

**IN THE HOHOURARLE SUPREME COURT OF THE REPUBLIC OF LIBERIA
SITTING IN ITS MARCH TERM A.D. 2019**

PRESENTS: HIS HONOR FRANCIS S, KORKPOR, SR.....CHIEF JUSTICE
PRESENTS: HER HONOR JAMESETTA H. WOLOKOLIE.....ASSOCIATE JUSTICE
PRESENTS: HER HONOR SIE-A- NYENE G. YUOH.....ASSOCIATE JUSTICE
PRESENTS: HIS HONOR JOSEPH N. NAGBE ASSOCIATE JUSTICE
PRESENTS: HIS HONOR YUSSIF D. KABA..... ASSOCIATE JUSTICE

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| The Management of Lee Group Enterprises, Inc. |) | |
| of Salala District, Bong County..... | APPELLANT) | |
| |) | |
| Versus |) | APPEAL |
| |) | |
| His Honor J. Boima Kontoe, Assigned Judge, Debt Court |) | |
| for Bong County, His Honor Jackson Quiogbian, Labor |) | |
| Commissioner and Arthur Johnson of Salala District.... | APPELLEES) | |
| |) | |
| GROWING OUT OF THE CASE: |) | |
| |) | |
| The Management of Lee Group Enterprises, Inc. |) | |
| of Salala District, Bong County..... | PETITIONER) | PETITION |
| |) | FOR |
| |) | JUDICIAL |
| Versus |) | REVIEW |
| |) | |
| His Honor Jackson Quiogbian, Labor Commissioner |) | |
| and Arthur Johnson of Salala District, Bong County.. | RESPONDENT) | |
| |) | |
| GROWING OUT OF THE CASE: |) | |
| |) | |
| Arthur Johnson of Salala District, Bong County..... | COMPLAINANT) | |
| |) | UNFAIR LABOR |
| Versus |) | PRACTICE |
| |) | |
| The Management of Lee Group Enterprises, Inc. |) | |
| of Salala District, Bong County..... | DEFENDANT) | |

HEARD: May 7, 2019

DECIDED: August 5, 2019

MADAM JUSTICE WOLOKOLIE DELIVERED THE OPINION OF THE COURT

This case comes to us on appeal from the Debt Court of Bong County, where the judge presiding therein affirmed the Labor Commissioner's ruling and award of compensation and other benefits to the appellee for unfair Labor Practice.

The appellee, a former employee of the appellant, seeks just compensation for his services and employment benefits alleged to have been wrongfully withheld by the appellant. The appellee's claims cover overtime, additional tasks assigned him as acting cashier, rent, and other employment benefits. The appellant rejects appellee's claims seeking a

review by the Supreme Court of the awards made by the Labor Commissioner which were affirmed by the Debt Court of Bong County.

A review of the facts in this matter is that appellee, Arthur Johnson, executed an employment contract with the appellant, Lee Group Enterprises, Inc., a rubber company based in Salala District, Bong County. The appellee's employment commenced on May 1, 2009, for an initial two-year term for a daily wage of United States Four Dollars and Seventy Five Cents (US\$4.75). His employment expanded to a period of eight years for the same daily wage. Although the appellee was specifically hired as a weighing clerk in the appellant's rubber purchase department, the contract allowed the appellant to assign him other roles or functions based on necessity. In addition, the contract made employment benefits payments a matter of discretion to the appellant, and cautioned the appellee against unauthorized overtime work.

The appellee claimed to have worked overtime for almost the entire length of his employment with the appellant. The appellee further alleged that although he was one of several workers assigned by the appellant to work overtime, the appellant initially excluded him from payment of overtime compensation; that later the appellant commenced payment of overtime to the appellee but at a rate below that of other employees who were similarly situated. Also, the appellee claimed to have briefly served as acting cashier when the appellant dismissed its cashier but his wages remained at the same rate.

Due to heightening disagreement over the appellee's aforementioned claims, the appellant terminated the appellee's eight-year employment and on March 1, 2014, appellee was made to sign and issue a release in consideration of his claims for a settlement amount of US\$1,311.37 (One Thousand Three Hundred Eleven United States Dollars and thirty-seven cents). The release was witnessed by the Labor Inspector for Bong County, and approved by the Regional Labor Commissioner.

The appellee accepted the release payment writing on the receipt his reservation, "vehement protest on overtime and others". Thereafter, on February 25, 2014, appellee filed a complaint of unfair labor practice with the Office of the Labor Commissioner for Bong County. Based on his own calculation, the appellee, Arthur Johnson prayed the Labor Commissioner for an award of US \$15,000.00 (Fifteen Thousand United States Dollars) for his

multiple claims which included overtime, payment for additional task assigned him as acting cashier, rent, and other employment benefits.

We note that twenty-three (23) other employees of the appellant, Lee Group Enterprises, Inc. were before the Labor Commissioner with similar complaints against the company. Because the several complainants shared similar claims against the appellant, the Labor Commissioner consolidated the complaints for hearing. However, before the conduct or a full investigation, the other complainants agreed to a compromise settlement with the appellant, thereby making Arthur Johnson the appellant's lone adversary in the full hearing.

The investigation with the Appellee Arthur Johnson was conducted before the Labor Commissioner, Jackson P. Quigbian, and on February 9, 2018, he handed down an adverse ruling against the appellant. We herewith incorporate the said ruling as quoted below:

"... In the case of Co-Complainant Arthur Johnson, the issue of overtime is not in dispute, Defendant/Management lone witness in person of Mr. Sekou Donzo, Human Resource Manager, admitted that indeed, they, Management, authorized overtime when there was influx of rubber at the factory. See Defendant/Management's witness answer on the cross on page 35 of August 15, 2017 sitting in this case file. This alone is admission [that] Arthur Johnson worked overtime as per his claim.

Moreover, or more besides, Arthur Johnson served in the capacities from the position of weighing clerk to the cashier office. Meaning after the dismissal of the cashier by Defendant/Management, she (Defendant/Management) requested Arthur Johnson to perform the duties of cashier while serving as weighing bridge clerk. The cashier's salary was US\$250.00 and co-complainant served in this position for three months without being paid for services rendered in said position which payment amounts to US\$750.00.

Wherefore and in view of the circumstances surrounding the case of Co-complainant Arthur Johnson, the investigation hereby rules against Defendant/Management for meting unfair labor practice against Mr. Arthur Johnson, co-complainant in these proceedings.

Defendant/Management is therefore liable to pay to the co-complainant his claim of US\$15,750.00...."

The appellant, dissatisfied with the Labor Commissioner's ruling, excepted and pursued a judicial review of the ruling before the Debt Court of Bong County.

We note that the appellee commenced these proceedings on February 25, 2014, before the Labor Commissioner for Bong County who concluded the investigation, ruled and made an award on February 29, 2018. We further note that the Legislature enacted on September 24, 2015 an Act to repeal Title 18 of the Labor Law, Labor Practices Laws, 18-A, and established in lieu thereof the Decent Work Act (2015). The Labor Law, Title 18, and the Labor Practices Laws, Title 18-A (1961) which previously governed labor matters when the complaint was filed before the Labor Commissioner was repealed at the time the Labor Commissioner concluded the investigation and made his ruling.

The petition for Judicial Review has no filing date thereon; however, the petitioner's affidavit annexed thereto was sworn on March 19, 2018. Moreover, the Writ of Summons issued from the Debt Court is dated March 21, 2018, and the heading of said summons shows that the Debt Court was sitting in its March Session A.D. 2018; thereby, placing the period of the judicial review within the ambits of the Decent Work Act (2015), which provides that in the event no Labor Court exists in the county in which a Labor Commissioner of the Ministry of Labor investigates a labor matter and makes a ruling, a petition for judicial review of said Labor Commissioner's ruling should be filed before the Circuit Court of that County.

Judge J. Boima Kontoe, then presiding in the Debt Court of Bong County, failed and neglected to take cognizance of the court's jurisdiction over the subject matter as per the Decent Work Act (September 2015), Chapter 10, section 10.2 (b), and entertained the Petition for Judicial Review in the Debt Court, and upon hearing of the matter ruled affirming the Labor Commissioner's ruling.

Neither the parties nor the Presiding Debt Court Judge took cognizance of the lack of the court's jurisdiction over the petition for judicial review of the Labor Commissioner's Ruling in keeping with the Decent Work Act (September 2015), Chapter 10-**Appeals**, Section 10.2 **Jurisdiction**. The parties as well as the Judge pursued the practice under the repealed Labor Statute, which provided for the Debt Courts of counties without Labor Courts to assume intermediate appellate jurisdiction over labor matters in their respective jurisdictions. Section 23.16 "SPECIAL JURISDICTION OF DEBT COURT IN LABOR CASES" of the repealed statute stated:

"Until the Judges of the Labor Courts herein created are appointed and commissioned in each county of *the* Republic of Liberia, except Montserrado County, the Debt Court therein shall exercise jurisdiction over all Labor Cases on appeals from the rulings of Hearing Officers Or Labor Commissioners in their respective jurisdictions."

The Decent Work Act (September 2015), Chapter 10-**Appeals**, Section 10.2 **Jurisdiction** repealing the Labor Law and Labor Practices Laws (1961) provides that appeals from Hearing Officers or Labor Commissioners should be pursued in the following Manner:

- a) Proceedings under this part shall be brought before the Labor Court of the County in which the Ministry held its hearing in the case,
- b.) *In the event that there is no Labor Court in the county in which the Ministry of Labor held its hearing in the case, proceedings shall be brought before the circuit Court of the county in question. [Our Emphasis]*

A recourse to the law in our jurisdiction is that courts of Liberia, including the Supreme Court, are duty bound to first determine their own jurisdiction over a given matter, because where jurisdiction is wanting, every action taken by such courts is *void ab initio*; that when a court is presented with a case, the first determination it must reach is whether the Legislature has conferred upon it the authority to preside over the matter; that a court must recognize want of jurisdiction over subject matter of a cause *even* if no objection is made by any of the parties thereto. : *Mulbah v. Rulie*, Supreme Court Opinion, October Term, A.D. 2014; *Firestone Plantation Company v. Kollie* 41 LLR 63,78 (2002); *Boakiini and Talinco General and Construction Enterprises v. Karel Logging Corporation*, 37 LLR 247,252 (1993); *Jappeh v. Thain* 35 LLR 82, 89 (1988); *National Milling Company of Liberia v. Bridge way Corporation*, 36 LLR 776, 781 (1990); *Vargas v. Morris et al.*, 39 LLR 18, 22 (1998); *Ministry of Lands, Mines and Energy et al. v. Liberty Gold et al.*, Supreme Court Opinion, October Term, A.D. 2014; *Baakini and Metropolitan v. Henries, Younis et al.*, 39 LLR 303, 311 (1999); *Umehai and Kpukuyou v. The Management of Mezbeu, Inc.*, 35 LLR 406, 412 (1988).

In line with our Civil Procedure Statute (1974), section 25.1.1 which states that "every court of the Republic of Liberia shall without request take judicial notice of the Constitution and of the public statutes and common law of the Republic", and the Debt Court of Bong County, having no jurisdiction over the subject matter of appeal in labor cases, in light of the enactment of the Decent Work Act (2015), the presiding Judge should have *sua sponte* taken judicial notice of the new statute in vogue and dismissed the case for lack of jurisdiction.

In view of the foregoing, we are constrained to vacate the ruling of the court below without prejudice to the parties; ordering that the Petition for Judicial

Review be filed before the proper court with jurisdiction to review labor matters on appeal from rulings of the Labor Commissioner of the County.

The Clerk of this Court is ordered to send a mandate to the court below to resume jurisdiction of the case and give effect to this Judgment. Costs ruled against the appellants. AND IT IS HEREBY SO ORDERED.

WHEN THIS CASE WAS CALLED FOR HEARING, COUNSELLOR NECULAR Y. EDWARDS OF THE DEAN AND ASSOCIATES LAW OFFICES APPEARED FOR THE APPELLANT. COUNSELLOR FESTUS K. NOWON OF THE DUGBOR LAW FIRM APPEARED FOR THE APPELLEE.