**Kaganda v Mzumbe**

**Division:** High Court of Tanzania at Dar-Es-Salaam

**Date of judgment:** 4 September 1998

**Case Number:** 121/97

**Before:** Mackanja J

**Sourced by:** A Bade

**Summarised by:** H K Mutai

*[1] Appeal – Industrial dispute – Appeal from the Industrial Court – Procedure to be followed –*

*Jurisdiction to hear appeal – Whether the Civil Procedure Code applies to appeals from the Industrial*

*Court – Whether a single judge of the High Court has the jurisdiction to hear an appeal from the*

*Industrial Court – Section 27(I)C – Industrial Court Act.*

**Editor’s Summary**

The decision of the High Court in *OTTU (on behalf of PP Magasha) v Attorney-General* that section 27(I)C of the Industrial Court Act was unconstitutional to the extent that it deprived a person of his basic right of appeal except on grounds of jurisdiction, left a lacuna in the appeal procedure by failing to provide for the proper procedure to be followed in appeals from the Industrial Court. The responsibility for filling this void lay with Parliament, which had the power to legislate an appropriate appellate procedure. In the absence of such legislation, there was nothing in any statute to justify the hearing by a single judge of the High Court of an appeal from the Industrial Court, especially in view of the fact that the Industrial Court did not fall within the definition of the words “subordinate court”. Accordingly, until Parliament legislated otherwise, appeals from the Industrial Court should lie to the High Court sitting as a full Bench as was the case with references to the High Court for revisions of Industrial Court proceedings under the remaining part of section 27(I)C.

**Cases referred to in judgment**

(“**A**” means adopted; “**AL**” means allowed; “**AP**” means applied; “**APP**” means approved; “**C**” means

considered; “**D**” means distinguished; “**DA**” means disapproved; “**DT**” means doubted; “**E**” means

explained; “**F**” means followed; “**O**” means overruled)

*Harman Singh Bhogal v Jadva Karsan* [1953] EACA 17

*OTTU (on behalf of PP Magasha) v The Attorney-General and another* civil case number 53 of 1994

*R v Industrial Court, Ex parte Aeronautical Engineering Association* [1953] 1 Lloyd’s Report 597