

Gokhool R. v Laska Furniture Ltd

2024 IND 7

Cause Number 419/22

IN THE INDUSTRIAL COURT OF MAURITIUS
(Civil side)

In the matter of:

Mrs. Reshma Gokhool

Plaintiff

v.

Laska Furniture Ltd

Defendant

Judgment

The salient averments of Plaintiff in this Plaintiff with Summons are to the following effect-

Plaintiff was in the continuous employment of Defendant as Receptionist since 01.06.15. She was employed on a 6- day week basis and was remunerated at monthly intervals at the basic rate of Rs.12,500 per month.

On 01.06.2020, after the Covid-19 confinement, she was instructed by the Defendant's Director, Mrs. Ah Lan Kim through one Indrani Pardessy, Administrative Officer to resume work as from 15.06.2020. When she resumed work as instructed on the latter day, Defendant company was closed and locked.

Thus, she has considered that Defendant has terminated her employment without notice and without any justification as from 15.06.2020.

She has been remunerated only in the sum of Rs 3,769.23 as wages for the month of March 2020. She has not been paid any remuneration for period 01.06.2020 to 15.06.2020.

At the time of the termination of her employment, she had 22 days outstanding annual leave for year 2020 which Defendant has failed to refund her. She has not been paid end of year bonus for year 2020.

Therefore, Plaintiff has claimed from Defendant the total alleged sum of Rs 230,766.01 comprising of one month's wages as indemnity in lieu of notice: Rs 12,500, balance of wages for March 2020 (Rs 12,500 – Rs 3,769.23): Rs 8,730.77, balance of 13 days' wages for period 01 to 15 June 2020 (Rs 12,500/26 x 13 days): Rs 6,249.99, severance allowance for 60 months continuous service (Rs 12,500 x 3 months x 60/12 years): Rs 187,500, end of year bonus for year 2020(Pro-rated) (Rs 12,500 x 5 months/12): Rs 5,208.33, refund of outstanding annual leave (22 days) (Rs. 12,500/26 x 22 days): Rs 10,576.92.

Defendant did not file any plea and has left default on the trial day although it was duly summoned to appear in Court on that day. Pursuant to Section 7(1) of the **Industrial Court Act 1973** in conformity with Section 16 (1) of the District and Intermediate Courts (Civil Jurisdiction) Act, Plaintiff was allowed to proceed with the trial of the cause on the part of the Plaintiff only in the absence of Defendant. The respective relevant provisions are given below and which read as follows:

“7. Institution and conduct of proceedings

(1) Subject to the other provisions of this Act and to any specific procedural provisions in any enactment set out in the First Schedule, all proceedings before the Court shall be instituted and conducted in the same manner as proceedings in a civil or criminal matter, as the case may be, before a District Magistrate”.

16. When defendant does not appear

(1) Where on the day so fixed in the summons, or at any continuation or adjournment of the Court or cause in which the summons was issued, the defendant does not appear, or

does not sufficiently excuse his absence, the Court, upon proof of the service of the summons, may give judgment in terms of the plaint or, where the cause includes a claim for substantial damages, proceed to the hearing of the witnesses and trial of the cause on the part of the plaintiff only, and in either case, the judgment shall, subject to subsection (2), be as if both parties had attended.” (emphasis added)

Plaintiff testified in Court in line with her above averments. She stressed that her contract of employment was a verbal one and that she was issued with a pay slip by Defendant as per Doc.P1(for April 2020). Moreover, she has claimed 5 days' travel expenses to come to Court in the sum of Rs 700.

I have given due consideration to all the evidence put forward before me. I am convinced by the straightforward, unrebutted and undisputed testimony of Plaintiff in line with the documentary evidence produced namely her pay slip as per Doc. P1, that she is a witness of truth. I am also satisfied that this case is soundly grounded both in law and on the facts as highlighted in the Supreme Court case of **Hurnam D. v. Bholah K. B. & Anor.** [\[2009 SCJ 265\]](#) an extract of which reads as follows:

“A Court of law is under a positive obligation to ensure that any judgment given is soundly grounded both in law and on the facts of the case before it. This obligation is not in any manner reduced by the fact that the judgment is a judgment by default. On the contrary, that obligation assumes all its importance by that fact inasmuch as the absence of pleadings and enlightenment in law puts a burden on the court to ensure that as a court of law, any judgment may only be firmly grounded in law.”

Hence, I find that Plaintiff's testimony is plausible and reliable to the effect that her contract of employment has been terminated by Defendant because of a failure on its part to provide her with her work and to pay to her the remuneration due under the said verbal agreement (*vide - section 61(2)(c) of the Workers' Rights Act 2019, Act No. 20 of 2019*).

For the reasons given above, I find that the case for the Plaintiff has been proved on a balance of probabilities.

I, accordingly, order Defendant to pay to Plaintiff the sum of Rs 230,766.01 representing one month's wages as indemnity in lieu of notice: Rs 12,500, severance allowance for 60 months continuous service (Rs 12,500 x 3 months x 60/12 years): Rs 187,500 with interest at the rate of 12% per annum on the amount of Severance Allowance payable from the date of termination of agreement to the date of payment,[balance of wages for March 2020 (Rs 12,500 – Rs 3,769.23): Rs 8,730.77, balance of 13 days' wages for period 01 to 15 June 2020 (Rs 12,500/26 x 13 days): Rs 6,249.99, end of year bonus for year 2020(Pro-rated) (Rs 12,500 x 5 months/12): Rs 5,208.33, refund of outstanding annual leave (22 days) (Rs. 12,500/26 x 22 days): Rs 10,576.92] with interest at the rate of 12% per annum on the amount of remuneration due from the date of non-payment to the date of payment. I also order Defendant to pay to Plaintiff the sum of Rs 700 for five days' travel expenses to come to Court.

S.D. Bonomally (Mrs.) (Vice President)

15.03.23