

Villars M. v MANO-A-MANO Ltd

2023 IND 74

Cause Number 339/22

IN THE INDUSTRIAL COURT OF MAURITIUS
(Civil side)

In the matter of:

Mr. Mukesh Villars

Plaintiff

v.

MANO-A-MANO Ltd

Defendant

Judgment

The averments of this plaint are to the following effect-

(a) Plaintiff was in the continuous employment of Defendant as Mason Grade 1 since 6.8.2019. He was employed on a 6-day week basis and was last remunerated at monthly intervals at the agreed rate of Rs 12,875 per month. His pay period started on the 13th of the previous month and ended on the 12th of the current one.

(b) He last worked on 22.8.2021 and has not been remunerated 34 days wages for work performed during period 13.7.2021 to 22.8.2021.

Therefore, Plaintiff is claiming from Defendant the sum of Rs.16,836.54 representing alleged 34 days unpaid wages for the period 13.7.2021 to 22.8.2021 (Rs 12,875/26 x 34 days).

Although Defendant was duly summoned, it left default on the trial day and nor did it file a plea. Pursuant to Section 7(1) of the Industrial Court Act 1973, all proceedings before the Industrial Court shall be conducted in the same manner as for a civil matter before a District Magistrate.

Thus, Plaintiff proceeded in the absence of Defendant by virtue of **Section 16 (1) of the District and Intermediate Courts (Civil Jurisdiction) Act** which provides:

"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 his above averments and he filed a copy of his pay slip for June-July 2021 as per Doc. P1. Furthermore, he stated that his contract of employment was an oral one. Thus, he has claimed the said sum of Rs.16,836.54 with 12% interest per annum on the amount of remuneration due from the date of non-payment to the date of payment. He has also claimed travel expenses in attending Court for 2 days in the sum of Rs 156.

I have given due consideration to all the evidence put forward before me. The legal principles regarding default judgments have been highlighted in the Supreme Court case of **Hurnam D. v. Bholah K. B. & Anor. [2009 SCJ 265]** 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."

The unrebutted, straightforward testimony of Plaintiff is compatible with the documentary evidence produced namely his pay slip as per Doc. P1. Thus, I take the view that his testimony is plausible, reliable and unshakable in the absence of Defendant and its plea. Hence, I believe Plaintiff in that his contract of employment has been terminated by Defendant inasmuch as it failed to pay to him the said remuneration due under that agreement and which is afforded by Section 61(2) (b) of the **Workers' Rights Act 2019**. Furthermore, Section 27(6) of the said **Act 2019** provides:

"27. Payment of remuneration to worker

(6) 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."

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

Therefore, I order Defendant to pay to Plaintiff the sum of Rs.16,836.54 representing 34 days unpaid wages for the period 13.7.2021 to 22.8.2021 (Rs 12,875/26 x 34 days) 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 156 for travel expenses to attend Court.

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

5.10.23.

