

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 97/2023  
[2023] NZSC 152

BETWEEN JASBIR BALBIR SINGH  
Applicant

AND AUCKLAND DISTRICT HEALTH  
BOARD  
Respondent

Court: O'Regan and Ellen France JJ

Counsel: Applicant in person  
R M Rendle and T J Bremner for Respondent

Judgment: 17 November 2023

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**JUDGMENT OF THE COURT**

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- A The application for leave to appeal is dismissed.**
- B The applicant must pay the respondent costs of \$2,500.**
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**REASONS**

[1] The applicant applies for leave to appeal against a decision of the Court of Appeal.<sup>1</sup> In that judgment, the Court of Appeal:

- (a) dismissed an application for review of the decision by a Judge of the Court of Appeal that the applicant's application to the Court of Appeal would be dealt with on the papers;

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<sup>1</sup> *Singh v Auckland District Health Board* [2023] NZCA 391 (Cooper P and Gilbert J) [CA judgment].

- (b) dismissed an application for an extension of time to appeal against the judgment of the High Court;<sup>2</sup> and
- (c) dismissed an application for suppression of the applicant's name.

[2] The proceedings between the applicant and the respondent began in the Human Rights Review Tribunal (HRRT). The applicant had been employed by the respondent but resigned in February 2015. She claimed, among other things, that she had been the subject of discrimination while employed by the respondent. She filed proceedings in the HRRT alleging discrimination by the respondent and other employees of the respondent. The respondent applied to strike out the proceeding and the applicant did not attend the hearing of the strike out application. Rather, she requested that her application to the HRRT be withdrawn. The HRRT accepted her withdrawal and formally dismissed the proceeding on 8 February 2018.<sup>3</sup>

[3] The High Court judgment against which the applicant wished to appeal dealt with:

- (a) An application by the applicant seeking leave to appeal the HRRT decision out of time. This application was made almost four years after the HRRT dismissed the proceeding.
- (b) An application for judicial review of the HRRT's decision to dismiss the proceeding.
- (c) A claim against the respondent for damages for alleged breaches of the Human Rights Act 1993, the New Zealand Bill of Rights Act 1990, the Privacy Act 1993, the Privacy Act 2020, and the Employment Relations Act 2000 (described in the High Court judgment as "the General Proceedings").

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<sup>2</sup> *Singh v Auckland District Health Board* [2022] NZHC 2229 (Harvey J) [HC judgment].

<sup>3</sup> *Singh v Auckland District Health Board* HRRT 3/2016, 8 February 2018 (Minute).

- (d) An application by the applicant for suppression of her name and identifying details.

[4] The High Court struck out the proceedings. In short:

- (a) The Court concluded that the extension of time to appeal against the HRRT decision, almost four years after the decision was issued, could not be granted, because the 30 day time limit for appealing set out in s 123 of the Human Rights Act could not be extended.<sup>4</sup>
- (b) It struck out the judicial review application on the basis that there was no reasonably arguable case.<sup>5</sup>
- (c) It struck out the General Proceedings on the basis that they were an attempt to relitigate matters that had been finally determined in the HRRT and were therefore an abuse of process.<sup>6</sup>
- (d) It dismissed the suppression application on the basis that publication is an ordinary consequence of commencing proceedings and there was nothing in the material before the Court justifying suppression.<sup>7</sup>

[5] The decision of the High Court was issued on 2 September 2022 (and reissued on 15 September 2022). The applicant had 20 working days in which she could appeal against the High Court judgment as of right. In fact, the applicant's notice of appeal was not filed in the Court of Appeal until 6 April 2023.

[6] The Court of Appeal:

- (a) Decided it was appropriate for the matter to be dealt with on the papers.<sup>8</sup>

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<sup>4</sup> HC judgment, above n 2, at [28]. The 30 day time limit applied at the time the decision was made.

<sup>5</sup> At [46].

<sup>6</sup> At [55].

<sup>7</sup> At [61]–[62].

<sup>8</sup> CA judgment, above n 1, at [4].

- (b) Dismissed the application for extension of time to appeal. In doing so, it applied the principles set out in this Court's decision in *Almond v Read*.<sup>9</sup> In short, the Court considered the respondent would be prejudiced by the delay, the delay was not adequately explained and the proposed appeal had no realistic prospects of success and, therefore, the interests of justice favoured the application for an extension of time being declined.<sup>10</sup>
- (c) Dismissed the application for name suppression. The Court said it would be wrong in principle to grant name suppression in circumstances where it had declined an extension of time to appeal against the High Court judgment refusing an identical application. But it also considered there was no proper basis for name suppression.<sup>11</sup>

[7] This Court may not grant leave to appeal unless satisfied that it is in the interests of justice to do so.<sup>12</sup> In this case we are satisfied that no matter of general or public importance arises.<sup>13</sup> The Court of Appeal's treatment of the application for an extension of time to appeal to that Court applied the principles set out by this Court in *Almond v Read* in an orthodox manner. There was no reason for this Court to revisit what it said in *Almond v Read*. Nor is there any appearance of a miscarriage in the way the Court of Appeal addressed the issues.<sup>14</sup> We are also satisfied that there is no matter of public importance nor any appearance of a miscarriage of justice in the way in which the Court of Appeal addressed the name suppression application.

[8] In relation to the decision of the Court of Appeal to deal with the matter on the papers, that was an orthodox approach to applications of the kind advanced by the applicant. There is no basis for any appeal to this Court in relation to that decision.

[9] The application for leave to appeal is dismissed.

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<sup>9</sup> *Almond v Read* [2017] NZSC 80, [2017] 1 NZLR 801.

<sup>10</sup> CA judgment, above n 1, at [14]–[16].

<sup>11</sup> At [19].

<sup>12</sup> Senior Courts Act 2016, s 74.

<sup>13</sup> Section 74(2)(a).

<sup>14</sup> Section 74(2)(b).

[10] The applicant must pay the respondent costs of \$2,500.

Solicitors:  
Simpson Grierson, Auckland for Respondent