

**THE MANAGEMENT OF DENCO SHIPPING LINES**, by and thru its General Manager, Appellant, v. **THE CASUAL WORKERS OF DENCO**, represented by JOSEPH KNUCKLES, their leader, and **THE BOARD OF GENERAL APPEALS**, Ministry of Labour, Appellees.

APPEAL FROM THE DEBT COURT FOR MONTSERRADO COUNTY.

Heard: October 20, 24 & November 1, 10 & 4. Decided: December 22, 1983.

1. To render a valid judgment, a court must be competent to render such judgement; and for a court to be competent, it must have jurisdiction over the persons and the subject matter.
2. A court to which an appeal is taken may reverse, affirm or modify, wholly or in part, any judgment before it as to any party. The Court shall render a final determination or, where necessary or proper, remand the case to the lower court for further proceedings.

This action of unfair labour practice was filed at the Ministry of Labour against the employer, DENCO Shipping Lines, by its employees, appellees herein, represented by their leader, Joseph Knuckles. The complaint alleged that the employees were denied their basic industrial rights, such as transportation fares, medical care, group insurance, annual leave, etc. Some of the employees claimed that they had worked for a period of five (5) years for their employer, DENCO, and were members of the National Maritime Seamen and General Workers Union to which they were required to pay dues by monthly payroll deduction.

The complaint of the employees was heard by a hearing officer of the Ministry of Labour who ruled that the complainants were permanent workers because they were hourly rated employees who worked for eight (8) hours a day, and were also paid for overtime. Therefore, he said, they were entitled to all the benefits under the union contract, such as transportation facilities, medical care and annual leave, and that they should also have been provided with identification cards. The hearing officer also ruled that the employees/complainants be paid retroactively, effective March 1, 1980, the time the action was instituted.

The appellant company appealed to the Board of General Appeals which affirmed the ruling of the hearing officer. Being dissatisfied with the ruling of the Board of General Appeals, the employer filed a five-count petition before the Debt Court for Montserrat County for judicial review. The judgment of the lower court, which affirmed the judgment of the Board of General Appeals was appealed to and reversed by the Supreme Court and the action abated on the ground that the trial court had no jurisdiction over the subject matter of the action.

B. Mulbah Togbah and E. Winfred Smallwood of Cooper & Togbah Law Firm appeared for the appellant. S. Edward Carlor of Carlor, Gordon, Hne & Teewia Law Offices appeared for the appellees.

MR. JUSTICE MORRIS delivered the opinion of the Court.

The appellees represented by their leader, Joseph Knuckles, instituted this action of unfair labour practices against their employer, the Denco Shipping Lines, at the Ministry of Labour for denying them their basic industrial rights such as transportation fares, medical care, group insurance, annual leave, etc. Some of these employees claimed that they have worked for five years for their employer and are members of the National Maritime Seamen and General Workers Union to which Union they pay dues by monthly payroll deduction. The hearing officer who investigated the complaint ruled that the complainants were permanent workers because they were hourly rated employees and work for eight hours a day and were also paid for overtime. Therefore, he said, they were entitled to all the benefits under the union contract such as transportation facilities, medical care and annual leave, and that they should have been provided with identification cards. The hearing officer also ruled that the transportation fares of the complainants be paid retroactively effective March 1, 1980 at the time of the complaint. The appellant company appealed to the Board of General Appeals which affirmed the ruling of the hearing officer.

Appellant being dissatisfied with the ruling of the Board of General Appeals filed a five-count petition before the Debt Court for Montserrado County for judicial review.

We shall quote count four of the petition, which raises the jurisdictional issues, verbatim for the benefit of this opinion:

"4. And also because your petitioner says that Chapter 4 section 4000 of title 19-A of the Labour Practices Law of Liberia entitled "seagoing laborers" under its general exclusion specifically excludes stevedores from coverage under said Labour Law. For this reason, among others, your petitioner prays that the decision of the Board of General Appeals be reversed."

To render a valid judgment, a court must be competent to render such judgement; and for a court to be competent, it must have jurisdiction over the person and the subject matter. Hence, we shall first consider the question of whether or not the Ministry of Labour has jurisdiction over the subject matter and the persons.

The statute relied upon by appellant reads:

"The provisions of this title 18-A shall not apply to officers, members of the crew, seaman, mariners, greasers, firemen, stevedores, launch drivers, steward, cooks, laundrymen, and any other persons employed or in training on vessels registered under the provisions of chapter 2 of the Maritime Law or their employers." Labor Practices Law, 18-A:4000.

Section 200 (b) of the same book at page 17 defines seagoing laborers thus:

"The term seagoing laborers shall be construed to refer to all seamen, deck hands, greasers, firemen, stevedores, launch drivers, stewards, cooks and laundrymen."

Title 19-A of the Labor Practices Law, found in the work compiled and edited by the Louis Arthur Grimes School of Law of the University of Liberia, includes the administration and enforcement of the Labor Law; the creation of the Board of General Appeals and its functions including judicial review; the system of inspection under which the duties and qualifications of labour inspectors (hearing officers) are provided; review of complaints of labour violations and conditions of employment. Black's Law Dictionary (4th ed.) defines stevedore as a person employed in loading and unloading vessels.

An inspection of the record shows that the judge never passed on the jurisdictional issues as raised in count four of the petition. Normally we would have remanded the case for the judge to pass upon this important legal issue but this we felt might delay the hearing of the case. Hence, we will now proceed to give the ruling which the lower court should have rendered. *Townsend v. Cooper*, 11 LLR 52 (1951); *Johns v. Republic*, 13 LLR 143 (1958); *Williams and Williams v. Tubman*, 14 LLR 109 (1960). Furthermore, our statute provides that a court to which an appeal is taken may reverse, affirm or modify, wholly or in part any judgement before it as to any party. The court shall render a final determination or, where necessary or proper, remand to the lower court for further proceedings. Civil Procedure Law, Rev. Code 1: 51.17.

The Liberian Maritime Law provides that the Commissioner of Maritime Affairs and his deputy shall be responsible for conciliation and mediation of all labour disputes. This is the relevant statute:

"(1) It is declared to be the policy of the Republic of Liberia (a) to place the primary responsibility upon employers and employer organizations, and employees and labor organizations for the avoidance of any interruption in foreign or domestic maritime commerce; and

(2) In the event that a peaceful adjustment of such difference is not accomplished, to provide procedures for Government assistance, upon application of all parties to any dispute, in the settlement of the causes of any labour dispute without any such interruption.

To this end, upon application of all parties to any dispute to the Secretary of the Treasury (now Minister of Finance), the Commissioner of Maritime Affairs and Deputy Commissioner are authorized to hold themselves available to assist in efforts of conciliation, mediation and final resolution." TUAN WREH, *Statutes and Cases on Liberian Maritime Law*, § 359, PAGE 55 (1975). Mr. Joseph Knuckles, the leader, was asked the following questions and these were his answers:

"Q. Mr. Witness, state for the benefit of the investigation the general nature of the work performed by these 80 workers whom you now represent.

"A. We load ships and discharged ships, we have the other hatch and park transshipment cargos and discharged transshipment cargo from neighboring ship around Liberia.

"Q. According to your last statement, the general nature of your work is centered around ships that berth at the Freeport, state then for the benefit of this investigation what do you do when there are no ships?

"A. I mentioned our names first as feeder crafts. When there is no ship, we are duty bound to come every day and most of our assignment are on the dry dock. Our work we do is everyday work; if no ship we wait until after 8 hours then we are marked for the 8 hours. This has caused us to pay union dues every month.

Mr. Toby Brown, one of the witnesses for appellant deposed as follows:

"Q. Mr. witness, the workers of Denco have brought an action of unfair labour practices against management of Denco Shipping Lines. Management has cited you as one of its witnesses. Please state for the benefit of this investigation all facts that you might be knowledgeable of concerning the matter now being investigated?

"A. I, Toby Brown, all that I know in our operation is when the operational manager asks for a gang then I will go and tell the headman of the feeder craft. And then tell the headman to bring the gang maybe we used ten (10) men up to 60 men. When the gang comes on board the vessel then I, Toby Brown, go on board to check a gang and then after checking the gang I make a time sheet and put in starting time and closing time. And submit it to the operational manager for signing before sending it to the head office which is Denco Shipping Lines. And also if the workers leave for their homes before any order comes then I have to go to their headman's home to bring workers to work. And then if no ship in port I tell them to go home for the day because there is no ship. When there is no ship for two or three days, they will not work and they will not get pay for that day or days. From the first to the 15 of every month their book is closed for the period they work. Then we take three days to prepare their payroll and we pay them off every month on the 18th. And also from the 16th to 31st and we pay them on the 3rd of the following month. I rest."

"Q. Mr. witness, state if you know whether these workers involved are employees of Denco Shipping Lines?

"A. What I know if Denco passed order for stevedores for a gang or gangs then I will inform the headman of the gang.

From the facts and circumstances as narrated as well as the laws cited, we are of the opinion that the contention of appellant as contained in count four of its petition is tenable in law

and the judge of the lower court should have dismissed the action without prejudice. This the lower court failed to do but instead affirmed the ruling of the Board of General Appeals.

It is the opinion of this Court that the Ministry of Labour has no jurisdiction over the subject matter according to Section 4000 of title 18-A of the Labor Practices Law of Liberia. With respect to the payment of union dues, the Liberian Maritime Law, supra, section 331 (3), page 46, stipulates:

"The provisions of this section shall not apply to, or render unlawful:

4. Requirements of a labor organization of which the seaman is a member if such deduction represent dues or other obligations to a labor organization of which the seaman is a member and are remitted to such organization."

According to the records, the amounts deducted were remitted to the National Maritime Seamen and General Workers Union in which union the appellees are members.

It is therefore the opinion of this Court that the judgement of the lower court should be and the same is hereby reversed because the Board of General Appeals whose judgement the lower court had affirmed had no jurisdiction over the subject matter. The action is therefore abated without prejudice. Costs disallowed. The Clerk of this Court is hereby instructed to send a mandate to the Ministry of Labour advising it is this opinion. And it is hereby so ordered.

*Judgment reversed*