

FOR IMMEDIATE RELEASE

STATEMENT ON REINSTATEMENT OF CUSTOMS OFFICER ADRIAN SMITH

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I welcome the news last week that one of the dismissed customs officers Adrian Smith is to be reinstated following his appeal to the Public Service Board of Appeal. The Board has confirmed my view given to all the officers who came to me with their cases that there are procedural and process issues which the Public Service Commission and the Departments concerned have to take into account and adhere to if justice is to be done to any public servant who is to be disciplined.

The Public Service is unlike any other employer in law. The rules of natural justice and the duty to be fair apply to the employment of a public servant. You cannot simply dismiss a public servant at will.

The public servant has the right to be heard, the case must be given to him and in a timely fashion and he cannot be the subject of double jeopardy. These are elementary points of public law which the Department of Customs under its new leadership, the Public Service Commission under its new leadership and the Department of Public Service failed to observe in the disciplinary process with Mr. Smith.

From the start, the matter seemed procedurally flawed with the Minister for the Public Service the Prime Minister making pronouncements in public about the fate of the officers about whom in law he has no say. This is the same error into which he has fallen with regard to Cheryl Grant Bethel whom he now seeks to hound out of the public service.

It is heartening to see that the Public Service Board of Appeal has reaffirmed the following: disciplinary action must be taken proximate to the offence against discipline taking place; the officer must be given the full facts and an opportunity to be heard; where there are complex issues of fact, there ought

to be a hearing of the matter and not as happened in Mr. Smith's case which was a simple decision on documents alone; if an individual has already been punished, you cannot punish that officer a second time for the same offence.

There is however an additional problem that I apprehend. It is that the Ingraham administration may not follow the law if the past is to be a guideline. I urge them to carry out with dispatch the decisions of the Public Service Board of Appeal. Sometimes, the response of the government is to ignore the decisions of panels. The officers should know that in cases like these if steps are not taken immediately to follow the decision made by the Board, Mr Smith ought to proceed to court to get an order of mandamus ordering the crown to follow the order.

I would also add that this must be a lesson to the leadership of the public service from the Prime Minister to the Head of Customs that it is unseemly to engage in high profile so called anti corruption exercises and then fire people as if to some predetermined script. This is a country that supports and believes in the rule of law. That is the PLP's way.

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