

IN THE SUPREME COURT OF NAURU

CIVIL ACTION NO. 19/2000

BETWEEN : **MYRON ROLAND** PLAINTIFF  
AND : **NAURU PHOSPHATE CORPORATION** DEFENDANT

Paul Aingimea for the Plaintiff  
Robert Kaierua for the Defendant

Date of Hearing : 19 September 2001  
Date of Decision : 19 September 2001

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**DECISION OF CONNELL, C.J.**

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In this action I find for the Defendant, Nauru Phosphate Corporation.

As a preliminary matter, I ruled that this Court has jurisdiction to hear the case and was not defeated by the Republic Proceedings Act 1972.

The Plaintiff through his self-help Luddite action towards the phosphate dryer and its overseer, Lee Kamtaura, on May 27, 1999, was suspended from duty as a labourer at the Fitter and Turner Workshop

of the Defendant on May 31, 1999.

The Plaintiff did not challenge his suspension which was conveyed to him orally by his overseer on 31 May 1999. It was his contention that the written notice of suspension signed on the same date by the Acting Personnel Manager, Lesi Olsson, was never conveyed or served upon him. That notice informed him in the words, "to speed up investigations on this case please give the APM-Labour a written explanation of this incident as soon as you can".

The fact that he was obliged to give a written explanation he was unaware of until the letter from the NPC to his legal representative, Mr. Aingimea, was sent on 1 August 2000. That was immediately prior to the issue of the first Writ of Summons.

However, the Plaintiff admitted in evidence that he had not, following his suspension, ever made any attempt to see the APM-Labour or inquire from him or anyone else at N.P.C. regarding his case.

The situation, at the moment, is that more than two years after the


event upon which he was suspended, N.P.C. has not acted and he is still simply an employee under suspension. The situation must be regarded as most unsatisfactory administratively where employees' matters deserve to be dealt with in a manner embracing procedural fairness but also with speed.

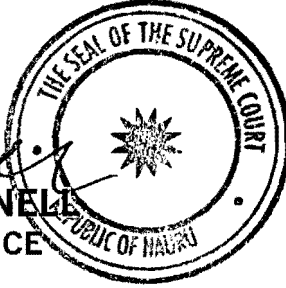
It would be hoped that the Plaintiff can quickly give his explanation and that the NPC can act on the matter, perhaps, taking into account the inordinate time it has taken to reach this point.

At the same time, because the Plaintiff is still employed by N.P.C., I am not able to accede to the Plaintiff's claims as to the negligence of the Defendant based on the costs to the Plaintiff of his period of suspension, particularly given the fact that he, himself, did nothing to alleviate his predicament. If, indeed, there had been evidence, prior to the issue of the writs, of his activity in seeking some action on his suspension the situation may have been different so far as damage was concerned.

**I ORDER** that –

1. the action be dismissed
2. there be no order as to costs.

  
**BARRY CONNELL**  
CHIEF JUSTICE



The seal is circular with a double border. The outer border contains the text "THE SEAL OF THE SUPREME COURT" at the top and "REPUBLIC OF NAURU" at the bottom. In the center is a starburst emblem.