



Press Summary

24 March 2025

Marcia Ayers-Caesar (Respondent) v The Judicial and Legal Service Commission (Appellant) (Trinidad and Tobago)

[2025] UKPC 15

On appeal from the Court of Appeal of the Republic of Trinidad and Tobago

Justices: Lord Reed (President), Lord Hodge (Deputy President), Lord Stephens, Lady Rose and Lady Simler

Background to the Appeal

This appeal concerns whether the Judicial and Legal Services Commission (“**the Commission**”) acted in breach of section 137 of the Constitution of the Republic of Trinidad and Tobago in procuring the resignation of the Respondent, Mrs Ayers-Caesar, from her office as a High Court judge. Section 137(1) provides that a judge can be removed from office only on the grounds of inability or misbehaviour, and only in accordance with the provisions of that section. Sections 137(2) and (3) set out the procedure which must be followed.

In 2016 the Respondent, who was then the Chief Magistrate, applied to be a High Court judge. On 15 March 2017 she was informed that her application had been successful. When the Respondent’s appointment was announced there was a public outcry, with the Commission and the judiciary coming under criticism about the number and nature of the part-heard matters which the Respondent would leave behind in the Magistrates’ Court. On 11 April 2017 the Respondent sent the Chief Justice a list of 28 part-heard cases, which had been prepared by a member of staff of the Magistrates’ Court. The Chief Justice asked her if she would wish for more time to dispose of her part-heard matters, but she declined. On 12 April 2017 she was sworn in as a judge of the High Court.

In response to concerns raised by attorneys that cases part-heard by the Respondent and close to completion would have to start again before another magistrate, the Chief Justice asked the Acting Chief Magistrate to ascertain the true state of the Respondent’s part-heard matters. A list was completed, comprising 52 cases.

On the morning of 27 April 2017 the Chief Justice convened an emergency meeting of the Commission to discuss the course of action to be taken with respect to the Respondent's appointment. The minute of that meeting recorded the Commission's concerns as to the ability of the Respondent to manage her outstanding part-heard matters, that she may have misled the Chief Justice and the Commission in respect of those matters, and the effect of her conduct on public confidence in the administration of justice. The Commission decided that the information before it triggered and met the threshold for disciplinary action in accordance with section 137.

The minute recorded that the Commission had also decided the Respondent be given the option of withdrawing from the High Court bench and returning to the magistracy and, in the event she refused to withdraw, the Commission would consider instituting disciplinary action. During the afternoon of the same day the Chief Justice had a meeting with the Respondent. The Chief Justice communicated the Commission's decisions to the Respondent, and the meeting concluded with the Respondent agreeing to resign from her office as a High Court judge.

The High Court dismissed the Respondent's claim for judicial review of the decisions of the Commission. The Court of Appeal allowed the Respondent's appeal, declaring that the Commission had put unlawful pressure on the Respondent to resign. The Commission now appeals to the Judicial Committee of the Privy Council.

Judgment

The Judicial Committee unanimously dismisses the Commission's appeal. It holds that the Commission's decisions of 27 April 2017 and the communication of those decisions to the Respondent was a breach of section 137 of the Constitution. Lord Reed gives the unanimous judgment of the Board.

Reasons for the Judgment

The limited grounds on which judges can be removed from office under section 137, and the nature of the procedure laid down in that section, reflect the Constitution's recognition of the importance of protecting judicial independence from the executive, as a vital aspect of governance in accordance with the rule of law [5]. At the same time, section 137 protects the administration of justice, and public confidence in it, by enabling judges to be removed from office when they are unable to carry out the functions of their office, or when their remaining in office would otherwise bring the administration of justice into disrepute [25]. In relation to the procedure to be followed, section 137 addresses the need to protect the judiciary against the threat to judicial independence, and therefore to the impartial application of the law, which would arise if the removal process could be used by the executive to penalise or intimidate judges [6].

As a preliminary point, the Board observes that the Commission's concerns, as expressed in the emergency meeting on 27 April 2017, could, if established, reasonably be regarded as falling within the scope of section 137(1), particularly when considered cumulatively [22], [36]. Conduct occurring before the judge's appointment can provide a lawful basis for an investigation under section 137 [23], which is in keeping with the underlying aim of the power of removal for inability or misbehaviour to protect the due administration of justice [33].

As to the lawfulness of the Commission's decision that the information before it triggered and met the threshold for disciplinary action, the allegations made against the Respondent might have been capable of rebuttal, in whole or in part, if she had been given an opportunity to

respond [39]. The Respondent was not given that opportunity. The Commission did not notify her that the question of removing her was being considered at its meeting on 27 April 2017. It did not give her notice of the allegations made against her, nor did it give her any opportunity to answer them, before it reached its decision [40]. The Commission therefore did not act fairly to the Respondent before taking that decision [44]. The Commission's suggested distinction between a decision that the circumstances merit a representation to the President, and a decision to make a representation, is artificial and unprincipled [42]. Furthermore, to draw such a distinction and to hold that the duty of fairness applies only to the latter decision would diminish the value of the Respondent's right to a fair hearing [43]. Accordingly, the Commission's decision was unlawful by reason of procedural unfairness [45].

As to the lawfulness of the decision to give the Respondent the option of withdrawing from the High Court bench, the Board observes that under section 137 the Commission has a vital but limited role: to decide whether to represent to the President that the question of removing a judge under that section ought to be investigated. It is no part of the Commission's role (nor the role of the Chief Justice), where it has found that there are circumstances justifying such a representation, to seek to procure the removal of the judge by other means, such as resignation. Pressurising a judge to resign by holding out the threat of disciplinary proceedings, as the Commission did in the present case, circumvents the constitutional safeguards laid down in section 137 and undermines their purpose [48], [50]. Accordingly, the Commission's decision was inconsistent with the scheme laid down by section 137, and therefore unlawful [51].

The Board rejects the Commission's contention that it did not bring about the Respondent's resignation, alleging that when the Chief Justice communicated the Commission's decision in relation to disciplinary proceedings, he had exceeded his authority. The natural inference to be drawn from the minute is that the Commission authorised the Chief Justice, as chairman of the Commission, to communicate its decision to the Respondent, which was necessary for that decision to be implemented. No evidence was adduced to indicate otherwise. Moreover, it is clear from the minute that the "option" of resignation, which the Commission accepts the Chief Justice was authorised to communicate, was considered to be an alternative to disciplinary proceedings [54]-[55].

References in square brackets are to paragraphs in the judgment.

NOTE:

This summary is provided to assist in understanding the Committee's decision. It does not form part of the reasons for that decision. The full opinion of the Committee is the only authoritative document. Judgments are public documents and are available at: [Decided cases - Judicial Committee of the Privy Council \(JCPC\)](#)