

**MONROVIA BREWERIES INC.**, by and thru its General Manager, MR. PETER BENHARDT, Appellant, v. **JOSIAH KORH et al.**, and **JOSEPH K. KPAKUYOU**,  
Hearing Officer, Appellees.

APPEAL FROM THE NATIONAL LABOUR COURT.

Heard: May 16, 1989. Decided: July.14. 1989.

1. No appeal bond is required for appeal in labor cases from the decision of the hearing officer at the Ministry of Labour to the National Labour Court.
2. The proper relief for failure to file appeal bond, where statutorily required, is motion to dismiss appeal and not confirmation of ruling sought to be reviewed.

The appellees, who were former employees of Monrovia Breweries, Inc., appellant, filed an action of unfair labor practice at the Ministry of Labour in December 1987, alleging that the appellant had withheld their back pay (wages) from 1972 to 1980, totaling \$93,680.00. The hearing officer of the Ministry of Labour heard and ruled in favor of appellees in July 1988, awarding each affected employee the sum of \$40.00. To this ruling, the appellant excepted and announced appeal to the National Labour Court.

At the call of the case in the National Labour Court, the judge presiding therein raised the issue of appellant's failure to file an appeal bond as, in his words, provided for in Section 51.8 of the Civil Procedure Law, Rev. Code 1, which issue had neither been raised nor argued by any of the parties before the court. Passing upon the said issue and without entertaining arguments from the parties, the trial judge confirmed and affirmed the ruling of the hearing officer. The appellant appealed from the said ruling to the Supreme Court for review and determination.

At the call of the case before the Bench *en banc*, counsel for appellant prayed and requested the Court to remand the case for hearing in the Labour Court on its merits. The counsel for appellees not having interposed any objections, the Supreme Court reversed the ruling of the trial judge and remanded the case, with instructions that the court below resume jurisdiction and make a determination of the case commencing with the disposition of law issues.

In remanding the case, the Supreme Court opined that the ruling of the trial judge was erroneous as no appeal bond was required in labor cases on appeal before the National Labour Court. The Supreme Court also ruled that where appeal bond is statutorily required for perfection of an appeal and the appellant does not comply with the statute, the procedure is not to confirm and affirm the ruling appealed from but, rather, to dismiss the appeal upon motion properly made. The ruling was reversed and the case remanded.

*H. Varney G. Sherman* for appellant. *The Koenig, Cassell and Garlawolu Law Firm* for appellees.

MR. JUSTICE AZANGO delivered the opinion of the Court.

On December 1, 1987, appellees, former employees of the Monrovia Breweries, Inc., appellant herein, filed an action of unfair labor practice before the Ministry of Labour against appellant for allegedly withholding appellees' back pay (wages) covering the period, 1972-1980, amounting to Ninety-Three Thousand Six Hundred Eighty Dollars (\$93,680.00). The appellees contend that while they were within the employ of the appellant, Monrovia Breweries, Inc., the management entered into an extra contractual agreement with Guinness Stout, a separate entity other than appellant, for which appellees were made to produce Guinness Stout and alcoholic beverages covering the period 1972-1980. Appellees contended that for this contract, appellant failed to pay back wages to the appellees; and so they now claim these wages as back pay.

On the 24th day of February, A. D. 1988, the hearing officer of the Ministry of Labour, Mr. Joseph F. Kpukuyou heard the said case and ruled on the 25<sup>th</sup> day of July, A. D. 1989 in favour of the appellee and ordered the appellant to pay each affected employee the sum of Forty Dollars (\$40.00) instead of Thirty Dollars (\$30.00) as ruled by the Labour Ministry in 1982. To this ruling, appellant excepted and announced an appeal to the National Labour Court, Montserrado County for judicial review.

The National Labour Court presided over by His Honour Judge Harper S. Bailey on the 20<sup>th</sup> day of September, A. D. 1988, did not proceed with trial at the call of the case on grounds that the Appellant did not file an appeal bond with the National Labour Court as provided by the Civil Procedure Law, Rev. Code 1: 51.8. Yet, Judge Bailey confirmed and affirmed the ruling of the hearing officer. To Judge Bailey's ruling, the appellant excepted and announced an appeal to the Honourable Supreme Court of Liberia sitting in its March Term A.D. 1989 on a five-count bill of exceptions, which we hereby quote for the benefit of this opinion.

1. Appellant says Your Honour erred in *sua sponte* raising the issue as to the necessity of appeal bonds and other requirements for completion of appeals under the Civil Procedure Law, Rev. Code 1: 51.4 and 51.8 for judicial review of rulings emanating from hearing officers of the Ministry of Labour. Appellant submits that said issue was not raised in the pleadings, and so Your Honour should have confined yourselves to issues raised in the pleadings. Moreover, no motion to dismiss appellant's appeal was filed by appellees.

2. Appellant says Your Honour erred in affirming and confirming the hearing officer's ruling of July 25, 1988, because no approved appeal bond was filed by appellant. Appellant submits that the civil procedure law on appeal from courts of record is inapplicable to appeals from administrative forum, the latter being a part of the Executive Branch of Government, and that said law only applies to the Judicial Branch of Government that is the judiciary.

3. Your Honour also committed error in that Your Honour's judgment is indefinite by not stipulating a fixed sum of money awarded to the appellees.

4. Your Honour erred in ordering appellant to submit employment records because additional evidence cannot be received by this Honourable court under the law.

5. Because Your Honour erred in disallowing appellant's counsel to make an application for Your Honour to order correction of the records by the clerk of the Labour Ministry in view of the irregularity of the clerk of the Labour Ministry in filing with this Honourable court the original records and omitting therefrom the ruling of the hearing officer of July 25, 1988, which act of the clerk is not above suspicion and unfair to appellant; when appellant's counsel had superintended the photocopying of the original records, including the hearing officer's ruling, for certification by the clerk of the Ministry of Labour, who without notice, instead filed the original records with this Honourable court and omitted therefrom the said ruling of the hearing officer. Appellant submits that the mistake and omission on the part of the clerk of the Ministry of Labour could have been remedied by an order of Your Honour so as to promote the ends of substantial justice since it is the duty of the clerk of the Ministry of Labour to transmit records to the National Labour Court.

At the call of the case by the Honourable Supreme Court of Liberia, counsel for appellant, Counsellor Varney Sherman prayed this court to remand the case to the National Labour Court to enable the commissioned judge therein to hear and determine the petition for judicial review on its merits. The counsel for appellees, Counsellor Henrietta M. Koenig, having realized the legal soundness of this prayer of Counsellor Sherman, interposed no objection to the submission made by the counsel for appellant and therefore prayed the Court to send a mandate to the National Labour Court, ordering said court to re-hear the petition of the appellant and the returns of the appellees, thereby granting unto appellees such further and other relief as justice and equity may demand in the premises.

From the review of the Judge Bailey's ruling, coupled with the submission made by both counsels, we are left with no other alternative but to reverse the erroneous ruling of Judge Bailey. The Labour Practices Law of Liberia clearly provides that an appeal bond is not required to perfect appeal in labor cases from the ruling of the hearing officer to the National Labour Court.

Besides, we are of the opinion that the trial judge should have dismissed the appeal if he felt that an approved appeal bond was required. Such a decision would have been in line with our statute, which makes the failure to file an appeal bond grounds for the dismissal of an appeal.

But contrary to these established rules, Judge Bailey elected to confirm and affirm the judgment of the hearing officer, which he had not heard or reviewed.

WHEREFORE, and in view of the foregoing facts and circumstances, the erroneous ruling of Judge Bailey should be, and the same is hereby reversed and the case is remanded . The

judge of the National Labour Court is hereby mandated to take jurisdiction over the instant case and proceed with the hearing and determination of this case. And it is hereby so ordered.

*Judgment reversed.*