordance with Section 11(1) of her contract of employment. However, Dr. Richards-Dawson's evidence was that after observing Dr. Williams-Phillips behaviour and finding it highly unsatisfactory, she reviewed her performance evaluation as well as her contract of employment and made the recommendation for her contract to be terminated. It is interesting to note that the interim Performance Evaluation Report introduced by Mrs. Vaz was to highlight areas of weaknesses and to give the worker the opportunity to work on those weaknesses.

42. Mrs. Belnavis-Waite when asked the following in cross examination by Mr. Marsh had this to say:



*Question: But you are not clear as to what the recommendation for termination was for?*

*Answer: well, basically the employment relationship was at a point where it would not have been good for neither patients nor workers.*

43. In light of the foregoing the Tribunal therefore has concluded that Dr. Sandra Williams-Phillips was terminated for cause.

44. The Tribunal having concluded that Dr. Williams-Phillips was terminated for cause, now ask itself, did SERHA in arriving at a decision to terminate the contract of Dr. Williams-Phillips observe the Rules of Natural Justice and the Statutory Requirement? The Rules of Natural Justice require that a person must be allowed an opportunity to present his/her case where his/her interests and rights may be affected by a decision maker. Dr. Williams-Phillips was not given the opportunity to prepare and to present her case neither was she given an opportunity to defend herself.

45. The Rules of Natural Justice also dictate that an administrative decision must be based on logical proof of evidence. SERHA by their own admission did not carry out any



*render him liable to any proceedings; but in any proceedings before the Tribunal or a Board any provision of such code which appears to the Tribunal or a Board to be relevant to any question arising in the proceedings shall be taken into account by the Tribunal or Board in determining that question."*

50. The Tribunal, in accordance with Section 22 of the Labour Relations Code finds that Dr. Williams-Phillips was not provided with the right of appeal. The undisputed evidence of Dr. Williams-Phillips is that she went to SERHA on several occasions to speak to the Technical Director with regards to an appeal but was unable to do so as she was told she was in a meeting.

51. The Tribunal finds it most appropriate to refer to the following:

1. Section 2 of the Labour Relations Code states that:

*"... Recognition is also given to the fact that work is a social right and obligation, it is not a commodity; it is to be respected and dignity must be accorded to those who perform it, ensuring continuity of employment, security of earnings and job satisfaction."*

2. *Village Resorts Limited and the Industrial Disputes Tribunal and Uton Green representing the Grand Lido Negril Staff Association (1988 35 JLR 292) where Justice Rattary P made reference to Smith C.J's quote in the R. v. Minister of Labour and Employment, Industrial Disputes Tribunal, Devon Barrett et al ex-parte West Indies Yeast Co. Limited from the learned author of "The Impact of Unfair Dismissal" at paragraph 11:*

*"A person's job can no longer be treated purely as a contractual right which the employers can terminate by giving the appropriate contractual notice."*

52. The fact that Clause 11 (1) of Dr. Williams-Phillips contract of employment states that the Authority may at any time terminate the engagement by giving one month's notice in writing or one (1) month payment in lieu of notice does not mean that a person's job should be treated as an article of trade.

53. In considering all the circumstances of this case, the Tribunal finds that the termination of Dr. Sandra Williams- Phillips was unjustifiable. The Tribunal in

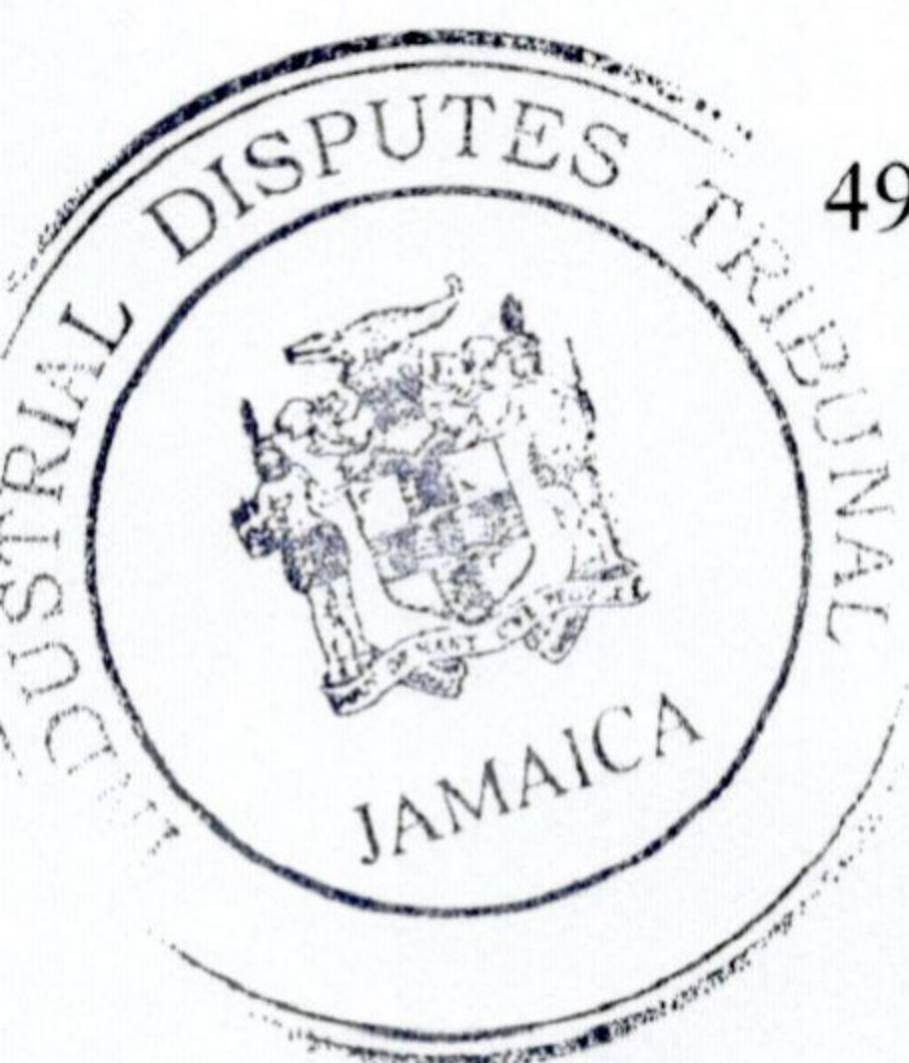




investigation into the matter to substantiate the recommendation for termination. SERHA, on receiving the Performance Evaluation as well as the recommendation from Bustamante Hospital for Children to terminate Dr. Williams-Phillips' contract, failed to ask her to provide a report with regards to same. The Tribunal is also of the view that the thirty (30) days period used by Dr. Richard-Dawson for the assessment of Dr. Williams-Phillips was too short.

46. It is important to note that even though Dr. Williams-Phillips was given a 'D' rating for co-operation with professional colleagues in and out of the organization, the Rating Officer commented that there was an improvement in this area. Interestingly, of the five (5) 'D' ratings that were given, the Rating Officer only spoke to the one referenced above and in the overall assessment indicated that she met the requirements. Notwithstanding SERHA's Performance Evaluation guideline which stated that for *a preponderance of Ds, Supervisor should cite instances*. There were aspects of the Performance Evaluation Report which the Tribunal is of the view were contradictory. The Tribunal also finds it strange that Mrs. Vaz the Acting CEO, not being in Dr. Williams-Phillips's chain of command was the person who reviewed the ratings given by the SMO, Dr. Henry-Heywood.
47. The unchallenged evidence of Dr. Williams-Phillips was that on January 19, 2010 whilst at work performing her duties, she received a telephone call from Mrs. Beverley Needham, CEO verbally terminating her contract of employment. Dr. Williams-Phillips's rights as a worker were violated as she was denied the rights to natural justice before being unceremoniously terminated.
48. The purpose of the Labour Relations and Industrial Disputes Act and the Labour Relations Code is to promote good labour relations which include (inter alia) the principle of developing and maintaining good personnel management techniques designed to secure effective co-operation between workers and their employers and to protect workers and employers against unfair labour practices.
49. The Tribunal will now seek guidance from Section 3(4) of the Labour Relations and Industrial Disputes Act which states:

*"A failure on the part of any person to observe any provision of a labour relations code which is for the time being in operation shall not of itself*





coming to its decision took into consideration that because of Dr. Williams-Phillips unjustifiable dismissal she would have lost income for the remainder of her contract, as well as the fact that she will never be able to work again to amass a pension. The Tribunal has also noted efforts by Dr. Williams-Phillips to establish a practice which failed because of the lack of referral, her age was also taken into consideration.

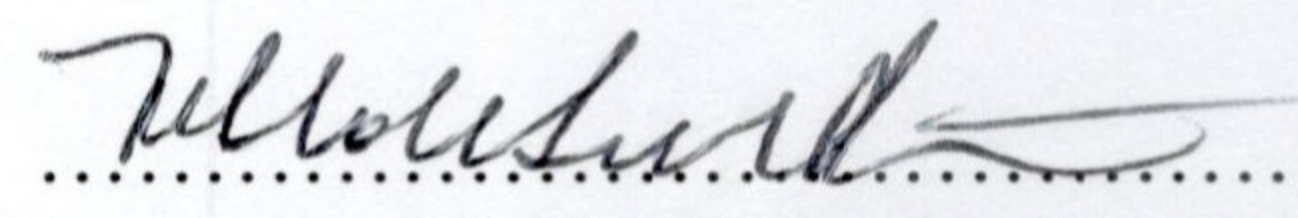
54. Dr. Williams -Phillips has asked to be re-instated in her position but her contract of employment would have long been expired and the Tribunal is not vested with the authority to extend the life of the contract.

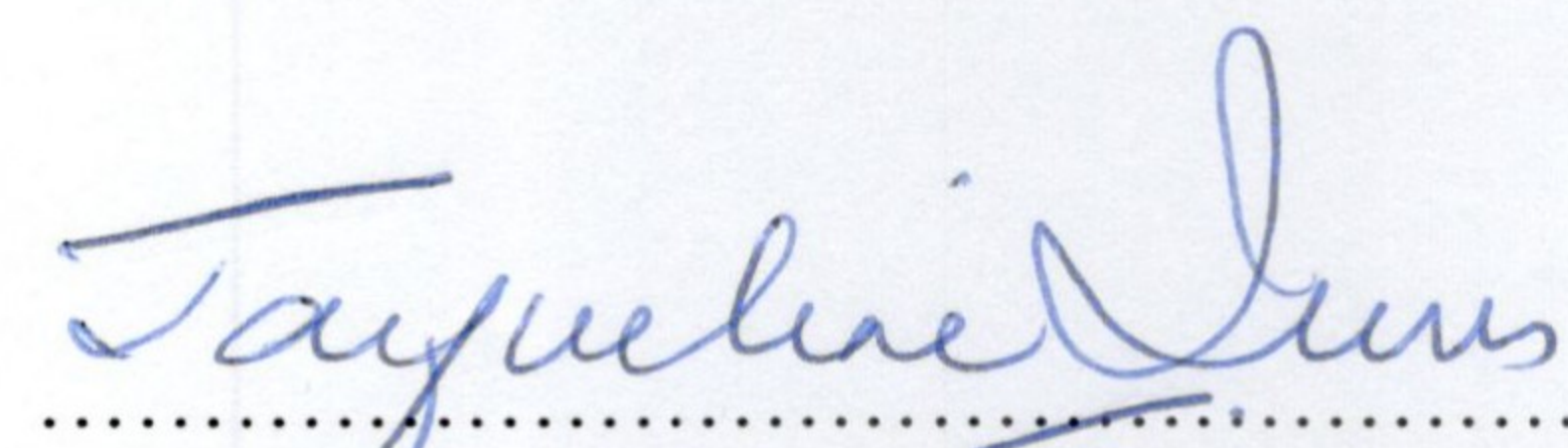
**AWARD:**

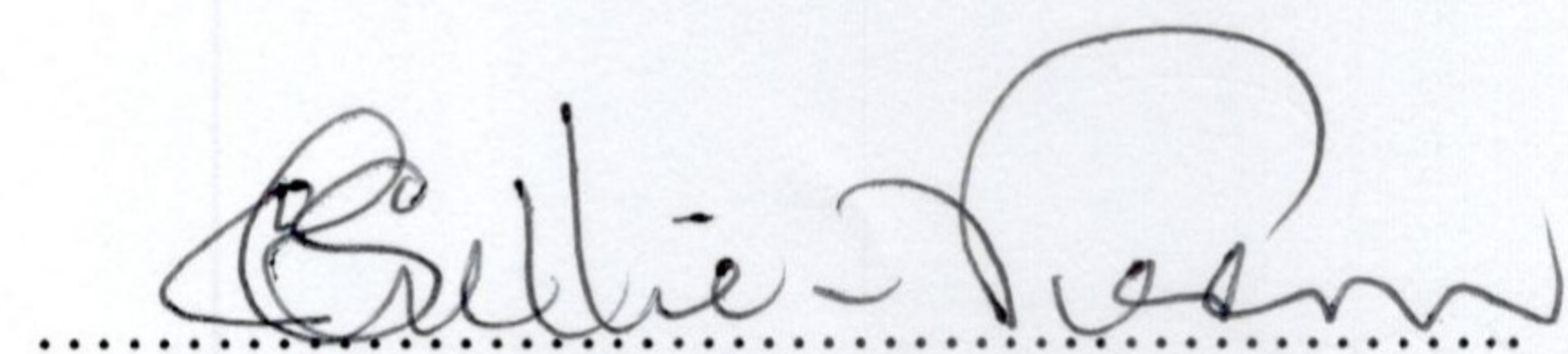
55. The Tribunal awards that Dr. Sandra Williams-Phillips be compensated in the amount of Twelve Million Five Hundred Thousand Dollars (\$12,500,000.00) for her unjustifiable dismissal.

**DATED THIS 26<sup>th</sup> DAY OF MAY, 2021**

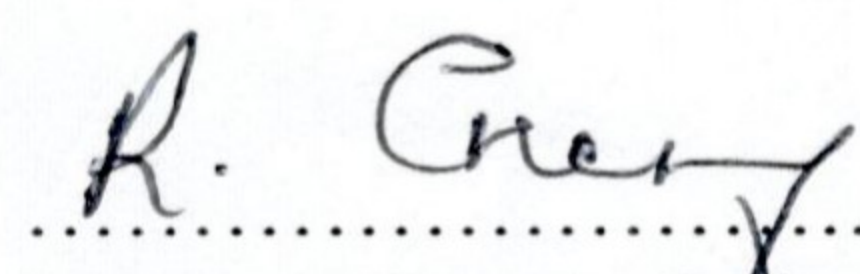


  
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Justice Marjorie Cole-Smith (Retd.)  
Chairman

  
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Mrs. Jacqueline Irons, J.P.  
Member

  
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Mrs. Chelsie Shellie-Vernon  
Member

Witness:

  
.....  
Royette Creary (Miss)  
Secretary to the Division