

JACQUES DESIRE LAVAL SARA VS BEST BUILDERS LTD

2024 IND 36

JACQUES DESIRE LAVAL SARA VS BEST BUILDERS LIMITED

Cause Number: 443/22

THE INDUSTRIAL COURT OF MAURITIUS

(CIVIL DIVISION)

In the matter of:-

JACQUES DESIRE LAVAL SARA

Plaintiff

VS

BEST BUILDERS LIMITED

Defendant

JUDGMENT

Introduction

The Plaintiff was in the continuous employment of the Defendant as an operator excavator since the 2nd May 2019. By virtue of a claim backed by the Plaintiff's testimony in Court, he is claiming from the Defendant, the sum of Rs 338,500/- representing one month's wage as indemnity in lieu of notice, balance of outstanding wages, refund of outstanding annual leaves for the year 2021, end of year bonus for the year 2021 and severance allowance.

The facts

The Plaintiff testified that he was working on a 6-day week basis for and in consideration of a daily basic wage of Rs 1,500, Rs 39,000 per month. He averred that the Defendant failed to provide him with work on the 18th and 20th May 2021 and he was replaced by another operator. The Plaintiff considered that the Defendant, by its acts and doings, terminated his employment on the 20th May 2021 without notice and without any justification for failing to provide him work on the 18th and 20th May 2021. He further stated that the Defendant had paid to him Rs 12,000 representing wages for the period of 22nd April 2021 to the 20th May 2021 instead of Rs 39,000, and further failed to refund the 17 outstanding annual leaves and end of year bonus 2021.

In the present case, the Defendant has left default despite a substituted service effected at the premises of the Defendant company on the 27th June 2024.

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 338,500/- representing one month’s wage as indemnity in lieu of notice, outstanding wages for the period of 22nd April 2021 to 20th May 2021, 17 days outstanding annual leave for the year 2021, end of year bonus for the year 2021 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 338,500/- 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 as well as such amount of compensation for wages lost or expenses incurred in attending Court.

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

Judgment delivered on: 22nd August 2024

