



Malawi Judiciary



**IN THE MALAWI SUPREME COURT OF APPEAL**

**SITTING AT BLANTYRE**

**CIVIL APPEAL CAUSE NO. 59 OF 2013**

*(Being High Court Civil Case No 74 of 2011)*

BETWEEN:

**AIRTEL MALAWI LIMITED..... APPELLANT**

**AND**

**EDWARD KOMIHA AND 37 OTHERS.....RESPONDENTS**

**CORAM : HONOURABLE JUSTICE E. B. TWEA, SC JA  
HONOURABLE JUSTICE DR J. M. ANSAH, SC JA  
HONOURABLE JUSTICE R. R. MZIKAMANDA, SC JA**

**Maliwa and Chalemba (Mrs) Counsel for the Appellant  
Kusiwa.....Counsel for the Respondent  
Minikwa.....Recording Officer**



**JUDGMENT**

Twea SC, JA

In this case the respondents, 38 of them, are former employees of the appellant company. The appellant underwent reorganisation. The respondents were, as the result thereof, declared redundant between April 2009 and June 2009.

The respondents filed a case of unfair dismissal in the Industrial Relations Court, and also claimed enhanced terminal benefits. The court heard both parties. It found that the respondents were consulted about the reorganisation, that the Ministry of Labour and Vocational Training was properly notified and had no objection to the reorganisation and the processes thereof. It gave judgment in favour of the appellant.

The respondents were dissatisfied with the judgment and appealed to the Court below. The Court below found that although the notification to the Ministry of Labour and Vocational Training was procedural, the respondents were not adequately consulted and had not been given sufficient notice on the retrenchment. It therefore found that the respondents were unfairly dismissed.

The appellant now appeals to this Court against the judgment of the Court below.

