SUPREME COURT OF SEYCHELLES

Reportable
CA 08/2025

In the matter between:

SEYCHELLES PUBLIC TRANSPORT CORPORATION **Appellant**
New Port Road
Victoria
Mahe
(Represented by Mr Joe Camille)

and

JOEL BRIOCHE **Respondent**
Of
Baie Ste Anne
Praslin
Seychelles
(Represented by Mr Divino Sabino)

Neutral Citation: *SPTC vs Joel Brioche* (CA 08/2025) (7 April 2026)
Before: Adeline J
Summary: Appeal against the decision of the Employment Tribunal in judgment
Heard: Submissions of counsels for the parties
Delivered: 7 April 2026

FINAL ORDER

In the final analysis, this appeal cannot succeed because all the 6 Grounds of Appeal are unsustainable. Therefore, the appeal is accordingly dismissed with costs awarded in favour of the Respondent.

JUDGMENT ON APPEAL

Adeline, J

FACTUAL AND PROCEDURAL BACKGROUND

[1] This Appeal, commenced by Notice of Appeal dated 13th May 2025, filed into court on the same date, is made pursuant to Section 4 of Schedule 6 of the Employment Act, 1995 as amended by Act 21 of 2008, read with Rule 6 (1) and Rule 27 (1) as well as Rule 11 of the Appeals Rules (SI 11 of 1996) of the Courts Act. By this Appeal, the Seychelles Public Transport Corporation, ("the Appellant"), a body corporate, appeals to this court against the decision of the Employment Tribunal in a judgment dated 29th April 2025, in which judgment, the Employment Tribunal awarded the Respondent the total sum of SCR 77,769.08 with interest and costs.

[2] The factual background of this Appeal indicates that, the Respondent, who before the Employment Tribunal was the Applicant, initiated the grievance procedure under Section 61 (1) (a) (ii) of the Employment Act, 1995 as a amended, after his employment contract was terminated by the Appellant, who before the Employment Tribunal was the Respondent pursuant to Section 57 (4) of the Employment Act, 1995 as amended for a disciplinary offence allegedly committed, notably, an offence tantamount to "... unauthorised use of the property or equipment of the undertaking" and "fails to comply with the rules and regulations of the undertaking under (e) and (h) of Part 1, Schedule 2 of the Employment Act, 1995 as amended".

[3] In line with the statutory requirements of Section 61 (1A) of the Employment Act, 1995 as amended, the Competent Officer in the Ministry responsible for employment, endeavoured to bring about a negotiable settlement between the parties by way of the mandatory mediation which unfortunately failed. In accordance with Section 61 (1D) the parties to these proceedings were issued with a Certificate confirming that mediation has failed to achieve a settlement. Pursuant to Section 61 (1E) of the Employment Act, 1995 as amended, on the 7th June 2023, the Respondent filed an application before the Employment Tribunal based on the claims as featured in the certificate issued by the Competent Officer in the ministry responsible for employment, which are the following;

1. Unfair dismissal

2. Suspension without pay

3. Warning letter

4. Compensation for length of service from 5th September 2013 to 13 April 2023

It is observed, that what amounts to a claim, is only the financial claim of compensation for length of service from 5th September 2013 to 13th April 2023.

[4] On the 29th April 2025, the Employment Tribunal delivered a judgment. In the conclusion of the judgment, the tribunal states the following;

"*CONCLUSION*

[54] In the circumstance, the Learned Tribunal is satisfied that the applicant has proven his claim against the Respondent as mentioned above and the Applicant is entitled to be paid his legal dues by the Respondent as follows;

(a) Salary from date of unjustified dismissal (14th April 2023) for one month = SCR 8,400/-

(b) Compensation for length of service (totality of the employment period therefore until lawful termination) in the sum of SCR 33,909.08/-

(c) One month's notice in the sum of SCR 8,400

(d) Refund of salary deducted SCR 1860/- 1860/-

(e) Compensatory award to the tune of three month's salary SCR 25,200

Total SCR 77,769.08

Based on the above this learned Tribunal hereby enters judgment in favour of the Applicant for a claim against the Respondent in the total sum of SCR 77,769.08 as adduced above with interest at 4% and costs"

[5] It is against this judgment that the Appellant appeals.

[6] In the Memorandum of Appeal filed into court according to Rule 11 of the Rules, the Appellant states the grounds of appeals to be the following;

"Ground 1

1. The Employment Tribunal erred in law and on the facts in concluding that the investigation concluded by the Appellant, pertaining to the Respondent's termination was not conducted fairly as per the law.

Ground 2

2. The Employment Tribunal erred in law and on the facts in concluding that the grounds set out in the termination letter, exhibit A-Y, for the termination of the Respondent's employment was vague and not specific and was contrary to Section 53 of the Employment Act and illegal and that the offence raised was harsh and inappropriate given the circumstances of the case.

Ground 3

The Employment Tribunal erred in law and on the facts in concluding that the Respondent's own admissions to the fact that he had been in breach of the Appellant's Rules and regulations and hence having failed to comply with the same rules and regulations, did not amount to a serious disciplinary offence in law, which merited the termination of the Respondent's in law.

Ground 4

In the premises of the above and/or in the alternative to ground 3 above, the Employment Tribunal erred in law in concluding that the Respondent's termination by the Appellant was unlawful in law.

Ground 5

The Employment Tribunal erred in law in awarding the tune of SCR 25,200.00 as compensatory award, as same award rest on no legal basis.

Ground 6

The Employment Tribunal erred in law in coming to the awards of SCR 77,769.08 as terminal benefits for the Respondent, in all circumstances of the case".

ARGUMENTS OF COUNSEL FOR THE APPELLANT BY WAY OF SUBMISSIONS

[7] As regard to ground 1 that, the Employment Tribunal erred in law and on the facts in concluding that the investigation concluded by the Appellant pertaining to the Respondent's termination was not conducted fairly as per the law, learned counsel for the Appellant refers to page 41 of the judgment of the Employment Tribunal quoting paragraph 41, as follows;

"*It is evident that before issuing a final warning dated 20th February 2023 SPTC did not convene a meeting with him and did not give Mr Brioche a chance to explain as per the Employment Act, but only have a statement and there was no investigation done*".

[8] Learned counsel supports this proposition having had regard to Section 53 (1) of the Employment Act, 1995 as amended, contending that, the Appellant did comply with the requirements prescribed under Section 53 (1). Section 53 (1) of the Employment Act, 1995 as amended is couched in the following terms;

"*No disciplinary measure shall be taken against a worker for a disciplinary offence unless there has been an investigation of the alleged offence or, where the act or omission constituting the offence is self-evident, unless the worker is given the opportunity of explaining the act or omission*".

[9] Learned counsel explained that, as per the letter dated 14th April 2023, exhibited as A4, the termination of the Respondent's contract of the employment was the consequence of two incidents which allegedly happened on the 6th April 2023 and 10th April 2023. Referring to the latter incident, learned counsel submitted, that the Respondent took possession of an SPTC bus from the bus depot on Praslin without asking prior permission, and that at the time he did that he was already on a final written warning of 15 points. Learned counsel stated, that this is a fact that was not disputed before the Employment Tribunal. He added that, the termination of the Respondent's contract of employment was for misconduct and

for the disciplinary offences prescribed under Schedule 2, Part 1, more specifically, under (e) and (h) of the Employment Act, 1995 as amended.

[10] It is the submission of learned counsel that, the Respondent was given the opportunity to be heard in respect of the two incidents. Referring to the incident of the 6th of April 2023 regarding the alleged failure to issue tickets to passengers and to allow tourists with oversized luggage onboard the bus. Learned counsel submitted that, exhibits A1 and A2 are evidence of the Appellant having followed the correct procedures under Section 53 (1) of the Employment Act, 1995 and for the Tribunal to have concluded otherwise, was an error. He contended, that the Appellant handled the process of termination fairly as required by law, in that, there was an investigation carried out in respect of each incident which investigation was conducted fairly observing the rules of natural justice.

[11] It is submitted by learned counsel that, in its judgment, the Employment Tribunal failed to consider the evidence of Mr Wason Joubert, the depot Manager, the relevant part of his evidence on page 24 of the record of the proceedings of the 9 June 2024. Learned counsel stated, that Mr Joubert had testified that, "the Respondent was issued with his final written warning after he had confessed and agreed, not to have operated a trip from Anse La Blague to Mont Plaisir" and did that in a written statement.

[12] It is also submitted by learned counsel, making reference to page 26 of the record of the proceedings, that the Employment Tribunal did not also consider the evidence of Mr Joubert who has stated that the Respondent admitted to have taken the bus on the 10th April 2023, and the fact that Mr Joubert had also stated that, the Respondent's act was self evident coupled with the fact that he was asked for a statement about the incident and he gave one. Learned counsel noted, that in his testimony, Mr Joubert had stated that, the incident were properly investigated and that the decision to terminate the Respondent's contract of employment was arrived at fairly.

[13] It is the submission of learned counsel that, the record of the proceedings of the 19th June 2024, in page 16, shows that under cross examination, the Respondent admitted committing the offence of taking the bus without permission, and as such, it cannot be said that the Respondent was not given an opportunity to be heard. Learned counsel was of the view

that, because the Respondent was afforded the opportunity to explain himself for the taking of the bus without permission which he did by way of a written statement, exhibit A4, the requirements of Section 53 (1) of the Employment Act, 1995 as amended were fully met.

[14] In its answering submissions as regards to ground 1 of the grounds of appeal, learned counsel for the Respondent submitted, that the Employment Tribunal found that, there were several instances where the Respondent was not afforded the necessary protections under the provisions of Section 53 (1) of the Employment Act, 1995 as amended.

[15] Learned counsel referred the court to paragraph 32 of the judgment, the Employment Tribunal having taken note, that with respect to the allegation that the Respondent had allowed passengers to travel without a ticket and an oversized luggage, the Respondent was not informed of the identity of the person or persons who made the complaint against him, and therefore, had no opportunity to rebuke his accuser or accusers. Learned counsel also added, that at paragraph 33, the Employment Tribunal also found that the complaint made against the Respondent lacked clarity.

[16] Learned counsel submitted that, in paragraph 40 of the judgment, the Employment Tribunal observes that, no evidence was tendered before it to prove that the Respondent allowed passengers without tickets to board the bus and with oversized luggage, and the fact that the identity of the complainant whom the Respondent didn't know was unknown, he couldn't challenge the accuser or accusers to discredit and rebuke the complainant for the complaint made against him if all that there was a complaint made against him.

[17] It is the submission of counsel that, in paragraph 35 of its judgment, the Employment Tribunal observes that, with respect to the bus taking incident that allegedly happened on the 10th April 2023, the Respondent was issued with a letter of termination without prior notice of any disciplinary proceedings. He added that, at paragraph 38, the Employment Tribunal goes on as to say that "*no enquiry was conducted for this offence.... no person was called for the enquiry in the presence of Mr Brioche*".

[18] It was submitted by learned counsel that, in paragraph 42 of the said judgment, the Employment Tribunal found that, the Appellant had failed to show forth any investigation

of the alleged disciplinary offences. Learned counsel went on as to say that, the Respondent's in-house appeal was even "*dismissed summarily without appreciating that no evidence was taken during the disciplinary hearing and Mr Brioche was denied a fair hearing and opportunity to defend himself against the serious allegations raised against him*". It was the submission of learned counsel that, in paragraph 44, the Employment Tribunal remarks that "*there was no disciplinary proceedings and the appeal process seems to be one sided and had not followed the principle of natural justice and due process for the action taken against Mr Brioche*".

[19] Learned counsel submitted that, in its submissions, learned counsel for the Appellant only points out that the Respondent did write statements following the allegations made against him, but ignored the concerns raised by the Employment Tribunal that, in respect of the complaints about not issuing tickets and about over-sized luggage, were unclear and from unknown complainant.

[20] Learned counsel added that, in respect of the bus taking incident, the Respondent was not even advised that disciplinary proceedings against him were being conducted. In essence, learned counsel for the Respondent's submissions as regards to ground 1 of the grounds of appeal, is that the Employment Tribunal's findings in paragraph 42 and 44 of its judgment that the disciplinary process set by law was not followed is correct in law, and therefore, ought not to be disturned by this court.

[21] Submitting on ground 2, learned counsel for the Appellant stated, that the Employment Tribunal erred in law and on the facts in concluding that the grounds set out in the termination letter, exhibit A4, for the termination of the Respondent's contract of employment was vague and not specific, and was contrary to Section 53 of the Employment Act. Learned counsel added that the termination was illegal and that the offence raised was harsh and inappropriate given the circumstances of the case. Learned counsel referred the court to paragraph 43 of the judgment in which the Employment Tribunal made it finding, contending that, the Employment Tribunal's finding is wrong in law. It is the submission of learned counsel that;

"the letter of termination clearly identified the incidents of the 6th April 2023, and that of 10 April 2023".

Learned counsel added, that *"the letter further made reference to a final warning of 20 February 2023"*, and *confirmed that the written explanation of the Respondent was received by the Appellant"*.

[22] It was submitted by learned counsel, that the letter of termination, exhibit A4, clearly states the grounds of termination, which were misconduct referring to illicit or un authorised use of the Appellant's property or equipment and failing to comply with the rules and regulations of the Appellant, the existence of such rules having been an admitted fact by the parties in the course of the proceedings. In learned counsel's view, for those reasons, the Employment Tribunal wrongly assessed exhibit A4 and came to the wrong conclusion, both, on the facts and law.

[23] In his answering submissions on ground 2, learned counsel for the Respondent referred the court to paragraph 43 of the judgment, contending, that, "the tribunal found it difficult to understand how disciplinary offences (e) and (h) could be framed against the Respondent given that he had in fact been authorised to take the bus". In learned counsel's view, the offence of unauthorised use of the bus should have no merit because the Respondent who was authorised to take the bus, simply did not inform the security that he was taking the bus.

[24] It was also the view of learned counsel that, the offence of failing to comply with the rule of the undertaking is not apportioned to either the "bus taking" or "ticket issuing" allegations. Hence, in respect of ground 2, it is submitted by learned counsel that, the finding of the Employment Tribunal was corrected and that it ought not to be interfered with by this court.

[25] In his submissions on ground 3 that, the Employment Tribunal erred in law and on the facts in concluding that the Respondent's own admission to the fact that he had been in breach of the Appellant's rules and regulations by having failed to comply with the same rules and

regulations, did not amount to a serious disciplinary offence in law which merited the termination of the Respondent's contract of employment in law.

[26] Learned counsel stated that, at the time when the Respondent had his contract of employment terminated he was already on a final warning issued to him by letter dated 20 February 2023. Learned counsel submitted that, the decision of the *Appellant to terminate the Respondent's contract of employment rested on an incident amounting to a clear unequivocal admission of wrongfulness of the act by the Respondent himself* and thus, the termination was justified.

[27] In his answering submissions in respect of ground 3, learned counsel for the Respondent submitted, that based on the facts of this case, "*the Respondent only admitted that he took the bus without informing the security or the depot manager*, not that he did not have authority to use the bus. Learned counsel also submitted that, in respect of the ticket and over-sized luggage alleged incident, the Respondent out rightly denied that he allowed passengers to board the bus without a ticket. Furthermore, it is submitted by learned counsel, that no evidence was tendered before the Employment Tribunal to prove the oversized luggage, or that the luggage was oversized, a finding made by the Employment Tribunal at paragraph 40 of its judgment. In learned counsel's view, this ground of appeal has no merit.

[28] It is observed that, learned counsel for the Appellant did not submit on ground 4 of the Appellant's ground of Appeal, that "*in the premises of the above and/or in the alternative to ground 3 above, the Employment Tribunal erred in law in concluding that the Respondent's termination by the Appellant was unlawful in law*". Repeating his submissions in respect of ground 1, learned counsel for the Respondent added that, it was the finding of the Employment Tribunal that, the allegations about the ticket issue and over-sized luggage were unproven, whereas, with respect to the bus taking incident, the Employment Tribunal found that the Respondent was authorised to take the bus, but he did not inform the security about it was because of the fault of the security who was not present at the depot. Learned counsel stated, that at paragraph 35 of the judgment, the Employment Tribunal found that it was a disproportionate, harsh and inappropriate measure taken

against the Respondent in the circumstances, when his contract of employment was terminated.

[29] Learned counsel remarked, that, "it could have been so easy for Mr Brioche to not take the bus that night and the consequence would have been that the workers would not have been picked up and brought to work the next morning and SPTC operations would have been negatively affected. In learned counsel's view, Mr Brioche's action ensured the smooth running of SPTC's operations. Learned counsel is also of the view, that the night security is the one who should have been investigated for his absence or his lack of diligence or vigilance. Based on learned counsel's argument, he maintains, that ground 4 of the grounds of appeal has no merit for the reason that the ticket issue was disproved before the Tribunal, it found that the action taken to dismiss Mr Brioche from his employment was disproportionate.

[30] Submitting on ground 5 of the Appellant's grounds of appeal, learned counsel for the Respondent stated that, the proposition made by learned counsel for the Appellant that the award of SCR 25,000 by the Employment Tribunal has no legal basis disregard paragraph 7 of Schedule 6 of the Employment Act, 1995 as amended, given that it provides for the following;

"*At the conclusions of the proceedings the Tribunal shall in addition to any other remedies provided under this Act, award compensation or costs or make any other order as it thinks fit*"

[31] Based on the aforementioned statutory provisions, it is the view of learned counsel for the Respondent that, this ground of appeal has to be dismissed since paragraph 7 of Schedule 6 of the Employment Act, 1995 as amended, does provide for the legal basis for the making of a compensatory award.

[32] In respect of Ground 6 of the ground of appeal suggesting that, "the Employment Tribunal erred in law in coming to the awards of SCR 77,769.68, as terminal benefits for the Respondent in all circumstances of the case", learned counsel for the Respondent submitted, that in its submissions, learned counsel for the Appellant fails to support this

ground of appeal and that in the circumstances, it is unknown how the Employment Tribunal purportedly erred in making the financial award it finally made.

COURT'S DISCUSSIONS, ANALYSIS AND REASONING

[33] To make a determination in this appeal, I have given due consideration to the submissions of learned counsel representing the parties, in the light of the Appellant's Grounds of Appeal. As regards to Ground 1, the Appellant's contention is that the Employment Tribunal erred in concluding that the investigation was not conducted fairly. Clearly, the Employment Tribunal made such a finding having had regard to Section 53 (1) of the Employment Act, 1995 as amended, that reads;

"*No disciplinary measure shall be taken against a worker for a disciplinary offence unless there has been an investigation of the alleged offence or, where the act or omission constituting the offence is self-evident unless the worker is given the opportunity of explaining the act or omission*".

[34] Led by the submissions of learned counsel for the Respondent, I have thoroughly read the judgment of the Employment Tribunal with special attention on the various paragraphs of the judgment on the Tribunal's findings. I have been unable to find any error committed by the Employment Tribunal that impeded on its findings that the investigation carried out by the Appellant was not conducted fairly. In that regard, I have to agree with the findings of the Employment Tribunal at paragraphs 42 and 44 of its judgment that, the provisions of Section 53 of the Employment Act, 1995 as amended, was not fully complied with prior to taking the disciplinary measure of terminating the Respondent's contract of employment.

[35] The Employment Tribunal correctly found that, because the identity of the alleged complainant as regards to the claims that the Respondent allowed passengers to travel on the bus without a ticket, and with oversized luggage was not made known to the Respondent, if at all it existed, that person could not be challenged by the Respondent, and no clarity from him could be sought for about the complainants. Clearly, therefore, the Appellant accepted the complaint as a "fait accompli", and on that basis alone, it took the

disciplinary measure of terminating the Respondent's contract of employment without giving him the opportunity to face the complainant. Effectively, the Appellant acted on a complaint, if at all there was one, without gathering evidence to substantiate the allegation that the Respondent allowed passengers on board the bus without a ticket, and with oversized luggage. It is this appellate court's view, that the handling of the complaint by the Appellant was short of the requirements under the provisions of Section 53 of the Employment Act, 1995 as amended.

[36] As regards to the alleged bus taking incident that happened on the 10th April 2023, clearly, no investigation was carried out by the Appellant prior to taking the disciplinary measure of terminating the Respondent's contract of employment as correctly found by the Employment Tribunal. This is in line with the finding of the Employment Tribunal at paragraph 38 of its judgment. To meet the requirement of a fair hearing, the Respondent ought to have been called to be heard on the matter as well as the security guard who was meant to be at the depot when the Respondent took the bus. Effectively, the Appellant terminated the Respondent's contract of employment without any disciplinary proceedings and that was short of the requirements under the provisions of Section 53 of the Employment Act, 1995 as amended.

[37] Regarding ground 2 of the Grounds of Appeal suggesting that the "Employment Tribunal erred in finding that the termination letter dated 14th April 2023 was vague and not specific contrary to Section 53 of the Employment Act", I note the Employment Tribunal's comments and findings in paragraph 43 of its judgment. I have to agree with the Employment Tribunal that, based on the facts presented before the Employment Tribunal no evidence was adduced before it to prove that the Respondent committed the disciplinary offence (e) and (h) under Schedule 2 Part 1 of the Employment Act, 1995 as amended. Disciplinary offence (e) and (h) under Schedule 2 Part 1 reads;

"*A worker commits a disciplinary offence whenever the workers fails, without a valid reason, to comply with the obligations connected with the work of the worker and more particularly, inter alia, where the worker ;*

(e) makes any illicit or unauthorised use of the property or equipment of the undertaking

(h) fails to comply with the rules and regulations of the undertaking".

[38] As regards to the bus taking incident, the Employment Tribunal correctly found that, the Respondent was authorised to take the bus, save that when he took the bus the security was unavailable to inform him that he was taking the bus. As regards to the ticket and luggage issues, it cannot be said that, the Respondent failed to comply with the rules and regulations of the undertaking because that was never established. In the circumstances, Ground 2 of the Grounds of Appeal has to be dismissed.

[39] As regards to Ground 3 of the Grounds of Appeal that, "the Employment Tribunal erred in law and on the facts in its findings given that the Respondent admitted to breaching the Appellant's rules and regulations", it was the finding of the Employment Tribunal, correctly so, that the Respondent was authorised to take the bus and as such, he did admit of taking the bus, but did so without informing the security. As to the ticket issue, the Respondent denied that he allowed passengers to board the bus without a ticket which motion against him was not moved, and in respect of the luggage issue, no evidence was put before the Employment Tribunal to prove the oversized luggage. I find no error committed by the Employment Tribunal and therefore, Ground 3 of the Appellant's grounds of appeal stands to be dismissed.

[40] In the alternative to ground 3, Ground 4 of the Appellant's Grounds of Appeal, is that the Employment Tribunal erred in law in concluding that the termination of the Respondent's contract of employment was unlawful. Having gone through the records of the proceedings and thoroughly read the judgment of the Employment Tribunal, it is my considered opinion, that it was not an error on the part of the Employment Tribunal to determine that, the termination of the Respondent's contract of Employment by the Appellant was unlawful.

[41] This is because it was never proved before the Employment Tribunal that, the Respondent allowed passengers to board the bus without a valid ticket, and that passengers were allowed into the bus with oversized luggage. Furthermore, in respect of the bus taking incident, there was evidence tendered before the Employment Tribunal that he was not authorised to take the bus. The Respondent was authorised to take the bus but had to inform

the night security which he did not do because the night security was unavailable. I agree with the finding of the Employment Tribunal, that anyway, the decision to terminate the Respondent's contract of employment simply because he did not inform the night security was a disproportionate measure. In the circumstances, Ground 4 of the Grounds of Appeal stands to be dismissed.

[42] The Appellant's Ground 5 of the Grounds of Appeal is against the Employment Tribunal awarding the Respondent a financial award of SCR 25,000 which in the view of the learned counsel for the Appellant is an award with no legal basis. This ground of appeal has no legs to stand on given paragraph 7 of the Schedule 6 of the Employment Act, 1995 as amended that reads as follows;

"*At the conclusion of the proceedings the Tribunal shall in addition to any other remedies provided under this Act, award compensation or costs or make any other order as it thinks fit*".

Therefore, Ground 5 of the Grounds of Appeal stands to be dismissed.

[43] In respect of Ground 6 of the Grounds of Appeal, the Appellant made no submissions as to how the Employment Tribunal purportedly erred in making the financial award in favour of the Respondent. As such, Ground 6 of the Grounds of Appeal stands to be dismissed.

HOLDING AND IMPLICATIONS

[44] In the final analysis, this appeal cannot succeed because all the 6 Grounds of Appeal are unsustainable. Therefore, the appeal is accordingly dismissed with costs awarded in favour of the Respondent.

Signed, dated and delivered at Ile du Port 7th April 2026.

Adeline J

Supreme Court Judge