

I.C NO. 7/18

2018

B.

NO. 6

IN THE HIGH COURT OF SIERRA LEONE
INDUSTRIAL COURT
TRADE DISPUTE
LAW COURTS BUILDING
SIKA STEVENS STREET

BETWEEN: MR. JAMES BANGURA
AND

- PLAINTIFF

THE REGISTER NJALA UNIVERSITY
NJALA CAMPUS

- DEFEDNDANT

BEFORE THE HONOURABLE MR. JUSTICE SENGU KOROMA – JA
DATED 22ND DAY OF JANUARY, 2019

J. M. Kpaka for the Plaintiff
J. French for the Defendant

1. This matter was referred to the Industrial Court by letter dated 15th January, 2017 and a Summons was issued to the parties on the 30th January, 2018.

THE CLAIM

2. The Summary of the Commissioner of Labour was that the Plaintiff who had worked for the Defendant for five years – between 2006 – 2011 retired at the end of 2011. He was rehired for the 2011/2012 and 2012/2013 academic years respectively. In the course of that period, the Plaintiff performed his duties as Lecturer by lecturing Students, drawing examination questions, marking scripts and submitting grades accordingly. He was eventually paid in December, 2013 for the 2011/2012 academic year but has not been paid for the 2012/2013 academic year.
3. As a result of the Defendant's failure to pay the Plaintiff's outstanding salary, the Plaintiff reported the matter to the Ministry of Labour and Social Security by letter dated 7th July, 2014.
4. At the first meeting, the Defendant was represented by the Finance Director and Human Resource Manager; they agreed to pay the end of service benefits but questioned the request for payment of the one year salary for the 2012/2013 academic year.
5. At the second meeting, the Dean of Social Studies of the Defendant informed the Plaintiff and the Ministry that they have resolved to pay the Plaintiff's end of service benefits and the out standing one year salary. He however pleaded that a reasonable time be given to them to pay as the Defendant was trying to access government allocation to the College from the Central Bank.

6. The Defendant eventually paid the terminal benefits to the Plaintiff but has since failed to pay the outstanding salary for 2012/2013.
7. At the hearing of the matter the Plaintiff was represented by J.M. Kpaka Esq. and the Defendant was represented by J. French Esq.
8. The Defendant and Counsel were absent for the first two hearings but the Plaintiff was allowed to testify in the absence of the Defendant as provided for in the Rules.

PW1: -

9. The Plaintiff's testimony is consistent with the summary already narrated herein. He confirmed that at the second meeting, the Defendant was represented by the Dean of Social Studies who accepted the claims of the Plaintiff that is, in respect of the end of service benefits and the outstanding salary for the 2012/2013 academic year. PW1 claims the sum of Le66,000,000.00 from the Defendants.
10. Before cross examining the Plaintiff, the Defendant's Solicitor filed an application by way of Notice of Motion dated 22nd March, 2018 seeking an order that the matter be struck out on the grounds of certain irregularities.
11. At the hearing of the application on the 12th April, 2018, Counsel for the Plaintiff raised a preliminary objection on two grounds.
12. The Court after listening to Counsel ruled that the application filed by the Defendant was more in the nature of a defence to the Plaintiff's claim and was ordered to proceed to cross-examine PW1.

CROSS EXAMINATION OF PW1

13. The PW1 admitted that when his contract was renewed in 2011, he was given a letter of extension of employment for 2012/2012 academic year. This was not done for the 2012/2013 academic year but was verbally requested by the Dean of Social Sciences to continue lecturing for that academic year.

RE-EXAMINATION

14. The PW1 testified that he lectured and submitted grades for the 2012/2013 academic year. These grades were tendered and marked exhibit C¹⁻¹³.

PW2.

15. The Labour Officer, Jeremiah Ademokula testified on the 25th April, 2018 and corroborated the Summary of the case sent to the Court by the Ministry. He tendered the computation of entitlements of the Plaintiff as Exhibit "D". The computation was based on the Plaintiff's then monthly basic salary of Le2,596,390.75. PW2 clarified that the total salary owing the Plaintiff is Le55,156,689.00 and not Le48,000,000.00 as stated in the summary of Complaint. This was an error as that amount was only for terminal benefits due the Plaintiff which the Plaintiff later told him by telephone had been paid out to him.

16. PW2 confirmed that at the second meeting, the Dean of Social Sciences of the Defendant agreed to pay to the Plaintiff the outstanding one year salary.

CROSS-EXAMINATION

17. The PW2 explained how he arrived at the entitlements of the Plaintiff as regard unpaid salary for the 2012/2013 academic year.

18. PW2 explained that he knew the Plaintiff to be an accredited staff of the Defendant by the fact that he drew questions, marked scripts and handed them over to the Defendant which were accepted.

19. PW2 conceded that there were no minutes of meeting at which the Defendants, representatives agreed to pay the outstanding salary for 2012/2013 to the Plaintiff but insisted that the undertaking was nevertheless made. Case for the plaintiff

CASE FOR THE DEFENDANT

20. **DW1** – Paul Komba Ngaoja. He is the Human Resources Manager of the Defendant. He tendered exhibits E¹⁻² which is a letter of employment of the Plaintiff dated 3rd September, 2006. A retirement notice dated 15th September, 2011 was also tendered as Exhibit "F". DW1 further tendered Exhibit "G" which is a letter dated 5th March, 2012 extending the Plaintiff's contract for a period of one (1) year.

CROSS-EXAMINATION

21. After series of adjournments due to the absence of Counsel for the Plaintiff, DW1 was not cross examined until 13th November, 2018.

22. DW1 insisted that the Plaintiff was not given a two year extension of contract after his retirement. He did not recall the Registrar making promise to pay the Plaintiff any outstanding salary.

Both Counsel relied on the evidence.

THE ISSUE

23. The issue here is whether any contract of employment existed between the Plaintiff and the Defendant for the Plaintiff to continue lecturing for the 2012/2013 academic year.

24. It is not in dispute that the Plaintiff's contract was extended after his retirement. The matter in dispute here is for how long. The Defendant has argued by means of exhibit "F" that the said contract was extended for only the 2011/2012 academic year. While not disputing that, the Plaintiff is arguing that the further extension was done orally. To prove

2. Interest thereon at the rate of 20 percent per annum from the 15th day of January, 2017 to the date of Judgment.

3. Costs to be taxed if not agreed.



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