

**REPUBLIC OF VANUATU  
OFFICE OF THE OMBUDSMAN**

**PUBLIC REPORT  
ON THE  
IMPROPER PROCEDURES  
USED TO EXTEND THE EMPLOYMENT  
CONTRACT OF  
DR. TRINATA A. MANANDHAR  
A DENTAL OFFICER  
AT VILA CENTRAL HOSPITAL**

24 June 1999

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ALLEGED IMPROPER PROCEDURES USED TO EXTEND  
THE EMPLOYMENT CONTRACT OF DR TRINATA. MANANDHAR  
A DENTAL OFFICER AT VILA CENTRAL HOSPITAL**

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of Public Service Department in 1995. His improper actions led Dr Tambisari and Mr Pikioune to breach the Constitution and the Public Service Act (CAP 129).

Dr Tambisari and Mr Pikioune were also found by the Ombudsman to have breached Article 60 (4) of the Constitution and s 20 (1) of the Public Service Act (CAP 129). They both on different occasions influenced the Public Service Commission by issuing instructions for the Commission to approve the renewal of Dr Manandhar's contract.

The Ombudsman also found that the members of the PSC also breached Article 60 (4) of the Constitution in 1995, when they allowed themselves to be influenced by the instructions given by Dr Tambisari in 1995 and Mr Pikioune in 1997, to approve and grant the extension of contract to Dr Manandhar.

The Ombudsman recommends that Mr Lesines should never be appointed again to any position in the public administration of the Government. His improper actions led others to repeatedly breach the laws.

The Ombudsman recommends that Dr Tambisari and Mr Pikioune should not be appointed again to any positions in the public sector where they would be tempted to influence members of government agencies in the exercise of their duties.

The Ombudsman also recommended that the former members of the PSC should never be appointed again to that position or any other position because they allowed themselves to be controlled by another person in the exercise of their duties which was in breach of the laws.

## **1. JURISDICTION**

- 1.1 The Ombudsman conducted this enquiry in accordance with the Constitution and the Ombudsman Act (No 14 of 1995). Under Article 62 of the Constitution, the Ombudsman is empowered to enquire into matters either on her own initiative or upon receiving complaints from any persons as a result of a particular conduct or action by another person. As such, this complaint was received against the Health Department and the Public Service Department for not processing the recommendation to terminate Dr Manandhar's contract and Dr Tambisari and Mr Pikioune for influencing the Public Service Commission (**PSC**) in the exercise of its duty to grant extension of employment contract to Dr Manandhar.

## **2. PURPOSE, SCOPE OF INVESTIGATION AND METHODS USED**

- 2.1 The purpose of this report is to present my findings as required by Article 63 of the Constitution and Section 24 of the Ombudsman Act.

- 2.2 The scope of this investigation is to ascertain the relevant facts on the procedure used to extend the employment contract of Dr Manandhar. This is determined by :

*the improper conduct of Mr Lesines not to inform the PSC after receiving the complaint against Dr Manandhar.*

*the improper conduct of Dr Tambisari and Mr Pikioune to have instructed and/or influenced the PSC to approve the extension of Dr Manandhar's employment contract was proper.*

*the improper conduct of the members of the Commission to be influenced and controlled by another person in the exercise of their duties.*

- 2.3 This Office acquires the relevant information and documents on this complaint by informal request, summons, letters, interviews and research.

### 3. OUTLINE OF EVENTS

For ease of reference the essential facts revealed by the Ombudsman Office's enquiry are set out below in a chronology. Following the chronology this report details further information obtained from investigation and interviews by the Ombudsman.

#### Chronology of events

##### 3.1. Qualification and employment of Dr Manandhar

<b>Date:</b>	<b>Event:</b>
1970	Dr Manandhar graduated with a Bachelor of Dental Surgery at the University of Kerala, Nepal.
1987	Dr Manandhar obtained his Masters Degree in Dental Surgery at the Lucknow University, India.
1971 - 93	He was employed in the Ministry of Health, in Nepal. In between these times he worked in six different hospitals in Nepal.
March '93	Dr Manandhar came to Vanuatu to visit his wife, Mrs Kamala Manandhar who was then working with the Health Department as an United Nations volunteer.
16.03.93	Dr Manandhar started work with the Dental Section at the Hospital in Vila after his application was approved.
11.06.93	The Public Service Department ( <b>PSD</b> ) confirmed his appointment to work as a dental officer on a two(2) year contract in the Health Department. His salary grade was in P 17.1.

##### 3.2 The first complaint received on Dr Manandhar's poor work performance

08.10.93	Mrs Olive Pakoa, a dental therapist at the Vila Central Hospital lodged a complaint to the Health Department about Dr Manandhar's poor work performance. The letter is annexed <b>A</b> .
14.10.93	The former Director of Health Dr George Bule, (who was also the only qualified local dental officer then) wrote to the former Personnel Officer in the PSD, Mr Lesines and requested that Dr Manandhar's contract to be terminated due to this complaint about his poor work performance. The letter is annexed <b>B</b> .

##### 3.3 The termination of the qualified dental officers

Nov'93	Dr Bule was later terminated as the Director of Health by the Vanuatu Government.
14.03.94	The Government issued an order and terminated all members of the VPSA who went on strike. The only six qualified dental therapists in Vanuatu were all terminated. They were Mrs Toumelu Kalsakau, Mrs Olive Pakoa, Mrs Bride Hinge Mr Joseph Timakata, Mr Russel Olul and Mr Stegler Vira.

#### **3.4. The first extension of Dr Manandhar's contract**

- 07.08.95 Dr Manandhar wrote a letter to inform the former Director of Health, Mr Yves Niowenmal that the Prime Minister had already approved the extension of his contract. The letter is annexed **C**.
- 02.09.95 The former Minister of Health, Dr Tambisari approached the Principal Personnel Officer in the PSD, Mr Job Boe and verbally instructed him to make written submission to the PSC for the extension of Dr Manandhar's contract. Mr Boe acted accordingly to this request.
- 06.09.95 Mr Boe informed Dr Manandhar by letter that the PSC has given approval for the extension of his contract for further two years. See Annexure **D**
- 12.09.95 The former acting Director of PSD, Mr Lesines approved and signed the first extension of the contract.
- 17.01.97 Dr Tambisari informed the Ombudsman that the allegation came as a real surprise to him. He knew nothing about the renewal of Dr Manandhar's contract and that he was not even aware of it. See Annexure **E**.
- 30.01.97 Mr Boe confirmed under oath to the Ombudsman that he remembered very well talking to Dr Tambisari who instructed him to make a submission to the PSC for the renewal of Dr Manandhar's contract. See Annexure **F**.
- June '97 Dr Tambisari verbally admitted later that he made the recommendation. However, his reasons for making such recommendation was because the Health Department failed to put out an advertisement for the vacant dental officers positions.

#### **3.5 The second complaint about Dr Manandhar's poor work performance**

- 18.07.96 Another complaint was lodged to the Ministry and the Department of Health by Mr Edwin Tari, former Acting Medical Superintendent at the Hospital. The allegation was in regard to the poor work performance of Dr Manandhar. The letter is annexed **G**.
- 15.10.96 Following this complaint, the Personnel Officer in the Health Department, Mrs Judith Melsul wrote a memo to the Acting Director of Health, Mr Daniel Kalorib and requested that Dr Manandhar's contract be evaluated following the second submission of complaint to the Health Department. The memo is annexed **H**.

#### **3.6 The re-appointment of dismissed dental therapists in the Health Department**

- 20.05.97 The former Director of PSD, Mr Waimini Perei informed Mrs Kalsakau, Mr Olul and Mr Vira and informed them that the PSC had approved their re-appointment to permanent status as dental therapists in the Health Department.
- 21.05.97 Mr Perei also informed Mrs Hinge and Mrs Pakoa about the PSC decision to re-appoint them to permanent status as dental therapists in the Health Department.

### **3.7 The second extension of Dr Manandhar's contract**

- 01.04.97 Mrs Kamala Manandhar, the wife of Dr Manandhar, wrote a letter to the former Prime Minister, Mr Rialuth Serge Vohor and made a request for an extension of Dr Manandhar's contract.
- 10.04.97 Mr Pikioune, 1st Secretary in the Prime Minister's Office, then instructed the Director of PSD and PSC to process and grant the extension of the contract. The letter is annexed **I**.
- 24.04.97 The Ombudsman requested information from Mr Pikioune for his reasons to instruct the PSD and the PSC to extend the contract of Dr Manandhar.
- 30.04.97 Mr Pikioune confirmed that he did not consult the Health Authority before making this instruction. The letter is annexed **J**.
- 15.05.97 The former Secretary in the Ministry of Health, Mr Kalmari Soromon, confirmed that the Ministry of Health was never consulted when Dr Manandhar's contract was extended.
- 16.05.97 Mr Kalorib also confirmed in a letter that the Department of Health knew nothing about the extension of the contract of Dr Manandhar. The letter is annexed **K**.
- 02.06.97 The former Prime Minister, Mr Serge Vohor, verbally informed the Ombudsman that he approved the extension because Mr Pikioune told him that he had spoken with the Minister of Health about it.
- 16.06.97 Mr Perei informed the Director of Health that the PSC had approved the extension of Dr Manandhar's contract for another six (6) months.
- Nov - Dec '97 Dr Manandhar made several attempts again to meet Mr Vohor to request for another extension of his contract.
- 04.01.98 The Ombudsman released the preliminary report on the improper extensions of his contract.
- February '98 Dr Manandhar then decided to leave Vanuatu.

### **3.8 Former improper conducts of Mr Lesines**

Mr Lesines was implicated in two other Ombudsman's Public Reports of misconduct during the exercise of his official duties. These reports are :

- (a) Improper appointments and promotions of Health Workers in November 1995
- (b) Improper appointment of Mr Leonard Kalo and Mr Louis Ureleles as dental Officers

They showed his improper conduct in approving the promotion of 44 staff and the permanent appointment of 193 staff without following proper procedures.

### **3.9 The improper conduct of PSC Members, Mr William Mael, Mr Tinsley Lulu, Mr Amos Adeng and Mr Edwin Basil :**

These former PSC members, Mr Mael, Mr Lulu, Mr Adeng and Mr Basil were also implicated in three other Ombudsman's Public Reports in the exercise of their official duties. The reports are:

- (a) Improper appointments and promotions of Health Workers in November 1995
- (b) Improper appointment of Mr Leonard Kalo and Mr Louis Ureleles as dental Officers
- (c) Improper appointments of senior Public Works Department Staff

They were responsible for all the above illegal appointment in the Health and Public Works Department.

#### 4. RESPONSES TO THE PRELIMINARY REPORT

4.1 The preliminary report in this matter was issued on **4 January 1998** and re-issued on the **10 May 1999** to give the person or body complained of an opportunity to reply to the preliminary findings made against them.

4.2 The preliminary report was sent to:

*	Dr Trinata Manandhar	Dental Officer, VCH
*	Dr Edward Tambisari	Former Minister of Health (1993-95) & present Medical Superintendent at VCH
*	Mr Yves Niowenmal	Former Director of Health
*	Mr Cyriaque Metmetsan	Former Minister of Health (1996)
*	Mr Antoine Pikioune	Former First Secretary in the Prime Minister's Office
*	Mr John Dickinson	Former Minister of Health (1996-97)
*	M Neil Stephen Netaf	Former PSC member
*	Mr Joseph Calo	Former PSC member
*	Mr Edwin Basil	Former PSC member
*	Mr Kalpovi Mangawai	Former PSC member
*	Mr Mr Amos Adeng	Former PSC member
*	Mr William Mael	Former PSC member
*	MTinsley Lulu	Former PSC member

4.3 Responses were received only from:

\* **Dr Manandhar:**

He denied any meeting with the former Prime Minister to request the extension of his contract. However, he confirmed that his wife wrote personally to the Prime Minister to request the extension of his contract because the former Director of Health, the former Secretary in the Ministry of Health and the former Director of the Public Service never replied to his request for extension.

\* **Mr John Dickinson:**

He denied receiving any copy of complaints against Dr Manandhar during his time as Minister of Health. The only complaint he received that concerned dentistry was a request to re-instate the dismissed dental officers. He stated that it was the failure of the Director of Health not to inform him about this complaint.

\* **Mr Cyriaque Metmetsan:**

He stated that he was Minister of Health for only 7 months. During his term, he never received any complaint against Dr Manandhar. He also stated that maybe, the former Ministers may have some knowledge about this complaint. He named former Director of Health as the person who should know about this complaint because he never cooperated with the Ministry.



\* **Mr Kalpovi Mangawai:**

He stated that he was not in the position to release any PSC decision that has become a cause of an enquiry. He said this is the stand of all ex members of the PSC

\* **Neil Stephens Netaf:**

He confirmed PSC's decision to approve the extension of Dr Manandhar's contract in 1995. However, he stated that in 1997, he could recall the discussion on the request to extend the contract again during the PSC meeting which led to the PSC to reject the request. How the contract was granted after that, he blamed political influences in the Government Administration.

\* **Dr Edward Tambisari**

He denied anything to do with the extension of Dr Manandhar's contract. He said he was in fact trying to stop his contract being extended. It was for this reason that Dr Manandhar by-passed the Health Department and went directly to the Prime Minister's Office. He stated that he helped to request for the recruitment of the current Principal Denral Officer, Dr Korina. This comments appear to refer to the events after his contract was extended for the first time 1995, when Dr Tambisari was Minister of Health.

\* **Mr Antoine Pikioune**

He stated that the Prime Minister's Office was never informed about the complaints against Dr Manandhar. He said he was fooled by a woman (Mrs Manandhar) in tears begging him to extend Dr Manandhar's contract to enable their children to finish their school year in Vanuatu. He recommended for the extension in good faith. He was not made aware of the complaints against Dr Manandhar. He insisted that he only made the recommendation and not an instruction to extend the contract to PSC. The decision was with the PSC. It would be exaggerated in finding No 3 that he directly influenced the decision of the PSC. He later realised that he was fooled when he discussed the matter with Mr Andrew Joy of the Health Department.

\* **Mr William Mael**

PSC only received a request to extend the contract of Dr Manandhar and they approved the extension. PSC never received a complaint against Dr Manandhar.

4.4 No responses were received from :

- |   |                          |  |                 |
|---|--------------------------|--|-----------------|
| - | <b>Mr Yves Niowenmal</b> | Former Director of Health of Health (1996) | Former Minister |
| - | <b>Mr Joseph Calo</b>    | Former PSC member                          |                 |
| - | <b>Mr Edwin Basil</b>    | Former PSC member                          |                 |
| - | <b>Mr Amos Adeng</b>     | Former PSC member                          |                 |
| - | <b>Mr Tinsley Lulu</b>   | Former PSC member                          |                 |

## 5. RELEVANT LAWS AND REGULATIONS

### 5.1. Articles relevant to conduct of leader in the discharge of his duties

#### CONDUCT OF LEADERS

- 66(1) Any person defined as a leader in Article 67 has a duty to conduct himself in such a way, both in his public and private life, so as not to-



- (a) place himself in a position in which he has or could have a conflict of interests or in which the fair exercise of his public or official duties might be compromised;
  - (b) demean his office or position;
  - (c) allow his integrity to be called into question; or
  - (d) endanger or diminish respect for and confidence in the integrity of the Government of the Republic of Vanuatu.
- (2) In particular, a leader shall not use his office for personal gain or enter into any transaction or engage in any enterprise or activity that might be expected to give rise to doubt in the public mind as to whether he is carrying out or has carried out the duty imposed by subarticle (1).

#### DEFINITION OF A LEADER

- 67 For the purposes of this Chapter, a leader means the President of the Republic, the Prime Minister and other Ministers, members of Parliament, and such public servants, officers of Government agencies and other officers as may be prescribed by law.

## 5.2 Appointment of public servants - jurisdiction of the Public Service Commission & recruitment requirements

Article 60 (1) & (4) of the Constitution:

- (1) The Public Service Commission shall be responsible for the appointment and promotion of public servants, and the selection of those to undergo training courses in Vanuatu or overseas. For such purposes it may organise competitive examinations.
- (4) **The commission shall not be subject to the direction or control of any other person or body in the exercise of its functions.**

Cl. 3.5 of the PS Staff Manual provides:

- (3.5). **The Public Service Commission shall recruit all public servants (i.e. permanent, contract or aid-funded appointments) whatever their conditions of service.** It shall decide according to the nature of the employment and the number of candidates whether or not to organise a competitive examination. The selection procedures maybe utilised to establish a list in order of merit of candidates who have failed to be recruited but who are considered suitable for appointment when a vacancy arises.

Cl.3.13 of the PS Staff Manual says:

(3.13) The Public Service Commission shall inform the employment office of the Department of Labour and Employment of the employment opportunity presented by each Public Service recruitment and give full information on the nature and the number of posts, the standards required, the place of work, the salary and other advantages attached to the employment. **The Public Service shall advertise the vacancy in the press and on the radio, and, if appropriate, overseas. Similarly it shall circularise the vacancy within the service.** In appropriate cases, the Minister responsible for Public Service may certify that their is unlikely to be a candidate available locally and may direct that local advertisement shall be waived. Local advertisement may also be waived if a candidate has been selected and trained at the public expense for a specialised post in the Public Service. Every job description and draft advertisement shall be submitted for prior approval to the Minister responsible for Public Service.

(emphasis added)

Section 3 (1) (f) of the Public Service Act [CAP 129]:

- (1) The Commission shall in respect of the Public Service, be responsible for:

- (f) acting as a personnel authority for the Public Service.

Section 20 of the Public Service Act provides that:

- (1) ....every person shall commit an offence who directly or indirectly solicits or endeavours to influence the Commission or any Commissioner or any officer to whom any of the powers or functions of the Commission have been delegated under section 9 of this Act, with respect to its or their decisions

## 6. FINDINGS

### **FINDING NO.1: MR LESINES' CONDUCT WAS UNJUST AND BASED ON IMPROPER MOTIVES**

- 6.1 As Acting Director of the Public Service Department, Mr Lesines ignored a departmental request to terminate Dr Manandhar's contract. Instead he signed the contract extension in violation of proper procedures. This conduct was found to be unjust as it took into account improper considerations (Ministerial influence without considering the merits of the appointment) The independence of the public service appointment process was compromised.

### **FINDING NO.2: CONDUCT OF DR TAMBISARI (MEDICAL SUPERINTENDENT OF THE VILA CENTRAL HOSPITAL) WAS CONTRARY TO THE CONSTITUTION AND THE PUBLIC SERVICE ACT.**

- 6.2 Dr Tambisari acted contrary to the provisions of the Constitution and the Public Service Act when he issued instruction that influenced the Commission to approve the extension of Dr Manandhar's contract in 1995. Article 60 (4) of the Constitution protects the PSC in making its decisions independently and is repeated in s 20 (1) of the PS Act.

### **FINDING NO.3: MR PIKIOUNE'S CONDUCT WAS CONTRARY TO LAW (FIRST SECRETARY TO THE OFFICE OF THE PRIME MINISTER)**

- 6.3 Mr Pikioune's conduct was contrary to law when he issued instruction to influence the Public Service Commission to make decisions to approve and grant the extension of Dr Manandhar's contract in 1997. His actions was in breach of Article 60 (4) of the Constitution and s 20 (1) of the Public Service Act, by indirectly influencing and controlling the Public Service Commission in the exercise of its functions. (He did not have any authority or role to play in the appointment of a medical staff. He was a political secretary in the Office of the Prime Minister.

### **FINDING NO.4: 1995 PSC MEMBERS' CONDUCT WAS CONTRARY TO LAW**

- 6.4 The PSC members in 1995, Mr William Mael, Mr Neil Stephens, Mr Edwin Basil, Mr Amos Adeng and Mr Tinsley Lulu, acted contrary to law. They breached Article 60 (4) of the Constitution when they allowed Dr Tambisari to influence them in the exercise of their duties.

## 7. RECOMMENDATIONS

- 7.1 **RECOMMENDATION NO.1: Mr Lesines not to be appointed again to any position of responsibility in the Public Sector.**

- 7.2 **RECOMMENDATION NO.2:** Dr Tambisari should not be appointed again to any management position in the Public Sector. He is now the medical superintendent of the Vila Central Hospital.
- 7.3 **RECOMMENDATION NO.3:** Mr Pikioune should never be also appointed to any position in the public sector where he would be tempted to influence the Government Agencies in the exercise of their functions.
- 7.4 **RECOMMENDATION NO.4:** These former PSC member, Mr William Mael, Mr Amos Adeng, Mr Neil Stephens Mr Edwin Basil and Mr Tinsley Lulu, should never be appointed again as members of the PSC, or as responsible persons for any government department or statutory bodies.

## 8. **CONCLUSION**

- 8.1 To comply with Article 63(2) of the Constitution and Section 22 of the Ombudsman Act, the Ombudsman requests the Prime Minister, the Chairman of the PSC to consider these recommendations and to put them into effect.
- 8.2 The Office of the Ombudsman must be notified of the decision and proposed steps to implement these recommendations within thirty (30) days of the date of this report

Dated the 24<sup>th</sup> day of June 1999



**Marie-Noëlle FERRIEUX PATTERSON**  
**OMBUDSMAN OF THE REPUBLIC OF VANUATU**

**9. INDEX OF APPENDICES**

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