

BANK OF ZAMBIA v JOSEPH KASONDE (1996) S.J. (S.C.)

SUPREME COURT

M.S. CHAILA, CHIRWA AND MUZYAMBA, JJ.
30TH JULY AND 10TH DECEMBER, 1996.

Flynote

Employment Law – Master and Servant -Wrongful dismissal - Reinstatement

Headnote

The plaintiff was employed by the defendant in January, 1989, as a clerical officer. His duties involved the processing of invoices for approval before payment in respect of stationery, insurance and fuel. On the procedure of obtaining fuel, it was common cause that the plaintiff would carry with him invoice book on going to the garage and he would be accompanied by a security officer who would carry a security fuel book. At the garage the vehicles would be filled with petrol, then the plaintiff, the driver security officer and the petrol attendant would sign the invoice book. The security officer would then enter in his book the vehicle number, the amount of fuel put in and cost and the driver's name. The driver would sign the security fuel book. On 4th December, 1991 the plaintiff was questioned by security personnel of the defendant on alleged dishonesty involving the fuel invoices. A few days later he received a suspension letter, the suspension was indefinite and he was put on half salary. The plaintiff was later put on a disciplinary charge of dishonest conduct contrary to section 6.5 (a) (ii) of the Bank of Zambia Disciplinary Code. He wrote an exculpatory statement in which he still pleaded ignorance and requested for invoice numbers, vehicle numbers, drivers' names and date when he is alleged to have conducted himself dishonestly. This information was not given to him. In August, 1992, he appeared before a disciplinary committee where he was then told that the service station involved was Standard Auto Filling Station. He admitted signing the invoices because his signature was on them. The plaintiff then asked for the security fuel book, the book was called but was never brought. In November 1992 the plaintiff was called before the disciplinary committee again and was told that they were ready to pass their verdict and he was asked if he had any questions. The plaintiff then reminded them of the questions raised at the last meeting in relation to the security fuel book. On 3rd December, 1992 he received his summary dismissal letter.

He appealed and his appeal was dismissed. He sued the defendant in the High Court which ordered that the plaintiff be reinstated. The defendant appealed.

Held:

- (iii) The Respondent was wrongfully dismissed because the disciplinary code was not followed in dismissing the Respondent.
- (iv) Reinstatement is rarely granted unless there are special circumstances which make it the only equitable decision.

Cases referred to :

- (1) Vine v National Dock Labour Board [1956] 3 All E.R .939
- (2) Francis v Municipal Councillors of Kuala Lumpur Citation

- (3) Zambia Airways v Gershom Mubanga S.C.J. No. 5 of 1992
- (4) Contract Haulage v Kamayoyo [1982] Z.R. 13

For the Appellant: Mr. F. J. Mensah, Achimota Chambers
For the Respondent: Mr. M. F. Sikatana of Veritas Chambers

Judgment