

THE LIBERIA COMPANY (LIBCO), by and thru its General Manager, B. L. FULLER,
Appellant, v. **JOSEPH Z. COLLINS**, Appellee.

APPEAL FROM THE DEBT COURT FOR NIMBA COUNTY.

Heard: May 9, 1989. Decided: July 14, 1989.

1. A judicial review of a decision of any administrative agency of government commenced by the making and filing of a petition, supported by affidavit, is a special proceeding which should be filed and the necessary precept issued by the clerk of court upon the written orders of court in the same manner as all other special proceedings and provisional remedies.
2. Pursuant to the Act Amending The Labor Practices Law With Respect To Administration And Enforcement And To Amend Decree No. 21 Of The Interim National Assembly In Connection Therewith, which created the National Labour Courts with exclusive jurisdiction over appeals in labor matters from the hearing officers at the Ministry of Labour, judicial review of labor matters may be commenced by precepts issued upon written directions instead of judge's orders as before then required by decision of the Supreme Court.
3. Repeal is an abrogation or annulling of a previously existing law by the enactment of a subsequent statute, which declares that the former laws shall be revoked and abrogated.
4. That Supreme Court cannot extrapolate the intent of the Legislature beyond the specific wordings of the statute, and this limitation is all the more mandatory where the statute in question specifies the only manner by which an act may be done.
5. The Legislature, acting within its constitutional powers, may prescribe the procedures and condition under which judicial review of the action of the administrative agency may be had in a court of law.

In April 1988, the appellant, by and through its general manager, terminated the services of appellee by a letter of dismissal for what the appellant termed as "gross insubordination". Having considered the termination of his services illegal, the appellee instituted an action for wrongful dismissal against the appellant with the labor commissioner of Nimba County. Following a hearing, the labor commissioner dismissed the action for wrongful dismissal and stated that the appellant should allow the appellee to enjoy the benefit of a total award of \$2,210.00. To this ruling, the appellee accepted and petitioned the Debt Court for Nimba County for judicial review.

The writ of summons that was issued, served and returned served was said to have been issued without a judge's orders from the debt court judge. Returns to the petition were duly filed and along with it a motion to dismiss the petition for want of jurisdiction. The trial judge denied the motion to dismiss and proceeded to hear the petition for judicial review. In

ruling thereon, following the hearing, the trial judge reversed the ruling of the labor commissioner and awarded an aggregate of \$23,870.00 to appellee. To this ruling, the appellant excepted and appealed to the Supreme Court.

In affirming the ruling of the trial court, the Supreme Court held that a judicial review of a decision of any administrative agency of government commenced by the making and filing of a petition supported by affidavit, is a special proceeding, which should be filed and the necessary precept issued by the clerk of court upon the written orders of court in the same manner as all other special proceedings and provisional remedies. Consequently, the Court said, the judge of the trial court in Nimba County was legally clothed with jurisdictional authority over the petition for judicial review. The ruling was therefore *confirmed* and ordered enforced.

Toye C. Barnard appeared for appellant. *Pei Edwin Gausi* appeared for appellee.

MR. JUSTICE BELLEH delivered the opinion of the Court.

According to the records certified to this Court, appellee was employed by appellant on May 1, A. D. 1982, as personnel manager with offices at appellant's Cocopa Plantation in Nimba County.

After nearly six (6) years of service, appellee received a letter of dismissal over the signature of Mr. B. F. Fuller, general manager of the appellant company, dated April 9, 1988, informing him that his services with appellant were terminated effective as of that date "for gross insubordination in respect of re-tasking under his control."

Appellee considered the termination of his services by appellant to be illegal, and therefore filed a four-count complaint against the management of the appellant corporation in the office of the labour commissioner in Sanniquellie City, Nimba County, alleging wrongful dismissal and praying for an aggregate award of Twenty Three Thousand Six Hundred Three Dollars And Twenty-Six Cents (\$23,603.26).

The hearing officer conducted an investigation into appellee's complaint, and on July 18, 1988 ruled: "Wherefore, and in view of the above, the circumstances surrounding the case in respect of dismissing Mr. Collins by management/LIBCO was sound in administrative procedure and legal in law. Hence, the investigation says that Mr. Joseph Z. Collins' claims are hereby declared null and void and upholds the decision of the Management (The Liberia Company)."

The investigation also orders that the management allows Mr. Collins to enjoy the benefit of the following:

- A. Payment of salary worked in March, 1983, \$770.00
- B. One month annual leave, if any pay due, \$770.00

C. One month in lieu of notice pay	<u>\$770.00</u>
TOTAL	\$2,210.00

And it is hereby so ordered.

Signed: Daniel K. Whern

Daniel K. Whern

HEARING OFFICER"

Appellee, being dissatisfied with the ruling of the hearing officer, filed a five-count petition for judicial review before His Honour Mamadee S. Sheriff, Judge, Debt Court, Nimba County, sitting in its August Term, A. D. 1988. Thereafter, a writ of summons was issued, served and returned served on the 10th day of August, A. D. 1988 on appellant, commanding it to file its returns on or before the 22nd day of August, A. D. 1988. From the records certified to us, the summons was not issued pursuant to written directions from the petitioner or judge's order from the debt court judge.

On August 19, A. D. 1988, respondent/appellant, filed its returns containing 13 counts, simultaneously with a three-count motion to dismiss the petition for judicial review. After arguments *pro et con*, the motion was denied and said petition ruled to trial. To this ruling, appellant excepted. Thereafter, the court proceeded to hear the petition for judicial review and on September 17th A. D. 1988, His Honour Judge Mamadee S. Sheriff rendered his final judgment thereon, reversing the ruling of the hearing officer and awarding the appellee an aggregate of Twenty-Three Thousand Eight Hundred Seventy Dollars (\$23,870.00). It is from this final judgment that appellant noted exception and announced an appeal to this Honourable Court. The bill of exceptions was duly approved and filed, and all the jurisdictional steps for the perfection of appeal were complied with; therefore, this case is now before this Honourable Court for final review.

Before undertaking to pass upon the sufficiency of the bill of exceptions in its entirety, we shall first direct our attention to the "motion to dismiss the petition for judicial review" filed by appellant in the debt court, which motion was denied by the trial judge. For the benefit of this opinion, we hereunder quote counts one (1) and two (2), word-for-word:

"1. As to the entire petition/application for judicial review movant says that the petition should be dismissed by this Honourable Court because respondent failed to file said petition upon judge's order as required by law which he should have obtained from Your Honour as required by law and well established practice; this case being on appeal. The petition, therefore, is not properly before this Honourable Court and this court should not exercise jurisdiction to hear the petition which should be dismissed. Attached hereto is a clerk's certificate evidencing that petitioner/ respondent's petition was not filed upon judge's orders

but merely the petition and affidavit was filed with this Honourable Court contrary to law and practice, thus, the writ of summons was issued without judge's order in writing ordering its issuance. (See exhibit "M").

2. And also because as to the writ of summons having been issued contrary to law, same should be quashed by this Honourable Court as it is legally defective with respect to the manner of its issuance. The writ should have been issued through a judge's order in writing obtained by respondent; it should not be expected that the court should do for party litigants what they failed to do for themselves. The writ should be quashed therefore and the entire proceedings dismissed."

To the above quoted motion to dismiss the petition for judicial review, appellee filed a resistance of two counts. Count One (1), the most pertinent, is hereunder quoted for the benefit of this opinion:

"2. Respondent says that counts one (1) and two (2) should be denied and dismissed in that the said counts have no justification and are unsupported by records and acts of this Honourable Court. Respondent says that the petition for judicial review and writ of summons were filed and issued upon orders from the judge, His Honour Mamadee S. Sheriff, to the clerk, James S. Kabia. Hence, counts one (1) and two (2) of the motion are fit subjects for dismissal. Movant's exhibit "M", same being a certificate to the effect that there was no order from the judge, was issued fraudulently. Respondent requests the court to conduct investigation into this matter and to take judicial notice of her own records and acts."

For the benefit of this opinion, we also hereunder quote the relevant portions of the ruling of the Judge of the Debt Court, Nimba County, in denying the motion:

"After listening to both parties and also our careful reading of the motion and its resistance, the court says that the procedure on review before this court according to the new Act does not require too much legal technicality; it does not require a written petition nor written motion and answer. The law only requires the court to review the record, either reverse, affirm or modify, wholly or partly, any judgment before it and we quote said law for the benefit of this ruling.

In our opinion, this court says that since no legal technicality is applicable, the court will not entertain any microscopic technicality but to do according to the above quoted law. (See *An Act Amending the Labor Practices Laws of Liberia With Respect to Administration and Enforcement and to Amend Decree No. 21 of the Interim National Assembly in Connection Therewith*, approved October 20, 1986). Therefore, and in view of the foregoing, the motion is hereby denied and dismissed and the case ruled to trial. And it is so ordered."

Having taken recourse to and perused the motion filed by the appellant in the debt court, the resistance thereto filed by appellee, and the ruling of the debt court judge dismissing the said motion, we shall now review the legal grounds and the merits and demerits of the exceptions taken to this ruling.

Directing our attention first to the appellants bill of exceptions, we hereunder quote count one (1) thereof for the benefit of this opinion:

"1. Because respondent says Your Honour erred denying respondent's motion to dismiss petitioner's petition for judicial review, which respondent contended was not properly before this Honourable Court since petitioner filed his petition/application for judicial review without judge's order and the writ of summons was also issued without judge's orders. Therefore the court should not exercise jurisdiction. Respondent says further that Your Honour erred in holding that respondent's said contention concerning the absence of a judge's orders was a microscopic legal technicality, especially in the face of the precedent set by a decision of the Supreme Court of Liberia cited ruling that a petition for judicial review is dismissible when filed without a judge's order and the court under such circumstances should not exercise jurisdiction. Under the doctrine of *stare decisis*, Your Honour should have adhered to said rule of law upheld in the Supreme Court's decision."

The issue presented is whether or not a petition for judicial review must be accompanied by a judge's orders for the court to acquire jurisdiction over the parties. This is not the first time that this issue has been raised before this Court.

In the case *Management of Camer Shipping Lines v. Hill*, 33 LLR 497 (1985), this Court held that "...a judicial review of a decision of any administrative agency of government commenced by the making and filing of a petition supported by affidavit is a special proceeding, which should be filed and the necessary precept issued by the clerk of court upon the written orders of court in the same manner as all other special proceedings and provisional remedies. The petitioner seeking judicial review ought to obtain court's orders, which must direct the clerk to receive and file the petition, upon payment of the necessary legal fees, and issue summons for service upon the agency or upon the Board of General Appeals, in a labor matter and all parties of record, notifying them to appear and file returns on a day designated by the judge in the "same manner as in other special proceedings which are commenced by the filing of a petition and not by the clerk's written directions as is done in ordinary civil actions."

Ordinarily, pursuant to the doctrine of *stare decisis*, this Court would have disposed of the issues summarily based on the opinion of *Management of Camer Shipping Lines v. Hill* case. However, appellee has contended and argued in his brief that the "*Act Amending the Labour Practices Law of Liberia With Respect to Administration and Enforcement and to Amend Decree No. 21 of the Interim National Assembly In Connection Therewith*" gives appellate jurisdiction to the

National Labour Court; and consequently, a judge's orders as required in certain cases at a trial level, does not apply to a court exercising appellate jurisdiction.

Appellee further contends that the power to review and determine an appeal from the hearing officer of the Ministry of Labour is exercised by the Labour Court by giving order for writ or assignment to be issued either verbally or in writing, and that there is no mandatory requirement for written orders from the judge.

To dispose of these contentions, we take recourse to the history of the review process of labor matters.

Prior to October 1985, a party litigant dissatisfied with the ruling of a hearing officer at the Ministry of Labour had, as a first jurisdictional step, to take an appeal to the Board of General Appeals. It was only upon final determination of the Board of General Appeals that a dissatisfied party had the right to seek appellate review in the circuit court or debt court by way of a petition for judicial review. Labor Practices Law, Lib. Code 19 A: 7.

On December 24, 1985, the National Labour Court, pursuant to *Decree No. 21*, passed by the Interim National Assembly (INA), was created and granted appellate jurisdiction to hear all labor cases on appeal from the Board of General Appeals. *INA Decree No. 21, Sec. 2, Art. III.*

On October 26, 1986 an *Act to Repeal an Act Amending the Labor Practices Law of Liberia With Respect to Administration and Enforcement and to Amend INA Decree No. 21 In Connection Therewith*, was passed by the First National Legislature of the Second Republic, giving the National Labour Court appellate jurisdiction to hear all labor cases appealed to it directly from the hearing officer. The end result of this amendatory Act is the complete elimination of the Board of General Appeals and the circuit court from the appellate review process of labor cases.

Even though, the amendatory Act provides that all appeals from decisions of the hearing officer shall be to the National Labour Court (see Section 23.2), it does not expressly provide the manner by which such an appeal shall be taken. Shall the appeal be by way of a petition for judicial review as it was when the Board of General Appeals was in place, or shall it be by summary review of the determination of the hearing officer upon copies of the records and other evidence filed with it at the Ministry of Labour without the filing of a written petition for judicial review, or shall it be by regular appeal and the filing of bill of exceptions?

To dispose of these issues, we will take recourse to the portion of the Liberian Labour Practices Law that was repealed by the amendatory Act of the National Legislature, which is contained and set forth under Title 19-A, Chapter 1, Part 1, entitled "administration and enforcement." For the benefit of this Opinion, we shall quote Sections 7 and 8 thereof:

"Section 7. Judicial Review of Decisions of The Board of General Appeals:

A party aggrieved by a decision made by the Board of General Appeals may appeal from such decision or any part thereof to the circuit court or debt court in the county in which the Board held its proceeding by filing a petition to the circuit court or debt court within 10 days after receipt by the aggrieved party of a copy of the administrative decision. Copies of the petition shall be served promptly upon the Board of General Appeals which rendered the decision, and upon all parties of record.

Within 10 days after service of the petition, or within further time allowed by the court, the Ministry of Labour and Youth shall file with the clerk of the circuit court or debt court a certified copy of the entire records of the proceeding under review, together with a copy of the administrative decision. It shall not be necessary to file exceptions to the ruling of the Board of General Appeals..

"Section 8. Conduct of proceeding on review:

A proceeding under this chapter shall be conducted by the court without a jury and shall be confined to the record. All such proceeding shall be heard and determined within seven (7) days by the circuit court or debt court, and if an appeal is taken to the Supreme Court, as expeditiously as possible. The judgment or order of the circuit court or debt court shall be final subject only to review by the Supreme Court.

With the repeal of the *Act Amending the Labour Practices Law of Liberia With Respect to the Administration and Enforcement ...*, Sections 7 and 8, quoted above, were abrogated and annulled.

Repeal is "an abrogation or annulling of a previously existing law by the enactment of a subsequent statute which declares that the former law shall be revoked and abrogated." BLACK'S LAW DICTIONARY 1167 (5thed). As laws are presumed to be passed with deliberation and with full knowledge of existing ones on the same subject, it is reasonable to conclude that when the Legislature specifically repeals or abrogates any prior law relating to the same matter, the Legislature intends to do so.

This Court .therefore holds that the controlling statute with respect to judicial review of all labor matters and the conduct of proceeding on judicial review is no longer Sections 7 and 8 of Title 19-A, Chapter 1, Part 1 of the Labour Practices Law, but is instead the *Act Amending the Labour Practices Law of Liberia With Respect to Administration and Enforcement, and to Amend Decree No. 21 of the INA In Connection Therewith.*"

With respect to jurisdiction and procedure under the amendatory *Act*, we hereunder quote for the benefit of the opinion, the relevant portions:

"Section 23.2. Jurisdiction and procedure:

The Labour Court shall be a court of limited jurisdiction and shall have exclusive appellate jurisdiction over all labor cases appealed to it from the decisions of hearing officers or labour

commissioners in the County where it is established. The procedure and method of enforcement shall be the same as that of the debt court, except as modified herein."

"Section 23.4. Procedure on review:

In the conduct of all cases brought before it, the Labour Court shall be guided by the rules of the debt courts and shall make a finding of facts and conclusions of law thereon in accordance with the provisions of Chapter 23 of the Revised Civil Procedure Law of Liberia and may revise, affirm or modify, wholly or in part any judgment before it, as to any party and, when the interest of justice so requires, remand a case to the hearing officer or labor commissioner for further proceedings with such instructions or orders as may be necessary and proper."

Whereas, Section 7 of the repealed Act specifically provides that appeals to the circuit courts or debt courts shall be made by filing of a petition for judicial review; Section 23.2 of the amendatory Act, however, only provides that all appeals from decisions of the hearing officer shall be to the National Labour Court, but does not expressly provide the manner by which such an appeal shall be taken. Had the Legislature intended judicial review by way of a petition, appeal or other method of review, they would have so provided. This Court cannot extrapolate the intent of the Legislature beyond the specific wordings of the statute; and this limitation is all the more mandatory where the statute in question specifies the only manner by which an act may be done. *Dennis v. Saadeh*, 27 LLR 301 (1978), text at 304, citing by reference: *George v. Republic*, 14 LLR 158 (1960). The statutory methods of judicial relief from or review of action of administrative agency may be divided into three groups:

1. Statutory methods in the broad sense of the term are afforded where the remedy itself is governed by statutory provisions, although the express terms of such statute or statutes relating to administrative agencies make no provision that this remedy shall be available for the review of agency action. An illustration of this type of statutory method is the declaratory judgment, which is purely a creation of statute.
2. A statutory method of review is afforded where a statute governing the action of a particular administrative agency does not permit the enforcing of an administrative decision except by proceedings in a court to be instituted by the prevailing party to the administrative agency itself, and these proceedings are designed for judicial review of the agency action.
3. Statutory methods of review in a narrower sense, sometimes called direct review proceedings, are afforded by legislation providing generally for review of action of a particular administrative agency prescribing the manner and extent of such review, whether by way of appeal by common law writ or its statutory substitutes, bill of equity, injunctions, declaratory judgment, or simply by a provision for "suit" "action" or "petition" to a court of original jurisdiction. Some such provisions for review are made in the constitutions of some

states and in one state the remedies are provided by court rules the adoption of which was directed by constitutional provisions. 2 AM JUR. 2d., *Administrative Law*, § 170.

Prior to the amendatory *Act*, the method used by our legal system was the third method; the statutory method of review in a narrower sense, sometimes, called direct review proceedings by way of a petition to a court. Other channels, such as appeals, common law writs or its statutory substitutes, bill of equity, injunction, declaratory judgments, etc., were not provided for by our statute, and accordingly were not used.

The Legislature acting within its constitutional powers may prescribe the procedures and condition under which, and the court in which, judicial review of the action of the administrative agency may be had. The right of review is governed by the particular provisions of the Act involved and is limited by its terms. 2 Am Jur 2d, *Administrative Law*, § 716.

This Court therefore holds that judicial review of administrative decisions of the hearing officer or labor commissioner by the National Labour Court must be in conformity with Section 23.2 of the amendatory *Act Amending the Labor Practices Law of Liberia With Respect to Administration and Enforcement, and to Amend Decree No. 21 of the INA In Connection Therewith*.

Section 23.2 in clear and unambiguous terms provides that "the National Labour Court shall have exclusive appellate jurisdiction over all labor cases as appealed to it from decisions of the hearing officers and the procedure and method of enforcement shall be the same as the debt courts. Debt cases are ordinarily commenced by writ of summons, based on written directions to the clerk for the party or his counsel, and not the judge's orders. So by virtue of the plain language of Section 23.2 of the amendatory Act, it is not now necessary for a judicial review of the decision of the hearing officer at the Ministry of Labour by the National Labour Court to be commenced by a writ of summons based on written directions instead of judge's orders.

In view of the laws cited, coupled with the circumstances in this case, the motion to dismiss the petition for judicial review, should be, and the same is hereby denied. It is therefore our considered opinion that the judge of the Debt Court for Nimba County legally acquired jurisdiction over the petition for judicial review out of which this appeal grew. Accordingly, the final judgment rendered by the said Debt Court for Nimba County is hereby affirmed.

The Clerk of this Court is hereby ordered to send a mandate to the court below to resume jurisdiction and to proceed to enforce its judgment. Costs ruled against the appellant. And it is hereby so ordered.

Judgment affirmed.