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18th February, 2020

The Police Commissioner

Office of the Commissioner of Police,

6th Floor,

Police Administration Building

Corner of Edward and Sackville Streets

Port of Spin

Dear Sir,

**Re: Alleged Abondonemt of office/Kelvin Benn PC # 17600**

I represent the above named officer.

I am instructed that

1.My client was suspended with effect from June 28th, 2010 for Discreditable Conduct. However, his suspension was lifted since, the allegation was dismissed on April 23rd , 2014 as there was no basis for his suspension.

2. My client got a reinstatement letter and reported to the Human Resource Department. The Human Resource Department informed my client that he has a lot of vacation leave accumulated and he has to proceed on leave.

3. My client was told that after he finished his leave he would be transferred to Northern Division.

4. He finished his leave on 27th March, 2015. My Client called the Human Resource Department that he was ready to report on duty and enquired where he would be posted. He was told he would be informed as soon the post is available in the Northern Division.

5. He was waiting for the correspondence, and he was paid during that period, indicating that he was in the service,

6. He asked for job letter to show it to the Bank for a loan. He was given the same, which further indicates he is still in the service and has not abandoned the service.

7. Finally on 25th of February, 2019 he received a letter, stating that he has abandoned the service and hence he was declared to have resigned from his office as per Section 29 (1) of the Police Service Regulation 2007.

8. Sir, if you see the section

It states “ ***An officer who is absent from duty without leave for seven consecutive days, during which which time he has failed to notify his senior officer of the cause of his absence, may be declared by the Commissioner to have abandoned his office, whether he holds permanent , temporary, or contractual appointment, and thereupon the office becomes vacant and the officer ceases to be an officer.***

As per the Act he did report to the senior officer through the Human Resource Department. He is not absent from duty in the first place, and he was told to wait for the vacancy and was also being paid for the period. Hence, for all material purposes he was in duty, and is not deemed to abandon the services. Given that he would get a letter to report to the Northern Division he would have done it immediately. There was no indication on his part ever that he would be absent from the duties.

9. When he asked for a Job letter to show it to the Bank, he was given the same. This clearly indicates that he is still in the service, otherwise it would be akin to say the Police would be defrauding the Bank into believing that he is in service and give him a loan, whilst he is not in service.

10. The Department could not pin point when he actually abandoned the service. From 2014 to February, 2019 he was paid. Then the query would be why was he paid if he is not in the service. What explanation could be given for the spending the tax payers money like that even though he abandoned the service.

11. The letter states that, he was declared to have resigned. The section that deals with resignation is section 28 and not 29. Theses sections could not be mixed for the convenience sake. As per section 28 an officer resigns only if he intends to resign and the resignation letter send through registered mail.

As you can see nothing of that kind has happened here.

12. Also it is against the Natural Justice, especially, Audi Alteram Partem, if he is not given a chance to defend himself.

Hence his termination is unlawful and we plead with your kind self to reinstate him with immediate effect. He has given me the instructions through the proper tribunal to seek Justice. If we do not hear from you with in 14 days we would have no alternative then to proceed in the Court of Law.

Yours sincerely,

Christopher Gidla

Attorney At Law