

Sunkur K. v Alert Security Services Ltd

2024 IND 1

Cause Number 58/23

IN THE INDUSTRIAL COURT OF MAURITIUS
(Civil side)

In the matter of:

Mr. Keshav Sunkur

Plaintiff

v.

Alert Security Services Ltd

Defendant

Judgment

In this plaint, Plaintiff has averred that -

- (a) *he was in the continuous employment of Defendant as Watchperson since 4.9.2020;*
- (b) *he was employed on a 6-day week basis;*
- (c) *he was to be remunerated at monthly intervals at the basic rate of Rs 14,000 per month;*
- (d) *he has performed work on 29 normal days and 5 Sundays (20.09.2020, 27.09.2020, 04.10.2020, 11.10.2020 and 18.10.2020) during period 16.9.2020 to 24.10.2020 and Defendant failed to remunerate him.*

Therefore, Plaintiff is claiming from Defendant the sum of Rs.21,000.00 allegedly made up as follows:

- (i) 29 days' outstanding wages during period 16.09.2020 to 24.10.2020(Rs 14,000/26 x 29 days): Rs 15,615.39.
- (ii) Work performed on 5 Sundays during period 16.09.2020 to 24.10.2020 (Rs 14,000/26 x 2.0 x 5 Sundays): Rs 5,384.61.

On the other hand, Defendant has failed to file its plea and has left default on the trial day in spite of the fact that it was duly summoned.

Therefore, Plaintiff testified in Court as per his above averments. He has also claimed the sum of Rs 88 as travel expenses in attending Court for three days.

Now in conformity with Section 7(1) of the Industrial Court Act 1973, the provision of the law governing default judgments is to be found under Section 16 (1) of the District and Intermediate Courts (Civil Jurisdiction) Act:

"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)**

I have given due consideration to all the evidence put forward before me. The testimony of Plaintiff has remained uncontested and unchallenged throughout thereby lending support to its plausibility and reliability in the absence of Defendant. The evidence led by the Plaintiff has also met the threshold of being soundly grounded in law (*vide - Hurnam D. v. Bholah K. B. & Anor. [2009 SCJ 265]*)

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.21,000.00 [representing 29 days' outstanding wages during period 16.09.2020 to 24.10.2020(Rs 14,000/26 x 29 days): Rs 15,615.39 and work performed on 5 Sundays during period 16.09.2020 to 24.10.2020 (Rs 14,000/26 x 2.0 x 5 Sundays): Rs 5,384.61] 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 88 as travel expenses incurred in attending Court for three days.

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

30.1.24.