

IN THE SUPREME COURT OF ZAMBIA
HOLDEN AT NDOLA

APPEAL NO. 91/2004

B E T W E E N:

KITWE CITY COUNCIL APPELLANT

AND

M. NKAISHE AND 52 OTHERS RESPONDENT

CORAM: LEWANIKA DCJ., MAMBILIMA, SILOMBA JJS.
On 7th day of September and 7th December, 2004

For the Appellant: V. MICHELO, Legal Counsel
For the Respondent: W.M. FORREST of Forrest, Price & Co.

JUDGMENT

LEWANIKA DCJ, delivered the judgment of the court.

When we heard this appeal on 7th September, 2004 we dismissed it and said we would give our reasons later and we now do so.

The evidence on record is that the Respondents were employees of the Appellant who were retired or retrenched from employment. It was not in dispute that these Respondents were unionized workers whose conditions of service were governed by a Collective Agreement between the Local Government Association of Zambia and the Zambia United Local Authorities Workers Union. The issue before the learned trial Judge in the court below was whether or not the Respondents were entitled to repatriation allowances upon

being retired from employment. The case for the Appellant was that the Respondents were not entitled to repatriation allowances because they were locally recruited within Kitwe. The learned trial Judge found that on the evidence before him the Respondents were entitled to repatriation allowances irrespective of their place of recruitment, hence this appeal.

We note from Clause 6.2.3 of the Collective Agreement on page 42 of the record that repatriation is provided for as follows:-

6.2.3.

"REPATRIATION

- (a) an employee retiring or being medically discharged shall be repatriated to any place in Zambia or up the border if the employee is a non Zambian."***

This is the provision that provided for repatriation allowances and spells out quite clearly what an employee is entitled to on retirement. It makes no reference to repatriation allowances being restricted to only those employees recruited from outside Kitwe. This appeal is totally devoid of merit and it is for this reason that we dismissed it.

D.M. LEWANIKA
DEPUTY CHIEF JUSTICE

I.M.C. Mambilima
SUPREME COURT JUDGE

S.S. Silomba
SUPREME COURT JUDGE