

RAVINDRA RAGGOO VS GEXIM LAND CONSULTANTS LTD

2023 IND 38

THE INDUSTRIAL COURT OF MAURITIUS

Cause Number: 211/2021

In the matter of:-

RAVINDRA RAGGOO

Plaintiff

VS

GEXIM LAND CONSULTANTS LTD

Defendant

Judgment

Introduction

The Plaintiff was in the continuous employment of the Defendant since 1st June 1990 with a last posting as a team leader (land survey). By virtue of a claim backed by the Plaintiff's testimony in Court, he is claiming from the Defendant the sum of Rs 4,798,885/- representing one month's indemnity in lieu of notice and severance allowance.

The facts

The Plaintiff testified that he was employed on a 5 day-week basis for and in consideration of a monthly basic wage of Rs 52,735. His last day of work was on the 18th March 2020 and thereafter, he did not attend work due to the confinement period following the Covid 19 pandemic. By way of a letter dated the 27th May 2020 duly signed by the managing Director under the letterhead of the Defendant produced by the Plaintiff in Court, he was requested not to resume work on the 2nd June 2020 until further notice as there was no precautionary measure taken to satisfy the health protocol to prevent the spread of the Covid-19 at the workplace.

It is the case for the Plaintiff that he sustained a short payment of wages for the months of October 2019, November 2019, December 2019, March 2020, April 2020 and May 2020.

The Plaintiff therefore averred that the Defendant committed a breach of contract which he construed as termination of his employment.

In view of the above, the Plaintiff claimed from the Defendant the sum of Rs 4,798,885/- made up as follows:

(i)	One month's wages as indemnity in lieu of notice	Rs 52,735
(ii)	Severance allowance for 360 months' continuous service	Rs 4,746,150
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Rs 4,798,885		<hr/>

In the present case, the Defendant has left default despite a substituted service effected on the Defendant, by the posting of the true and certified copy of the plaint with summons at its registered office on the 10th October 2022.

Observations

I have assessed the evidence on record and the documents produced. 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).

The undisputed facts of the case reveal that the Plaintiff was in the continuous employment of the Defendant from the 1st June 1990. The terms and conditions of the employment are founded in an employment contract which was filed in Court by the Plaintiff. The Plaintiff was legally entitled to a monthly wage. The Plaintiff has undisputedly established that the Defendant has failed to pay to him the outstanding notice and wages for the period of October 2019 to December 2019 and March 2020 to May 2020. The figures which were payable to the Plaintiff from October to December 2019 are evidenced by the wages statement produced in Court by the Plaintiff. The version of the Plaintiff has remained credible, unchallenged and unshattered.

In the circumstances, I find that the Defendant has committed a breach of the contract of employment by terminating the employment through failure to pay the necessary wages to

the Plaintiff in line with section 61(2)(b) of **THE WORKERS' RIGHTS ACT 2019**. He is therefore indebted to the Plaintiff in the sum of Rs 4,798,885/- representing the outstanding notice and severance allowance.

Conclusion

In light of the above, I find that the Plaintiff has established her case on a balance of probabilities. I order the Defendant to pay to the Plaintiff the sum of Rs 4,798,885/- 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: 30th May 2023