



**THE EMPLOYMENT COURT OF NEW ZEALAND  
TE KŌTI TAKE MAHI O AOTEAROA**

13 July 2023

**MEDIA RELEASE**

PILGRIM & ORS v ATTORNEY-GENERAL & ORS

(EMPC 85/2022) [2023] NZEmpC 105

**PRESS SUMMARY**

This summary is provided to assist in the understanding of the Court's judgment. It does not comprise part of the reasons for that judgment. The full judgment with reasons is the only authoritative document. The full text of the judgment and reasons can be found at <https://www.employmentcourt.govt.nz/>.

**The hearing**

The issue for the Employment Court was whether six former female residents of the Gloriavale Christian Community had been employees during their time working there.

**Background**

Gloriavale is a Christian Community set up in a remote area on the West Coast of New Zealand. It has limited contact with the outside world. There are approximately 82 families and 600 individuals living at the Community, which is now at third generation. Life in Gloriavale is said to be based strictly on the King James Version of the Bible.

The Community is led by an Overseeing Shepherd, assisted in his role by a subordinate group of Shepherds and Servants. Over time the leaders have put in place a complex range of organisational and legal structures to support a communal way of living, primarily through a Charitable Trust and a Partnership (Christian Partners). The Community operates a variety of commercial enterprises.

Serenity Pilgrim, Pearl Valor, Rose Standtrue, Virginia Courage, Anna Courage and Crystal Loyal (the plaintiffs) were born and raised in the Community. Many of their parents had also been born and raised in the Community. From a relatively young age each of the plaintiffs carried out work within the Community, progressing to full-time work on what is known as the Teams at around 15 years of age. The Teams are tasked with cooking, cleaning, washing and food preparation and female Community members are rostered onto them. Collectively the Teams produce more than 11,000 meals and wash more than 17,000 items per week, supporting the Community and its business endeavours. The work required to produce these outcomes was grinding, hard, unrelenting, and physically and psychologically demanding.

The plaintiffs left Gloriavale and made a complaint to the Labour Inspector. The Labour Inspector investigated their complaints and concluded that they were not employees. Because the Labour Inspector may only pursue action for breach of minimum employment standards on behalf of employees, he advised that he had no power to take any action on the plaintiffs' behalf.

The plaintiffs sought a declaration from the Court that they were employees while working on the Teams. The plaintiffs also claim that the Labour Inspector breached their statutory duties. This aspect of the claim will be decided following a separate hearing. The judgment issued today decides the employment status issue.

The Gloriavale defendants denied that the plaintiffs were employees. They claimed that the plaintiffs' work was conducted on a wholly voluntary basis as an expression of religious commitment to live in a communal setting based on shared values, guided by the King James Version of the Bible. They argued that a finding of an employment relationship would be incompatible with the true – religious – nature of the relationship between the plaintiffs and the Gloriavale defendants.

### **Decision released today**

The Chief Judge of the Employment Court found that all six plaintiffs were employees while working on the Teams during their time at the Gloriavale Christian Community.

The Employment Relations Act 2000 excludes certain categories of worker from the definition of employee, including volunteers. In order to fall within the excluded category of volunteer a worker must have no expectation of reward for their work and receive no reward for their work. Chief Judge Christina Inglis found that the plaintiffs did expect to be rewarded for their work on the Teams. In exchange for their work they expected to be permitted to remain in the Community with their family and friends, and continue to lead a life they were familiar with; that they would receive food, shelter, clothing, religious support and guidance; and would receive the promise of spiritual redemption (as against the threat of eternal damnation if they left). Her Honour was satisfied that the plaintiffs received these rewards in exchange for their work. It followed that the plaintiffs were not volunteers.

The Chief Judge then turned to consider whether the plaintiffs were employees while working on the Teams. Determination of employment status requires the Court to assess the real nature of the relationship, having regard to a range of factors. Her Honour noted that employment status is the gateway through which a worker must pass to access a suite of minimum worker entitlements and protections provided by various statutory provisions. The Chief Judge found that, in approaching the question of whether a worker is able to pass through the employee gateway, an approach which recognises the protective purposes of the Employment Relations Act, and the minimum standards legislation which sits around it, is appropriate.

The Chief Judge considered the context in which the plaintiffs worked, and why they worked, was relevant, including that the plaintiffs had been born into the Community and imbued from birth with well accepted norms as to their place in the Community, the work they would be expected to do as they grew up and their subservience to the Overseeing Shepherd and his leadership group in all things (including what is called the practical life, which includes work).

The Court accepted that, at the relevant time, the plaintiffs may not have regarded themselves as being in an employment relationship. However, employment status is determined on an objective basis. Objectively, the nature of the work undertaken by the plaintiffs, how it was structured and managed; the fact that the work was of a sort which would generally be paid for;

the nature of the facilities the work was conducted in and the significant direction and control exerted on the plaintiffs in their work, pointed towards the real nature of the relationship being one of employment. The Court did not accept that the fact that the type of work the plaintiffs did was “domestic” in nature materially assisted in determining whether they were employees or not; nor did the Court accept that the work was carried out for each of the plaintiffs’ family members or some notional big family.

The Chief Judge did not accept that a finding that the plaintiffs were employees during their time working on the Teams would be incompatible with the Community’s chosen way of life and/or their rights under the New Zealand Bill of Rights Act 1990. Freedom of religion is subject to general laws, including employment law. On the evidence members of the Community (including a number of males, teachers and midwives) received payment for their work and this did not appear to raise concerns of the sort that were said to arise if the female plaintiffs had been paid. Nor did the Chief Judge consider that ability to pay was a relevant factor in determining employment status.

Today's decision does not resolve all issues between the parties. Future judgments will focus on the issues of identifying the employer within Gloriavale's complex structure and whether the Labour Inspector has breached any statutory duty to the plaintiffs.

### **Disposition**

Chief Judge Christina Inglis made declarations that Serenity Pilgrim, Pearl Valor, Rose Standtrue, Virginia Courage, Anna Courage and Crystal Loyal were employees while working on the Teams in the Gloriavale Community.

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