

2019.10.22

2 Deputy M.R. Higgins of St. Helier of the Chairman of the States Employment Board regarding the current status of the dispute between Mr. Al Witry and the Board: (OQ.263/2019)

Will the Chair inform the Assembly of the current status of the dispute between Mr. Al Witry and the States Employment Board?

Connétable R.A. Buchanan of St. Ouen (Vice-Chairman, States Employment Board - *rapporteur*):

I am answering this question. Members are aware of the judgment handed down by the Court of Appeal on 10th July 2019. I have referred to this in my answer to the Deputy's question 196 on the same subject on 16th July 2019. The judgment of the Court of Appeal is a matter of public record, as is the subsequent decision on costs. The matter of quantum of any damages to be paid to Mr. Al Witry has not been heard by the Royal Court as yet. The States Employment Board have also applied for leave to appeal to the Judicial Committee of the Privy Council the decision of the Court of Appeal, given the fundamental importance to the Island that the legal issues decided in this case raise. We await confirmation of this application. While the matter remains subject to such application and as the issue of quantum is also pending, I cannot comment further on the case, as to do so would risk prejudicing the ongoing litigation. We also continue to seek and negotiate a position with Mr. Al Witry's legal team. Beyond that, these are confidential matters and unfortunately I cannot say more.

3.2.1 Deputy M.R. Higgins:

I must say this is one of the most appalling things I have ever heard of. We have what was essentially a very basic breach of contract of Mr. Al Witry's contract before he got to the States and I find the States doubling up every time and going to higher courts is unbelievable.

[10:00]

Will the Deputy Chairman, I think it is, tell us what amount of money has been expended to date on this case, because it is an outrage with the costs so far and the potential liabilities, which could have been avoided had proper advice been taken at the beginning?

The Connétable of St. Ouen:

I do not have the actual costs to hand, but I will let the Deputy and this Assembly have those costs, as far as I am able to. I am not going to respond to the other comments the Deputy makes, because I think it will be inappropriate, given what is outstanding at the moment.

Deputy M.R. Higgins:

Could the Deputy Chairman at least give us an estimate of what he thinks it is at the moment, or does he not monitor these things?

The Bailiff:

I think he has answered that question, Deputy Higgins.

3.2.2 Senator S.C. Ferguson:

Might the Assembly be assured that the States Employment Board and the Human Relations Department learn from this shameful episode, when somebody's life is ruined by incorrect procedures? Will the lessons be learned? Will there be a case study on it?

The Connétable of St. Ouen:

I thank the Senator for her comments. I think the answer is yes; we will be and we have already taken a great deal of learning from this. As she is well aware, this is not a case that we ... that the current States Employment Board inherited and we simply had to deal with the issues as they have come up.

3.2.3 Deputy J.H. Young of St. Brelade:

I think members of our staff and members of the public will be surprised that there is to be a Privy Council appeal, considering this is just a normal dispute between employee and employer. Could the Minister just highlight to us what is the big issue of principle that is behind having to go to the highest court in the land in order ... what is the point of principle there? Normally that is only done on an exception basis. Could it ...

The Bailiff:

Deputy, I think we are running the risk here. It is all very well for the States Employment Board to say what the current procedural state is, but I think to begin to talk about the issues begins to get into the merits which would offend the *sub judice* rule; therefore, I, with respect, do not allow that question.

3.2.4 Deputy M.R. Higgins:

I have to say I believe this is a major scandal and will Ministers, or civil servants, resign if they lose this case in the Privy Council?

The Connétable of St. Ouen:

Clearly, I am not going to respond to that. What I can say, which would help the Deputy, is that I am more than happy to arrange a confidential briefing on this matter for any Member who would like it, because, clearly, there are matters that we cannot discuss in this Assembly, but we can discuss in a confidential basis. So, if anyone would like to have that, I am more than happy to arrange that. So, if they would like to let me have their names, I will put that in hand.

Deputy M.R. Higgins:

Will anybody be held to account though?

The Bailiff:

I think the Deputy has answered the question in the way that he wishes to.