

THE REPUBLIC OF UGANDA
IN THE INDUSTRIAL COURT OF UGANDA AT KAMPALA
LABOUR DISPUTE MISC.APPLICATION NO. 003/2020
(ARISING FROM LABOUR DISPUTE APPEAL SUIT NO.004/2019 & KCCA/
119/2018)

BETWEEN

VICTORIA NAMUSOOKE KAWOOYA
APPLICANT

VERSUS

CAIRO INTERNATIONAL BANK.....
RESPONDENT

BEFORE

1. THE HON. HEAD JUDGE, RUHINDA ASAPH NTENGYE

PANELISTS

- 1. MR. BWIRE ABRAHAM**
- 2. MR. PATRICK KATENDE**
- 3. MS. JULIAN NYANCHWO**

RULING ON A PRELIMINARY OBJECTION

REPRESENTATIONS:

The applicant was represented by Mr. Bernard Banturaki of M/S Banturaki & co Advocates while the respondent was represented by Mr. Kyateka Ivan of M/S Tumusiime, Kabega & co Advocates

BACKGROUND

On 15/09/2021, when the matter was called in open court, Mr. Banturaki Bernard counsel for the applicant rose to what he referred to as a matter of legal concern. The legal concern was an application by him on behalf of his client for His Lordship Ruhinda Asaph Ntengye to recuse himself from hearing the application. Mr. Banturaki had written a letter addressed to his

lordship asking him to recuse himself from the instant application. After perusal of the letter and after listening to counsel in open Court, his lordship refused to recuse himself with reasons given in open Court and thereafter Court prepared to hear the application

However, Mr. Banturaki sought to raise a preliminary objection relating to the Jurisdiction of this Court. The Court granted him to file submissions by 24/09/2021 and the Respondent was given 4/10/2021 and a rejoinder by the applicant to be filed by 11/10/2021. The panel discussion of the submission was fixed for 22/10/2021 and a Ruling on 08/11/2021.

However by 22/10/2021 no submissions were on record. We thought it wise to deliver a ruling in spite of the failure of submissions by the parties since the objection was related to the jurisdiction of this Court.

Decision of Court

This court comprised of two Justices and 3 panelists as specified under section **10 of the Labour Disputes (Arbitration and settlement) Act 2008(LADASA)** before amendment when it dismissed the applicant's claim in **Labour Dispute Appeal No. 004/2019 on 13/12/2019**. In January 2020 this application was filed in this court but was not fixed for hearing until 15/09/2021 when the composition of the court had been altered by amendment to provide for a single Judge and three panelists and as a consequence it was allocated to a single justice and 3 panelists for disposal.

Although this court would have dismissed the preliminary objection on the mere fact that there were no submissions to support the objection, we thought it wise to point out the court's Jurisdiction once constituted by one Judge (as per the amended LADASA) as opposed to the previous position before amendment.

Section 5 of the **Labour Dispute (Arbitration and Settlement) Amendment Act, 2021** provides for the insertion of amendment of Section 10 of the Principal Act by Insertion of **Section 10 A, 10 B and 10 C** in the principle Act. And Section 10 B inserted in the Principal Act provides;

10 B. Constitution of Industrial Court

- 1) The Industrial Court shall be duly constituted where at any sitting there are four members present, consisting of-

- a) a Head Judge or a judge ;
 - b) an independent member;
 - c) a representative of employers; and
 - d) a representative of employees
- 2) The Head Judge or a judge or a judge of the Industrial Court shall preside over the hearing of a particular matter for which the Industrial Court is constituted.
- 3) Notwithstanding subsection (1), where at any time before a matter is determined, the Industrial court is constituted and one of the member ceases to be member or is not available to attend the proceeding-
- a) If the member is not the judge, the Presiding Judge in consultation with the head judge shall have power to co-opt another member of the Industrial court to hear the matter until it is determined ;or
 - b) If the member is the judge, the head Judge shall assign another judge of the Industrial Court to preside over the hearing of that particular matter until it is determined.

It is clear that unlike panelists a Head Judge or a Judge is a constant in the composition of this Court. Consequently, this court comprised of a Head Judge who sat in the hearing and disposal of LDA 004/2019 and 3 panelists is embraced with jurisdiction in the instant application for review of the decision in the said dispute irrespective of the fact that the main Labour Dispute was presided over by two judges and 3 panelists. The objection is overruled.

DELIVERED & SIGNED BY:

1. Hon. Chief Judge Ruhinda Asaph Ntengye

PANELISTS

1. Mr. Bwire Abraham

2. Mr. Patrick Katende

3. Ms. Julian Nyachwo

Dated: 08/11/2021

