

IN THE HIGH COURT OF MALAWI

LILONGWE DISTRICT REGISTRY

CIVIL APPEAL NO 99 OF 2011



BETWEEN

DAVID D.Y. NYIRENDA-----APPELLANT

AND

CHRISTIAN HEALTH ASSOCIATION-----RESPONDENT

CORAM: HON. JUSTICE M.C.C. MKANDAWIRE

Nyirenda, for Appellant

Chilenga, for Respondent

Namagonya(Mrs), Court Reporter

Itai, Court Interpreter

JUDGMENT

This is an appeal against the decision of the Industrial Relations Court made on the 2nd day of June 2011.

It is pertinent at this juncture to first address my mind to section 65 of the Labour Relations Act which deals with appeals from the Industrial Relations Court to the High Court. Section 65 provides:

- (1) Subject to subsection (2) decisions of the Industrial Relations Court shall be final and binding.

- (2) A decision of the Industrial Relations Court may be appealed to the High Court on a question of law or jurisdiction within thirty days of the decision being made.

Pursuant to Section 110(2) of the Constitution, the Industrial Relations Court is a specialized subordinate court with original jurisdiction in labour disputes and such other issues relating to employment. We all appreciate that the Industrial Relations Court is not conferred with exclusive jurisdiction in labour and employment matters. The High Court which has unlimited original jurisdiction can also be a court of first instance in labour and employment matters. It is however reasonable inference that having established a specialized subordinate court to deal with these matters, the High Court would only deal with such matters on appeal as is the case before me. This would ensure that there is certainty in the jurisprudence coming from these courts as rules of procedure in the Industrial Relations court are very fluid and flexible compared to those applicable in the High Court.

Therefore after the Industrial Relations Court has determined the case, an appeal to the High Court would strictly be on matters of law or jurisdiction only. In bringing up appeals on matters of jurisdiction or law, the appellant should clearly state the jurisdiction issue or the law that is in question. It is not helpful for an appellant to cleverly draft the grounds of appeal in order to appear as if there is a question of jurisdiction or law. Appellants should avoid at all cost the temptation of going on a legal fishing expedition and lumping several grounds of appeal without clearly defining stating the law that is in issue or the jurisdiction that they are questioning on appeal.

I have looked at the grounds of appeal in this matter which are from paragraphs 2-19. With due respect to counsel, there is not even a single provision of the Employment Act or Labour Relations Act that is stated to be in issue. I have also scrutinized the submissions and the skeleton arguments before me. My assessment of the matter is that this appeal is based on matters of fact which cannot be re-opened at this point in time as the decision of the Industrial Relations Court is final on matters of fact. There is no particular question of jurisdiction or law that the appellant have raised which merits this appeal to be entertained.

I therefore dismiss this appeal in its entirety. Each party to meet its own costs.

DELIVERED THIS DAY OF SEPTEMBER 2015 AT LILONGWE

M.C.C MKANDAWIRE

JUDGE