

**IN THE INDUSTRIAL RELATIONS COURT OF MALAWI**

**PRINCIPAL REGISTRY**

**MATTER NO. IRC 138 OF 2007**

**BETWEEN**

**MISHONI.....APPLICANT**

**-and-**

**ILLOVO SUGAR (MALAWI) LTD.....RESPONDENT**

**CORAM: R. Zibelu Banda (Ms); Chairperson**

Applicant; present

Chikwana; Assistant Human Resources Manager for respondent

Andersen; Visiting Judge from Denmark Labour Court (Observer)

Gowa; Official Interpreter

**RULING**

*Severance allowance-Claim for severance allowance-Section 35 Employment Act 2000-Exceptions-Fair dismissal under section 35(6)(b)-Dismissed for want of merit.*

The matter was adjourned only for a written Order. Upon hearing the respondent and upon hearing the applicant the court was convinced that the matter lacked merit in law. The applicant was dismissed for theft and negligence. He was prior to the dismissal invited to a disciplinary hearing where he defended himself. The applicant claimed severance allowance under section 35 of the Employment Act 2000.

However under section 35(6) (b) of the same Act, it is provided that severance allowance shall not be payable to an employee who is dismissed fairly for an act of misconduct. In this case it was shown that the applicant's dismissal was fair after he committed a serious act of misconduct. Therefore severance allowance was not payable under the law.

The court did not find any unfair practice on the part of the respondent. They complied with the law. Therefore the action was summarily dismissed in its entirety.

Any party aggrieved by this decision has the right of appeal to the High Court within 30 days of this decision. Appeal lies only on matters of law and jurisdiction and not facts: Section 65 (2) of the Labour Relations Act

**Made this 17<sup>th</sup> day of July 2007 at CHIKWAWA.**

**Rachel Zibelu Banda  
CHAIRPERSON.**