



IN THE HIGH COURT OF SIERRA LEONE
INDUSTRIAL COURT DIVISION

IC64/11

GEOFFREY DAVIES

PLAINTIFF

AND

FREETOWN CITY COUNCIL

DEFENDANT

REPRESENTATION:

ANSU B. LANSANA ESQ.

C. HOTOBAH DURING ESQ.

COUNSEL FOR THE PLAINTIFF

COUNSEL FOR THE DEFENDANT

BEFORE THE HON. MR. JUSTICE SENGU KOROMA JA.
PRESIDENT OF THE INDUSTRIAL COURT RULING DELIVERED
ON THE 8TH MAY, 2018

1) The Plaintiff/Applicants (hereinafter referred to as the "Applicant") applied to this Court by Notice of Motion dated 16th February, 2018 for the following Orders

- 1) That the amount in the Ruling of this Honourable Court dated 11th October, 2017 stated as due and payable to the Plaintiff/Applicants herein by the Defendant herein be rectified from Le159,563,057.00 to Le1,135,916,917.00
- 2) And any further or other Orders as this Honourable Court deems fit and just.

2) At the hearing of the application, the Applicants use the affidavit of Ansu Batillo Lansana Esq. sworn to on the 6th day of February, 2017 together with the exhibits attached thereto. The following averments in the said affidavit are germane to this application.

a) Paragraph 3: That on the 27th June, 2016, Judgment was delivered by Hon. Justice P.O. Hamilton JSC (President) in the High Court of Sierra Leone in this matter, in favour of the "Applicants" herein. The Court ordered, inter alia, that a proper calculation be done deducting the part payment already made to the Applicants ... and that the Ministry of Labour be asked to do the proper calculation and make the deductions on or before the 6th July, 2016." The said Judgment is exhibited as "ABL3"

b) Paragraph 4: "That subsequently, the Ministry of Labour did two computations and presented them to the erstwhile solicitor for the "Applicants." The said computations are exhibited and marked ABL4 and ABL5 respectively.

- c) That the Solicitor for the “Applicants” by a Notice of Motion dated the 31st July, 2017 moved this Honourable Court erroneously using the computation with the lesser figure.
- d) That the “Applicants” dissatisfied with their Solicitors error wrote to him demanding a rectification. The letter is exhibited and marked “ABL7”
- 3) The application is opposed by the Defendant/Respondent (hereinafter referred to as the “Respondent”) and relies on the affidavit of Maurice R. Garber sworn to on the 27th day of February, 2017. The following are the relevant parts of the affidavit:-
- a. That upon conclusion of the trial, the Hon. Justice Hamilton issued Judgment dated the 27th June, 2016 in favour of the Plaintiff for the 2 years of redundancy benefits owed in the sum of Le110,058,678.79 which amount had been admitted as owed by the Defendant. Regard should be given to page 5 of said Judgment. A copy of the Judgment is shown to me and marked Exhibit MRG1
 - b. The calculation was effected by the Ministry of Labour as ordered by the Honourable Justice Hamilton and they came up with a higher of Le159, 563,057 owed to the Plaintiffs. A copy of the calculation done by the Ministry of Labour is shown to me and “marked MRG2”
 - c. The Defendants now seek to tender another calculation from the Ministry of Labour in the sum of Le1, 135,916,917 which is in direct conflict with the Judgment of the Court and is predicated

on facts that were discounted and rejected by the Court after a full trial.

d. It should be mentioned that this was the same assertion made by the Plaintiffs that resulted in a full trial before the Court on this very issue. Justice Hamilton after reviewing the trial transcript, and his Judgment, and after hearing Counsel for the both the Plaintiffs and the Defendant stated by way of an Order dated 17th October 2016 as follows, "***the Judgment is clear and the balance ought to be paid and I order that it be paid that is from 2008-2010.***" A copy of the Order of Justice Hamilton dated 17 October 2016 is shown to me and marked Exhibit MRG3"

e. Consequently, the Court is now functus with regards to this case and the motion filed by the Plaintiff is an attempt to re-litigate a case that has already been adjudicated upon.

4) I have read the affidavits in support and in opposition and the submissions of Counsel. I hold that the key to resolving the issue in dispute is in the Judgment of the Hon. Justice P.O. Hamilton JSC (President of Industrial Court). The said Judgment is exhibited as ABL3

5) Hamilton P. in the final paragraph of his Judgment had this to say "from the totality of the evidence, it is clear that the Defendant did not pay the Plaintiffs their full benefits to which they were entitled. I will therefore give judgment for the Plaintiffs and order that proper calculation be done by deducting the part payment already made to the Plaintiffs.

I order that the Ministry of Labour be asked to do a proper calculation and make the deduction on or before 6th July, 2016."

6) My understanding of the conclusion herein is that His Lordship has not made any final order regarding the actual entitlements of the Plaintiffs.

This responsibility he has passed on to the Ministry of Labour. The final orders regarding the sum payable will be made after the calculations. The computations were done and two different ones were submitted.

- 7) It is my view that in order for this matter to be resolved, the Ministry of Labour must be requested to comply with that order properly rather than by submitting two computations as they have already done. This is because the Judgment itself is inconclusive. No order was given for payment of any sum. **The sum paid was what was presented by the erstwhile Solicitor.** In other for the calculations done by the Ministry of Labour, to be treated as the Judgment sum, the Ministry of Labour should have tendered the fresh calculation in evidence and be subject to cross examination. This was not done.
- 8) The Defendant in paragraph 4 of the affidavit in opposition averred that the calculation was effected by the Ministry of Labour as ordered by the Honourable Justice Hamilton and they came up with a slightly higher amount of Le156, 563,057 owed to the Plaintiff. In the affidavit of Ansu Batillo Lansana, paragraph 6 thereof, he averred that "one of the two calculations done by the Ministry of Labour, was erroneously submitted by the erstwhile Solicitor for the "Applicant." This, Mr. Lansana swears was given as a result of the Judgment of Hamilton P. The Respondent on the other hand in the affidavit in opposition swears that Justice Hamilton P. in his Judgment dated 27th June, 2016 found in favour of the Plaintiff for two years of redundancy benefits owed in the sum of Le110, 058,678.97 which amount has been admitted by the Plaintiff.
- 9) I have perused the Judgment referred to herein and my understanding is that the Respondent has not represented the correct picture. The penultimate paragraph stated as follows:

“the defence did concede that the end of service benefit is owed the Plaintiff but if any of it is from 2008 to 2010 that is a period of only two years basing their argument on the fact that redundancy to the Plaintiffs was in evidence. The total owed the Plaintiff is Le110, 058,678.79.”

10) To my mind the Respondents are wrong in interpreting this part of the Judgment as they have done. His Lordship was merely restating the evidence of the defence as to what they believe is owed. The Respondent was therefore wrong in their affidavit in opposition to aver that the Judge had given judgment in the sum of Le110, 058,687.97. The Judgment of Justice Hamilton P. In the case is that

- a) The Defendant did not pay the Plaintiffs their end of service benefits
- b) That proper calculation be done by deducting the part payment already made to the Plaintiffs.
- c) This calculation shall be done by the Ministry of Labour. The full stop after “owed” should not have been there. Punctuation marks if not properly applied tend to diminish the actual meaning or essence of a statement. What the Judge meant was nothing more than a restatement of the Defendants case as I have already said. The punctuation mark is to be treated as a mere clerical mistake.

11) In the circumstances it will be in the best interest of both parties for the Ministry of Labour to provide following information:

1. A single comprehensive re-computation of the entitlements of the Plaintiffs consistent with the Judgment of His Lordship, Hamilton president dated
2. That the said re-computation be tendered in Court on the next adjourned date.

I note that Judgment has already been given in favour of the Plaintiffs but the Ministry of Labour submitted two computations without giving any reason thereof.

Matter adjourned to 15th day of May, 2018


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HON. MR. JUSTICE SENGU KOROMA JA.
PRESIDENT OF THE INDUSTRIAL COURT