

IN THE SUPREME COURT OF SEYCHELLES

DANLEY ZIALOR

Vs

ILES SECURITY AGENCY

Civil Appeal No: 8 of 2012

Mr. W. Lucas for the Appellant
Mr. Andre for the Respondent

JUDGMENT

Renaud, J.

The records which have been forwarded to this Court by the Employment Tribunal show that the Appellant after having filed his grievance with the Employment Department, Industrial Relations Section, a Competent Officer attempted to mediate the dispute where the Appellant was claiming salary adjustment and overtime.

There is a statement from a representatives f the Respondent dated 7th December, 2011.

On 19th January 2012 the Competent Officer recorded that “*Mediation was not successful as the Respondent failed to appear before the Competent Officer twice*”.

On 23rd January, 2012 the Appellant filed a formal complaint with the Employment Tribunal as set out in the “Workers Application Form”. He claimed – “*one month’s notice; extra time; compensation of services 1.70 per day: then for the ...*”

they had put on my life.” The Appellant paid SR200.00 on that day to register his complaint.

The parties were summonsed to appear before the Employment Tribunal at Grand Anse, Praslin on Tuesday 21st February 2012 at 1.30 p.m.

The records of the proceeding of 21st February, 2012 shows that the Applicant was present and unrepresented and the Respondent was represented by Mr. Laporte. The matter was heard only by Chairman of the Tribunal and the outcome is recorded as follows:

“Order

ET: Why did you terminate the employment contract of the Applicant?

Reply: He was terminated on the 30th of October 2011 when they participated in a strike. He was stuck on Mahe, because he had not get a flight back.

ET: Do you agree that you behave in a way not appropriate to maintain the good employee/employer relationships.

Reply: I was frustrated.

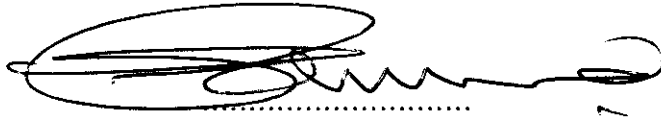
ET: The Respondent has no case to answer. The Applicant is dismissed”.

The Memorandum of Appeal of the Appellant sets out 4 grounds of appeal as follows:

1. *That the Employment Tribunal has failed to give the Appellant the opportunity to present his case.*
2. *That the Employment Tribunal has acted against the Rule of Natural Justice to give the Appellant a fair hearing.*
3. *That the Employment Tribunal was wrong to dismiss the case in a summary manner without a proper hearing.*
4. *That the Employment Tribunal has failed to entertain and to determine on the issue of salary adjustment, length of service benefits, accrued leave and overtime as part of the grievance placed before the Employment Tribunal by the Respondents statutory benefits.*

From my analysis of all the records pertaining to this case which are now before this Court, I find that each of all the four grounds of appeal raised by the Appellant have merits. In the circumstances I reverse and overrule the decision made by the Employment Tribunal on 21st February, 2012 and order and direct the Employment Tribunal to conduct a proper hearing of the grievance of the Appellant and to adjudicate on the benefits claimed by the Appellant. A different panel of the Employment Tribunal is to be constituted for this purpose.

I order accordingly.

A handwritten signature in black ink, appearing to read 'B. Renaud', written over a horizontal dotted line. The signature is stylized with a large loop at the beginning and a wavy, trailing end.

B. RENAUD
JUDGE

Dated this 3 April, 2013