

**THE LIBERIA WATER & SEWER CORPORATION**, by and thru its  
Managing Director, Appellant, v. **JOHN KOLLIE, HIS HONOUR SAMUEL K.  
KPANAN**, and Hearing Officer **PHILIP G. WILLIAMS**, Appellees.

APPEAL FROM THE NATIONAL LABOUR COURT, MONTSERRADO  
COUNTY.

Heard: April 1, 1993. Decided: July 23, 1993.

1. Where the contract is concluded between an employer and employee for an indefinite period, the employer shall have the right to dismiss the employee on condition that he gives him two weeks written notice in the case of non-salaried employee and four weeks written notice in the case of a salaried employee or payment in lieu of such notice.
2. Courts are not at liberty to declare statutes invalid although they may be harsh, unfair, or may afford an opportunity for abuse in the manner of application, may create hardships or inconvenience, or may be oppressive, mischievous in their effects, burdensome on the people, and of doubtful propriety.
3. The courts are not the guardians of the rights of the people against oppressive legislation which do not violate the provisions of the constitution. The protection against such burdensome laws is by appeal to the justice and patriotism of the people themselves or of their legislative representatives.
4. The judiciary must conform to the law as it stands. If relief from a rule of law which works an injury or prevents a proper administration of justice is declared, especially if that rule is prescribed by statute, application must be made to the lawmaking power, and not to the courts.
5. The courts have no legislative powers, and in the interpretation and construction of statutes, their sole function is to determine, and within the constitutional limits of the legislative power to give effect to the intention of the legislature. They cannot read into the statute something that is not within the manifest intention of the legislature as gathered from the statute itself. To depart from the meaning expressed by the words is to alter the statute, to legislate and not to interpret.
6. Until the National Legislature shall have amended or repealed section 1508 (3), no employer shall be required to assign any cause when dismissing an employee under

the aforementioned section of the Liberian Labour Practices Law.

The gravamen of this appeal is that the appellant terminated the services of the Co-appellee John Kollie without cause, in accordance with section 1508(3) of the Labor Practices Law of Liberia. The hearing officer and the judge of the National Labour Court rendered judgment in favor of the co-appellee. In *reversing* the decision of the trial court, the Supreme Court held that under section 1508(3) of the Labor Practices Law of Liberia, an employer is not required to show cause for dismissing an employee.

*Jamesetta E. Howard* appeared for the appellant. *Moses K Yangbe* appeared for the appellee.

MR JUSTICE SMALLWOOD delivered the opinion of the Court.

On the 31st day of March A. D. 1992, the Deputy Managing Director for Administration of Liberia Water & Sewer Corporation, Mr. Edwin L. Roger, Jr., wrote to the corporation's warehouse clerk, John Kollie, the following letter:

LWSC/DMMA/018-02/' 92 Mr. John Kollie Warehouse Clerk Liberia Water & Sewer Corporation. Dear Mr. Kollie:

The Management of the Liberia Water & Sewer Corporation, availing itself of its rights under section 1508 (3) of the Labour Practices Law of Liberia, wishes to inform you that it is terminating your services as of March 31, 1992.

You will therefore accordingly check with the Manpower Department of LWSC to receive your cash entitlement, representing November and December, 1991 salaries, January to March 1992 salaries, transportation allowances for February and March 1992, one month pay in lieu of notice, and one month pay for unused annual leave. We appreciate the time you have served this Corporation.

Very truly yours, Liberia Water & Sewer Corporation Edwin L. Rogers, Jr.  
Deputy Managing Director/Administration Approved: Manfred A. Verdier  
MANAGING DIRECTOR

On April 15, 1992, the National Seamen, Port & General Workers Union referred the matter to Honorable. Francis F. Wesseh, Assistant Minister of Labour Standards, Ministry of Labour, Monrovia, Liberia, in a letter signed by its Vice President for

Administration, Thomas P. Mooney, claiming that Mr. Kollie had been illegally dismissed and requested a hearing.

According to the records certified to this Court from the trial court, the request for a hearing was granted and commenced on the 4<sup>th</sup> day of May, A. D. 1992, at the Ministry of Labour before Relations Officer Philip G. Williams, who sat in as hearing officer. The complainant was represented by a representative of the National Port & General Workers Union. Instead of allowing the complainant to take the witness stand, the Union representative requested "clarification" on the record regarding the interpretation of section 1508(3) of the Labour Laws which was the basis for the dismissal of the complainant. Defendant's counsel, response thereto stated that: "since the issue was an issue of law requiring the interpretation of section 1508(3) and plaintiff's representative has appropriately requested this Ministry for clarification of this law, counsel for defendant requests that the hearing officer, instead of going into the matter, gives the interpretation of 1508(3) to the complainant so that this matter can be settled". The hearing officer made the following interpretation on the records: "where the contract is concluded between the employee and the employer for an indefinite period, the employer shall have the right to dismiss the employee on condition that the employer gives the employee two weeks written notice, in the case of non-salaried employee, and four(4) weeks written notice, in the case of salaried employee or payment in lieu of such notice. To the best of my understanding, this is the definition given by 1508(3), and to the best of my understanding, I do not know as to whether any payment has been made to the complainant in this case regarding his entitlement".

During the hearing, the complainant testified that he was employed by Liberia Water & Sewer Corporation in the year 1981 and was honored by the corporation in 1983. In 1988 he was sent to the Agricultural and Industrial Training Bureau for training in material management and warehousing, which covered a training period of 20 hours. He was awarded a certificate. He also testified that in December 1991 he was accused and taken to court for criminal facilitation and according to him the "reasons" management took him to court were not "proven". In support of this allegation he presented to the hearing officer a certificate from the magisterial court of Monrovia which reads as follows:

"Certificate of Court

"This is to certify that from a careful perusal of the court's record, in the case R. L. by and thru L.W.S.C. Private Prosecutor Versus John Kollie Defendant. Crime: Criminal

Facilitation

Prosecution has failed to prosecute defendant John Kollie, thereby abandoning said cause. Hence, defendant John Kollie is hereby discharged by this court from further prosecution and or answering to any charges as was levied against him. Hence this certificate of clearance.

Given under my hand and seal of this Court, this 5th day of March, A. D. 1992.

Sgd. Alexander T. Chea Alexander T. Chea CLERK OF COURT  
MONROVIA CITY COURT"

There is no mention in the records of the hearing of this matter at the Labour Ministry that the complainant was suspended from work for the duration the alleged criminal action was before the magisterial court. However, according to the brief of the appellee's counsel and his argument before this Court, the complainant is said to have returned to work and he was accepted after he received the clearance from the court on March 5, 1992. On March 31, 1992, he was dismissed under 1508-3 of the Labour Practices Law and instructed to check with the Manpower Department of LWSC to receive his entitlements, representing November and December 1991 salaries, January to March 1992 salaries, one month pay in lieu of notice, and one month pay for your unused annual leave.

The complainant, throughout the trial, contended that he was dismissed because of prejudice, and that his dismissal was therefore wrongful.

The appellant, Liberia Water & Sewer Corporation, for its part, gave no evidence at the hearing and has contended all along that the Labour Practices Law, at section 1508-3 thereof, gives the employer the right to dismiss any employee under contract for an indefinite duration by simply giving him two weeks notice in the case of non-salaried employee and four weeks notice in the case of salaried employee, and paying benefits mandated by law in such case without assigning any cause or ground for termination. Appellant also contended that the appellee's act of imputing a reason for his dismissal, other than that provided by the statute, as contained in the letter of dismissal, is erroneous.

The hearing officer in his ruling said: "Therefore, the failure on the part of the aforementioned defendant (LWSC) to rebut, refute and exonerate itself from the allegation made by complainant that his services were terminated merely for an alleged crime, from which he was acquitted by the Monrovia City Court, holds

sufficient justification for an action of wrongful dismissal perpetrated against him by the aforementioned defendant corporation". He cited Section 1508 (5) which he also quoted. He also cited Section 9 (a)(ii) and awarded the complainant, now appellee, the following:

24 months salary times \$278.00 =	\$6, 672.00;
5 months salary arrears times 278.00 =	1,390.00
1 month salary as accrued annual leave =	278.00
Total =	\$8,340.00

The appellant announced an appeal to the National Labour Court of Liberia. The ruling of the National Labour Court was rendered on the 24th day of July A. D. 1992, confirming the ruling of the hearing officer that appellant dismissed the appellee for cause under 1508(5).

In his ruling, the judge of the National Labour Court also stated: "The Supreme Court, pursuant to its power of judicial review, is empowered, under Article 2 of the Constitution, to declare any inconsistent law unconstitutional. If and whenever this case reaches the Supreme Court, perhaps it would be a chance for this Court of last resort to lay to rest once and for all the constitutionality or unconstitutionality of this famous 1508 (3) "Sub-section 3 of 1508 provides:

"Where the contract is concluded between the employer and the employee for an indefinite period, the employer shall have the right to dismiss the employee on condition that he gives him two weeks written notice in the case of non-salaried employee and four weeks written notice in the case of salaried employee or payment in lieu of such notice" Labour Laws of Liberia, Second Edition (1974), Section 1508(3).

Courts are not at liberty to declare statutes invalid although they may be harsh, unfair, or may afford an opportunity for abuse in the manner of application, may create hardships or inconvenience, or may be oppressive, mischievous in their effects, burdensome on the people, and of doubtful propriety .

The courts are not the guardians of the rights of the people against oppressive legislation which do not violate the provisions of the constitution. The protection against such burdensome laws is by an appeal to the justice and patriotism of the people themselves or of their legislative representatives. 11 AM. JUR., *Courts*, § 136, pages 802-803.

All rules of law must be so interpreted, when applied to the facts of a given case, so as to bring about practical justice if possible. To this effect, the judiciary must conform to the law as it stands. If relief from a rule of law which works an injury or prevents a proper administration of justice is desired, especially if that rule is prescribed by statute, application must be made to the lawmaking power, and not to the courts. 14 AM. JUR., § 44, page 275.

Mr. Justice Tubman speaking for the Court in 1942 in the case *Roberts v. Roberts*, and quoting from 25 R.C.L. -*Statutes*, § 218, at pages 963 - 964 (1919), said:

"The courts have no legislative powers, and in the interpretation and construction of statutes their sole function is to determine, and within the constitutional limits of the legislative power to give effect to, the intention of the legislature. They cannot read into a statute something that is not within the manifest intention of the legislature as gathered from the statute itself. To depart from the meaning expressed by the words is to alter the statute, to legislate and not to interpret. If the true construction will be followed with harsh consequences, it cannot influence the courts in administering the law. The responsibility for the justice or wisdom of legislation rests with the legislature, and it is the province of the courts to construe, not to make, the laws..." *Roberts v. Roberts*, 7 LLR (1942) text at page 367.

In 1989, this Court interpreted this statute in an opinion delivered by Mr. Justice Kpomakpor in which he said:

"The reliance placed upon *Berry* is misplaced, to say the least, as there was no statutory authority for the Court's position in 1982 and definitely there is none today. As a consequence of this fact, we hereby overrule that position of the *Berry* opinion in so far as it prescribed, in violation of section 1508(3), that as a prerequisite to dismissing an employee, the employer must assign a cause or causes. In 1982, when the *Berry* case was heard, the relevant statute found in the Labour Practices Law of Liberia was section 1508(3). Today, the statute word is still the same; it has not been repealed, or even amended. Although the facts and circumstances in the *Berry* case and those in the case at bar are clearly distinguishable, we must overrule the former because we wish that trial judges and others will guard against reliance being placed upon it in the future". *The Management of BAO v. The Mulbah and Sikeley*, 36 LLR 404 (1989).

Even though the holding in the *Firestone Plantations Company v. Berry* case was

overruled in 1989, judges and lawyers are still relying on the said case to interpret section 1508(3) of the Labor Practices Law. Subsection 3 of section 1508 is very clear, unambiguous, and unequivocal. Therefore, we are in complete agreement with the Court's holding in the *BAO* case, and, until the National Legislature amends or repeals sub-section 3 of section 1508, no employer shall be required to assign any cause when dismissing any employee under section 1508-3 of the Labour Practices Law.

The ruling of the judge of the National Labour Court of Liberia affirming and confirming the ruling of the hearing officer of the Ministry of Labour in this matter, is hereby reversed and the appellee shall be paid his entitlement as outlined in the letter of dismissal only. The Clerk of this Court is instructed to send a mandate to the trial court commanding the judge presiding therein to resume jurisdiction over the case and give effect to this opinion. Costs are disallowed. And it is hereby so ordered.

*Judgment reversed.*