

**THE REPUBLIC OF UGANDA**  
**IN THE INDUSTRIAL COURT OF UGANDA AT KAMPALA**  
**LABOUR DISPUTE REFERENCE NO. 179 OF 2017**  
**[ARISING FROM KCCA/MAK/LC/026/2017 – MAKINDYE]**

**BETWEEN**

**EMAU JIMMY & 5 OTHERS.....CLAIMANTS**

**VERSUS**

**KETRON DEVELOPMENT SERVICES LTD.....RESPONDENT**

**BEFORE**

1. Hon. Chief Judge Ruhinda Asaph Ntengye
2. Hon. Lady Justice Linda Lillian Tumusiime Mugisha

**PANELISTS**

1. Ms. Adrine Namara
2. Mr. Micheal Matovu
3. Ms. Susan Nabirye

**AWARD**

The claimants filed this claim alleging that having been employed by the respondent under various contracts of service, they were unilaterally and without any justifiable reason sent on forced leave and later on served with termination letters. It was their contention in the memorandum of claim that the respondent used to extend their contracts so as to compromise the law that provides for confirmation of workers and deny them rights associated with long service and notice periods.

In the reply, the respondent contended that the claimants were indeed employed on different dates on yearly contracts renewable upon successful performance and that they were sent on administrative leave pending investigations following loss of material.

Subsequently the claimant's contracts were terminated by effluxion of time and not renewed whereupon they were paid all their dues as stipulated under their respective contracts. It was contended by the respondent that the claimants were in breach of their terms of employment when they opened another company doing the same business as the respondent.

### **REPRESENTATIONS**

The claimants were represented by Mr. Emiru Dominic of Emiru Advocates & Solicitors while the respondent was represented by Ms. Nyombi Patricia of M/s. Nyombi & Co. Advocates.

### **ISSUES**

Both parties were in agreement that the following legal issues be addressed by the court:

- 1) Whether the claimants' contracts were lawfully terminated.**
- 2) What remedies are available to the parties?**

### **Evidence adduced**

5 claimants filed written witness statements and all of them were corroborative of each other as to how they were renewed every year. Evidence adduced was to the effect that towards the end of each of the claimants running contracts the respondent suspected each of them or one of them to have been a party to the disappearance of an electronic socket at a construction site. They were therefore given what was termed as administrative leave from 26/09/2016 to 30/09/2016. By letter dated 27/09/2016 they were informed that the respondent was not in position to extend their appointments periods any longer than 30/09/2016. Evidence was also adduced to the effect that while they were employees of the

respondent they opened a business enterprise dealing in the same commodities as their employer.

### **Submissions**

It was the submission of counsel for the claimants that the termination of the contracts of the claimants was against the terms of the contracts which provided for

- (a) Termination for a cause**
- (b) Termination for abandonment and**
- (c) Termination for convenience**

And yet they were sent on administrative leave for fraud and theft of a metallic socket. Although counsel conceded that the terms of contract allowed termination for convenience and the respondent was entitled to invoke the same, he nonetheless argued that the claimants were entitled to 30 days' notice for the termination to be lawful.

He argued that the claimants were terminated while serving administrative leave/suspension without any disciplinary hearing which according to him was illegal.

Counsel for the respondent on the other hand submitted that the claimants were lawfully sent on administrative leave pending investigations following loss of materials at the company site and that though the claimants admitted wrongdoing and promised to pay for the missing materials, the Managing Director of the respondent rejected the proposal and instead opted not to renew the contracts of the claimants and paid all their dues.

According to counsel, the expiry of the contracts of the claimants was coupled with the fact the respondent was no longer capable of maintaining the claimants as employees.

Relying on the authorities of **Elizabeth Nabatanzi Lugudde Katwe Vs Attorney General, HCCS 0279/2008** and **Green Boat Entertainment Ltd Vs City council of Kampala, HCCS 0580/2003** , counsel argued that the claimants contracts were due

to expire on 30/9/2016 and this was within the knowledge of the claimants thus not necessary to provide notice of termination.

### **Decision of Court**

There is no doubt that the claimants were employed by the respondent under contracts of service that were for specific periods and extended for subsequent specific periods. **Section 65 of the Employment Act** provides as follows:

#### **“65 Termination**

**(1)** Termination shall be deemed to take place in the following instances.

(a) ....

**(b) Where the contract of service, being a contract for a fixed term or task, ends with the expiry of the specified term or the completion of the specified task and is not renewed within a period of one week from the date of expiry on the same terms or terms not less favourable to the employee”.**

(c) ...

(d)....

**(2)** The date of termination shall, unless the contrary is stated be deemed to in

(a) ...

(b) In circumstances governed by sub-section 1(b), the date of expiry of the notice given.

In the case of **Elizabeth Nabatanzi Lugudde (supra)** the High Court held that the contract having been of a definite period did not necessitate any notice period and that the contract expired when the plaintiff was notified that her contract could not be renewed. In **Green Boat Entertainment Ltd Vs City Council of Kampala (supra)** the High court held that the contract automatically terminated upon expiry of the contract period.

In the instant case, the claimants were placed on suspension/administrative leave after suspicion that they had stolen items. The next day 27/9/2016 they were

informed that their contracts which were to expire on 30/09/2016 were not to be renewed. Given the above cited legal precedents, the respondent was not under any obligation to give any reason as to why contracts were not be renewed although in the background it is evident that is was upon suspicion that they had stolen materials belonging to the respondent.

Consequently the submission of counsel for the claimant as to provision of the reasons of suspension or termination to the claimants is irrelevant and not acceptable. The claimants were not terminated while serving suspension as counsel for the claimants wants this court to believe but rather they were informed while they were on suspension that their contracts would not be renewed.

The contracts of the claimants having expired, there was no need of notice or disciplinary hearing and accordingly their employment was terminated by operation of **Section 65 1(b) and 2(b) of the Employment Act** and therefore lawfully terminated.

The second issue is **what remedies are available to the parties.**

The contracts of the claimants having been terminated by operation of the law, they will not be entitled to any remedies or prayers under paragraph 10 the memorandum of claim. Accordingly the claim is dismissed with no orders as to costs.

**BEFORE**

- 1. Hon. Chief Judge Ruhinda Asaph Ntengye .....
- 2. Hon. Lady Justice Linda Lillian Tumusiime Mugisha .....

**PANELISTS**

- 1. Ms. Adrine Namara .....
- 2. Mr. Micheal Matovu .....
- 3. Ms. Susan Nabirye .....

DATED: 21/02/2020

