

GIANDESH MOOTHOOR VS LANDSHARK BRANDS LTD

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Cause Number: 234/2023

THE INDUSTRIAL COURT OF MAURITIUS

(CIVIL DIVISION)

In the matter of:-

GIANDESH MOOTHOOR

Plaintiff

VS

LANDSHARK BRANDS LTD

Defendant

JUDGMENT

Introduction

The Plaintiff was in the continuous employment of the Defendant as a bartender since the 14th October 2019. By virtue of a claim backed by the Plaintiff's testimony in Court, he is claiming from the Defendant, the sum of Rs 190,427.88/- representing one month's wage as indemnity in lieu of notice, refund of 22 days of outstanding leave for the year 2021, end of year bonus and severance allowance.

The facts

The Plaintiff testified that he was working on a 6-day week basis for and in consideration of a monthly terminal basic wage of Rs 20,375. He last worked on the 28th November 2021 and on that day, the owner of the premises sealed the restaurant. He averred that he was not provided work as from the 29th November 2021 but was remunerated for the month of November 2021 and December 2021. He has not been provided with work nor paid any remuneration since the 1st January 2022.

The Plaintiff considered that his employment has been terminated on the 31st December 2021 without notice and without any justification. He has not been paid the end of

year bonus for the year 2021 and had 22 days outstanding annual leave for the year 2021, for which the Defendant has failed to pay wages in lieu thereof.

The Plaintiff is therefore claiming from the Defendant the sum of Rs 190,427.88/- representing one month's wage as indemnity in lieu of notice, refund of 22 days of outstanding leave for the year 2021, end of year bonus and severance allowance.

In the present case, the Defendant has left default despite a substituted service effected on the Defendant on the main gate of its premises.

Observations

I have assessed the evidence on record . It is to be remembered that "*making out a case does not mean that one has got to jump both feet all over the principles of evidence and all the matters required in order to make out a case...*". (**VELVINDRON VS NOORDALLY (1979) MR 243**).

In the present case, the Plaintiff has undisputedly established that the Defendant has terminated his employment without notice and without any justification. The version of the Plaintiff has remained credible, unchallenged and unshattered. In the circumstances, I find that the Defendant has unlawfully terminated the contract of employment by terminating the employment without notice and justification in breach of **THE WORKERS' RIGHTS ACT 2019**. The Defendant is therefore indebted to the Plaintiff in the sum of Rs 190,427.88/- representing one month's wage as indemnity in lieu of notice, refund of 22 days of outstanding leave for the year 2021, end of year bonus and severance allowance.

Conclusion

In light of the above, I find that the Plaintiff has established his case on a balance of probabilities. I order the Defendant to pay to the Plaintiff the sum of Rs 190,427.88/- together with interests at the rate of 12% per annum on the amount of remuneration due from the date of non-payment to the date of payment.

Judgment delivered by: M.GAYAN-JAULIMSING, Ag President, Industrial Court

Judgment delivered on: 01st October 2024

