

Mahadea v Gexim Land Consultants Ltd

2024 IND 53

THE INDUSTRIAL COURT OF MAURITIUS

(Civil Side)

In the matter of:-

CN 334/2023

Santaram Mahadea

PLAINTIFF

v.

Gexim Land Consultants Ltd

DEFENDANT

JUDGMENT

1. The Plaintiff avers that he was in the continuous employment of the Defendant, and previously by Société Gexim, as Survey Technician/Draughtsman since 01 October 1975. He was employed on a 5-day week basis and was remunerated at the monthly basic rate of Rs 22,835. He retired on 27 March 2020. The Plaintiff avers that the Defendant has up to now failed to pay him contributions in respect of past services, and to which he is entitled under section 95(2)(a)(ii) of the Workers' Rights Act 2019. Moreover, outstanding wages for the months of December 2019 and March 2020 are owed to him. Additionally, pro-rated end-of-year bonus was not paid to him for the year 2020. He is claiming those sums from the Defendant, with interests.

2. The Defendant company having left default, the Plaintiff made out his case and confirmed the averments of his plaint in Court. He produced a copy of his contract of employment (**Document A**), a copy of his payslip (**Document B**) and a copy of a correspondence received in relation to his retirement (**Document C**).

3. I have assessed the Plaintiff's claim. The case for the Plaintiff has remained unchallenged in the absence of the Defendant such that I find it safe to rely on the

Plaintiff's version. I have no reason to doubt the Plaintiff's account and consider his averments established on a balance of probabilities. The Plaintiff is, thus, entitled to the following sums:

(i)	Contributions for 533 months' past services	
	(Rs 22,835/22 x 15 days x 533/12 years):	Rs 691,537.22
(ii)	Outstanding wages for December 2019:	Rs 12,154.00
(iii)	Outstanding wages for March 2020:	Rs 11,267.50
(iv)	End-of-year bonus for 2020 <i>pro rata</i>	
	[(Rs 22,835. x 2 months) +	
	Rs 11,267.50 x 1/12]:	<u>Rs 4,744.79</u>
	TOTAL:	<u>Rs 719,703.51</u>

4. Pursuant to section 27(6) of the Workers' Rights Act ("the Act"), "*where a claim of non-payment or short payment of wages is made to the Court, the Court may, where it thinks fit, order an employer to pay interest at a rate not exceeding 12 per cent in a year on the amount of remuneration due from the date of non-payment or short payment to the date of payment.*"

5. Moreover, according to section 109(7) of the Act "*where a matter relating to the payment of gratuity on retirement or at death is brought before the Court, the Court may, where it thinks fit and whether or not a claim to that effect has been made, order an employer to pay interest at a rate not exceeding 12 per cent per annum on the amount of gratuity payable from the date of retirement or death to the date of payment.*"

6. In the light of the above, I order the Defendant to pay to the Plaintiff the sum of Rs 719,703.51, together with interest at the rate of 12% per annum on the amount of wages due from the date of non-payment and short payment to the date of payment, and interest at the rate of 12% per annum on the amount of gratuity payable from the date of retirement to the date of payment.

04 October 2024

M. ARMOOGUM

Magistrate