



New Zealand Employment Relations Authority Decisions

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Pandit v Swamy (Auckland) [2017] NZERA 369; [2017] NZERA Auckland 369 (28 November 2017)

Last Updated: 8 December 2017

IN THE EMPLOYMENT RELATIONS AUTHORITY AUCKLAND

[2017] NZERA Auckland 369
3002678

BETWEEN BABU PANDIT Applicant

AND AKUTHOTA JWALA NARSIMHA SWAMY First Respondent

AND SATYA MT EDEN LIMITED t/a SATYA SOUTH INDIAN RESTAURANT

Second Respondent

Member of Authority: Robin Arthur

Representatives: Mohammed Shahadat, Advocate for the Applicant

Helen White, Counsel for the Respondent

Determination: 28 November 2017

COSTS DETERMINATION OF THE AUTHORITY

[1] On 10 November 2017 the Authority found Babu Pandit was unjustifiably dismissed by Akuthota Jwala Narsimha Swamy.¹ Mr Swamy was ordered to pay Mr Pandit remedies of \$18,465 (net) lost wages and \$15,000 as compensation for humiliation, loss of dignity and injury to feelings.

[2] Costs were reserved with the parties encouraged to resolve that issue themselves. They had not done so by 27 November when Mr Pandit's advocate lodged a memorandum seeking an order for costs, set at the Authority's usual daily tariff of \$4500 for the one day investigation meeting. He also sought reimbursement of the fee of \$71.56 that Mr Pandit had to pay to lodge his claim in the Authority.

[3] Counsel for Mr Swamy responded accepting application of the tariff but advising Mr Swamy was likely to file a challenge to the Authority's substantive

¹ *Pandit v Swamy & Satya Mt Eden Limited* [2017] NZERA Auckland 349.

determination. If such a challenge was lodged, a stay on the order for remedies would also likely be sought on the basis that those sums would meanwhile be paid in to the Court. Counsel then confirmed that the Authority should therefore proceed to determine costs, at the agreed tariff plus lodgement fee. This would mean the costs determination would stand or fall depending on the outcome of any challenge to the substantive determination.

Order for costs and expenses

[4] Mr Swamy must pay Mr Pandit \$4500 as a contribution to his costs of representation in successfully pursuing a personal grievance in the Authority. Mr Swamy must also reimburse Mr Pandit \$71.56. Those amounts must be paid to Mr Pandit within 28 days of the date of this determination.

Robin Arthur

