

IN THE SEYCHELLES COURT OF APPEAL

[Coram: S. Domah (J.A) , A. Fernando (J.A) , M. Twomey (J.A)]

Civil Appeal SCA 23/2013

(Appeal from Supreme Court Decision 18/2012)

European Hotel Resort

Appellant

Seychelles Kempinski Resort

Versus

Neddy Nourrice

Respondent

Heard: 10 April 2015

Counsel: Mr. A. Derjacques standing in for Mr. B. Julie for the Appellant

Mr. M. Vidot for the Respondent

Delivered: 17 April 2015

JUDGMENT

A. Fernando (J.A)

1. This was an appeal against a judgment of the Supreme Court whereby the Appellant was ordered to pay the Respondent, the amounts due under the following terminal benefits, over and above what had already been awarded by the Employment Tribunal, namely:

- i. Annual leave from 3rd November 2011 to 28th May 2012,
- ii. Compensation from the 3rd November 2011 to 28th May 2012, and
- iii. Salary from 3rd November 2011 to 28th May 2012.

2. The judgment of the Supreme Court was rendered on an appeal by the Respondent from a decision of the Employment Tribunal dated 28th May 2012.
3. The Respondent had been a former employee of the Appellant and had been in the employment of the Respondent when her employment was terminated by the Appellant on the 3rd of November 2011. Being aggrieved by the said termination, the Appellant had lodged a grievance with the Ministry of Employment pursuant to the Employment Act 1995. Mediation between the parties having failed the Respondent proceeded to register a case with the Employment Tribunal.
4. The Employment Tribunal by its judgment dated 28th May 2012, declared that the said termination was not justified and the Respondent was entitled to:
 - i. One month's salary in lieu of notice,
 - ii. Annual leave up to 3rd November 2011,
 - iii. Compensation for length of service up to 3rd November 2011.

The Tribunal had not made an award in respect of salary up to date of termination although claimed by the Respondent.

5. It had been the contention of the Respondent before the Supreme Court that the calculation by the Employment Tribunal of her benefits was in contravention of section 46(1) and 61(2) (a) (iii) of the Employment Act and the awards should have been calculated up to the date of 'lawful termination' and that been the date of the judgment by the Tribunal, namely the 28th May 2012 and not the 3rd of November 2011, namely, the date that the Appellant had her employment terminated.
6. The Supreme Court in its judgment had pronounced that that "the date of the judgment by the Tribunal is the actual date of lawful termination" and that the Respondent was entitled

