

BETWEEN: REPUBLIC OF VANUATU
Appellant

AND: JEAN MARC PIERRE
Respondent

Date of Hearing: 6 August 2025

Before: *Hon. Chief Justice V. Lunabek
Hon. Justice M. O'Regan
Hon. Justice A. Besanko
Hon. Justice D. Aru
Hon. Justice V.M. Trief
Hon. Justice E.P. Goldsbrough
Hon. Justice M. MacKenzie*

In Attendance: *Mr F. Bong for the Appellant
Mr K.T. Tari for the Respondent*

Date of Decision: 14 August 2025

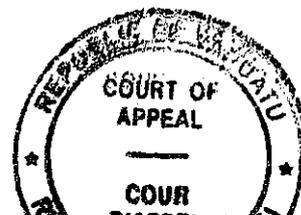
JUDGMENT OF THE COURT

A. Introduction

1. On 5 March 2023, the appellant the State and the respondent Jean Marc Pierre entered into an employment contract engaging Mr Pierre as the National Coordinator of the Custom Land Management Office ('CLMO') for a fixed term of 6 months (9 March 2023 to 9 September 2023).
2. On 9 March 2023, the Public Service Commission ('PSC') approved the contract.
3. On 14 June 2023, the PSC by letter to Mr Pierre terminated the contract with immediate effect. Mr Pierre received the letter on 22 June 2023.

B. Mr Pierre's claim

4. Mr Pierre commenced proceedings in the Supreme court for unlawful termination of his employment. He sought orders for payment of the balance of the contract, two weeks' pay in lieu of notice, severance payment, damages, interest and costs.



5. The State did not file a defence, but admitted liability. It also did not file any evidence. It filed submissions as to the quantum of damages.

C. Supreme Court decision

6. The Supreme Court entered judgment for Mr Pierre. The primary Judge referred to s. 48 of the *Employment Act* [CAP. 160] (the 'Act') which provides, relevantly, that, "... a contract of employment shall terminate on the last day of the period agreed in the contract..."
7. He also referred to clause 10 of the contract which provided for termination without notice in the event of serious misconduct by Mr Pierre (clause 10(a)) and for either party to terminate the contract on two weeks' written notice (clause 10(b)). The Judge held that there was no evidence of Mr Pierre committing serious misconduct hence the only alternative option for termination of the contract was on two weeks' written notice pursuant to clause 10(b) of the contract. However, no notice was given. The PSC terminated the contract "with immediate effect."
8. The primary Judge therefore held that the termination of Mr Pierre's employment was unlawful. The relief granted included VT579,676 payment of the balance of the agreement, VT103,220 two weeks' payment in lieu of notice, VT12,387 VNPf contributions, VT103,220 severance, VT619,320 six-times multiplier and VT100,000 disbursement costs. The total awarded was VT1,535,832.

D. Appeal

9. The State's appeal is against the order for two weeks' pay in lieu of notice and the orders for severance payment and six-times multiplier. The State did not challenge the award of VT579,676 being payment for the balance of the agreed six month term, the VT12,387 award for VNPf contributions or the VT100,000 award for disbursement costs.
10. The State also applied for enlargement of time to file its appeal as it had filed the appeal out of time.
11. Mr Pierre conceded to the application for enlargement of time. He also conceded that he was not entitled to severance and multiplier. These were concessions properly made as a severance allowance is only payable where an employee has been in the continuous employment of an employer for a period of not less than 12 months and the employer terminates his employment: para. 54(1)(a) of the Act; *Republic of Vanuatu v Arnhambat* [2024] VUCA 29 at [15]. It is clear that Mr Pierre does not meet that requirement.
12. The only matter contested at the hearing of this appeal was the order for two weeks' pay in lieu of notice. The State cited *Republic of Vanuatu v Arnhambat* [2024] VUCA 29 in which a claim for



payment in lieu of notice made under s. 49 of the Act was dismissed. Section 49 provides that an employee is entitled to notice of termination of the employment contract or payment in lieu of notice, but this applies only to contracts of employment "for an unspecified period of time." Mr Arnhambat's contract was for a fixed term, so he was not entitled to notice or a payment in lieu.

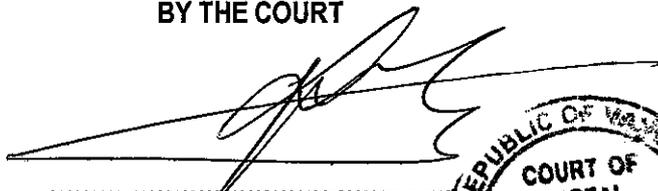
13. In the present case, the claim is based on a clause in the employment contract, not on s. 49 of the Act. Where the parties have entered into a fixed term employment contract that provides for a right to notice before termination, the employee may make a contractual claim for payment in lieu of notice.
14. Mr Tari accepted, in answer to a question from the Court, that given that Mr Pierre is being paid the balance of the contract, two weeks' pay in lieu of notice on top of that is over-compensation.
15. The appeal must be allowed effectively as a result of the concessions made.

E. Result

16. Enlargement of time to file the appeal is granted.
17. The appeal is allowed. The orders at paras 20, 22-24 and 26(b), (d) and (e) (making awards for payment in lieu of 14 days' notice, a severance allowance and a multiplier of six times the severance allowance) are set aside as Mr Pierre is not entitled to two weeks' payment in lieu of notice nor to any severance allowance or multiplier. The remaining sums awarded by the Supreme Court remain.
18. Neither party sought costs. Costs are to lie where they fall.

DATED at Port Vila this 14th day of August, 2025

BY THE COURT


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Hon. Chief Justice Vincent Lunabek

