

MEDICINE SAN FRONTIERES (MSF), Appellant, v. GOVERGO M. KOLLIE,  
COMFORT N. NATT, Judge, National Labour Court for Montserrat County, PHILIP G.  
WILLIAMS, Hearing Officer, Ministry of Labour, Appellees.

APPEAL FROM THE JUDGMENT OF THE NATIONAL LABOUR COURT FOR  
MONT5ERRADO COUNTY.

Heard: April 23, 2001. Decided: July 5, 2001.

1. A letter from an employee to an employer informing the employer that the employee is taking sick leave to seek traditional medication because of the deterioration of his health is not a request to the employer to grant the employee sick leave.
2. An employer is under no obligation to reply to an employee's letter granting him sick leave where a request is not made in the said letter for sick leave or approval sought from the employer.
3. An employee is considered to have abandoned his post of assignment where he leaves the area of his employment to seek further medical treatment from a traditional clinic without the permission of his employer.
4. Every employee whose illness is substantiated by a licensed doctor's report regarding his illness shall have a right to sick leave in the following manner: After his first, second, and third year of continuous employment, six working days per annum, and after the fourth year, twelve working days per annum.
5. The labor laws require that the illness of an employee must be substantiated by a licensed medical doctor's report as a pre-condition to the granting of sick leave.
6. The departure of an employee from his place of work to seek further medical treatment, without a medical report of a licensed doctor and the permission of his employer, is tantamount to an abandonment by the employee of his job and cannot be construed as wrongful dismissal.
7. An employee with a valid employment contract who abandons his job is not considered to have been wrongfully dismissed by his employer when he is denied reinstatement and other benefits by the employer, and the employee is not entitled to any of the benefits prescribed by the labor laws.

The appellee, an employee of the appellant, complained of illness, for which he was referred by the appellant to the appellant's clinic located within the area of his post of assignment. When his condition did not improve, the appellee wrote a letter to the appellant stating that he was leaving to seek traditional treatment for his illness. After several months, the appellee returned to his employer and sought reinstatement. The employer refused, stating that the appellee had abandoned his employment. Whereupon the appellee instituted an action of unfair labour practices in the Ministry of Labour. The hearing officer at the Ministry of Labour found the appellant liable for wrongful dismissal and awarded the appellee accordingly. That ruling was confirmed on appeal by the National Labour Court for Montserrado County.

On a further appeal to the Supreme Court, however, the rulings of the hearing officer and the National Labour Court were modified. The Supreme Court found that the appellee had not requested permission from the appellant to take sick leave in order to seek a cure to his illness through traditional medication away from his workplace. Rather, the Court observed, the employee had merely informed the employer of his intentions. The Court concluded that under such circumstances, the employer has no obligation to respond to the employee's letter. It therefore held that the departure by the employee, without the permission of the employer, was tantamount to an abandonment by the employee of his job, that the refusal of the employer to reinstate the employee did not constitute wrongful dismissal, and that under such conditions the employee was not entitled to any of the benefits prescribed by the Labor Practices Laws of Liberia. The Court noted that under the Labor Laws of Liberia, an employee is entitled to sick leave only upon a licensed medical doctor's report regarding the illness of the employee. The employee submitted no such medical report to support his claim of illness as would have warranted his departing for traditional treatment away from the area of his work assignment. His absence was therefore not supported by law.

The Court therefore concluded that the appellee was entitled to only two months' salary, one month for May when he departed the area of his work assignment for Monrovia, and the other month for September when he applied for and was denied reinstatement.

Molly Gray of Jones and Jones Law Firm appeared for the appellant. Joseph Nagbe of Kemp and Associates Legal Chambers, Inc. appeared for the appellee.

MR. JUSTICE SACKOR delivered the opinion of the Court.

The certified records transmitted to this Court show that the co-appellee herein, Govergo M. Kollie, was employed by Medicine San Frontieres, the appellant, under an employment contract executed on January 2, 1997 between the appellant and the appellee, to be operational on a monthly basis, commencing January 1, 1997 up to and including January 31, 1997. The monthly contract was renewed on January 20, 1997, under the same terms and conditions stated in the original contract or memorandum of understanding. Based thereon, the appellee served the appellant in various positions and was subsequently assigned at M. S. F.'s Feeding Center in Finutolee, Bong County, as a supervisor.

Sometime in May, 1997, the appellee became ill. When he informed the appellant about his illness, the appellant granted him an excuse so that he could seek medical treatment at the Finutolee Clinic, in Finutolee, Bong County. Dr. Hilary, the assigned medical doctor to the clinic, examined the appellee and treated him for one week.

On the 26th day of May, A. D. 1997, the appellee wrote a letter to the appellant, by and thru its expert assigned at the Salala Office, informing the appellant that he (the appellee) was taking his sick leave on the same day in order to seek traditional treatment. He also stated in the said letter that one Lawrence Hanlebah would act in his place during the period of his absence, and that Mr. Hanlebah would liaised with the appellant for any information pertaining to the appellee. The records further show that the appellee wrote the appellant on the 18th day of June, A. D. 1997, informing the appellant that he was still sick and that he was undergoing treatment at the Herbalist Center in Logan Town because he was affected by African poison, which required that he undergoes a specific treatment. The appellant did not reply appellee's two letters of May 26 and June 18, 1997, respectively, on the ground that said letters did not have any return address.

On the 9th day of September, A. D. 1997, following his sick leave from May 26, 1997 up to September 8, 1997, the appellee reapplied for employment upon the suggestion of the appellant. He also requested the appellant to settle his salary arrears for the period of his sick leave as well as his accrued holiday pay. The appellant rejected his request of reinstatement as well as payment of his salary and other benefits, stating as the ground that the appellee had abandoned his job.

It was from this rejection of the appellee's request by the appellant that the appellee, on November 18, 1997, filed a complaint of unfair labor practices against the Management of MSF International claiming the sum of US\$1,012.50, representing six months salaries from June to November 1997, holiday pay from January to December 1997, and medical bills. On the 16th day of June, A. D. 1998, the hearing officer at the Ministry of Labour, Mr. Philip C.

Williams, ruled against the appellant and awarded the appellee the sum of US\$5,019.52, representing 13 months salaries, from May 1997 to June 1998; 8 public holidays in the amount of US\$7.44 per day; 24 months' salary at US\$130.00 per month in lieu of reinstatement; and a medical bill of US\$150.00. The appellant excepted to this ruling, and on the 25th day of June, A. D. 1998, filed an 8-count petition for judicial review before Her Honour Comfort S. Natt, presiding over the June Term, A. D. 1998, of the National Labour Court for Montserrado County. In count 3 of its petition, the appellant contended that the appellee had abandoned his post of assignment for a protracted period of time without any excuse from the appellant, and that he had refused to be treated by a medical doctor. In count 6 of the petition, the appellant contended that its administrator had never authorized the appellee to seek medical treatment outside of his place of assignment or under the supervision of an authorized traditional herbalist. Hence, the appellant asserted that the ruling of the hearing officer was erroneous and therefore reversible.

The appellee filed an 11-count returns to the petition for judicial review. This Court deems counts 5 and 9 to be relevant and germane to the determination of this case. In count 5 of the returns, the appellee contended that he did not abandon his post of assignment, but that he had requested for and was granted an excuse to seek further medical treatment as he was declared sick by Finutolee Clinic. In count 9 of his returns, the appellee averred that his sick leave was acknowledged by the appellant and evidenced by the testimony of the appellant's own witness, in person of one Gabbo Togba. Hence, the appellee urged the National Labour Court to confirm the ruling of the hearing officer.

On the 13th day of October A. D. 1998, Her Honour Comfort S. Natt, judge of the National Labour Court for Montserrado County, confirmed the ruling of the hearing officer and awarded the appellee the sum of US\$5,019.25, representing all of his salary arrears and other benefits. The judge ruled that the appellant management had condoned the appellant's letter of excuse by remaining silent, and that the said act was tantamount to consenting thereto. She also ruled that the appellant should have given a written letter of dismissal to the appellee. She therefore held that the dismissal of the appellee by the appellant, without any written letter, was illegal. The appellant excepted to this ruling and announced an appeal therefrom to this Honourable Court upon an 8-count bill of exceptions.

The appellant averred in counts 5, 6, and 7 of the bill of exceptions that the trial judge committed a reversible error when she ruled in favor of the appellee, and that she failed to apply the rule of abandonment provided for by the Labor Laws of Liberia. The appellant also alleged in its bill of exceptions that the appellee had walked off the job without any written excuse from the appellant, and that thereafter he had written the appellant alleging his illness, without giving a return address so that he could be contacted, if necessary.

A review of the contentions stated in the briefs revealed three issues raised by the appellant before this Court, two of which this Court deems worthy of consideration. The first contention of the appellant is that an employee with a valid written contract of employment who abandons his job without the consent of his employer is not entitled to reinstatement by his employer. The appellant also argued that the appellee was not entitled to reinstatement since he had stayed away from job without furnishing his employer with a medical report emanating from a licensed medical doctor as required by law. The appellant therefore prayed this Honourable Court to reverse the ruling of the National Labour Court.

On the other hand, the appellee raised and argued three issues, two of which this Court considers relevant to the determination of this case. The appellee strongly argued before this Court that he was wrongfully dismissed by the appellant, in that he had reported his illness to the appellant and was subsequently referred to appellant's clinic in Finutolee, Bong County. Thereafter, he said, he requested sick leave from the appellant, and the request was granted. He also argued that he was in constant communication with the appellant while he was undergoing the herbalist treatment at the traditional herbalist center in Logan Town. He therefore urged this Court to rule that he is entitled to reinstatement or payment in lieu thereof.

The second contention of the appellee was that he did not leave or abandon his post of assignment, and that he had obtained the permission of the appellant since the appellant had granted him the opportunity to seek medical attention outside of his place of assignment. In this regard, the appellee maintained that the time he spent undergoing his herbalist treatment could not be construed as an abandonment of his job. He therefore requested this Honourable Court to confirm the final judgment of the National Labour Court.

The decisive issue for the determination of this case is whether or not the appellee abandoned his post of assignment? The parties to this litigation do not dispute the fact that the appellee was sick and that he sought medical treatment at the appellant's clinic in Finutolee, Bong County, sometime in May, 1997. What is in dispute is the departure of the appellee from his area of assignment, where he was being attended to by the appellant's medical doctor. The appellant contended that the appellee had left his area of assignment for the purpose of seeking herbalist treatment outside of that area without the approval of the appellant. The appellee denied abandoning his job or leaving his place of assignment without the permission of his employer, since he had requested sick leave from the appellant, which request was granted.

We deem it expedient to hereunder quote verbatim the appellee's letter of May 26, 1997 for the benefit of this opinion.

“Finutolee Feeding Center Bong County

May26, 1997

Josianne, this serves to inform you that I'm taking a sick leave today, May 26, 1997.

I want to undergo a medical check-up in Monrovia at a traditional clinic. During my absence, Lawrence Hanlebah will act in my place, so any information wanted can be received from him.

Thanks.

Truly yours,

Govego N. Kollie

Supervisor”

It is clear from the language of the appellee's letter, quoted above, that he had only informed his employer that he was taking his sick leave on May 26, 1997 to undergo medical checkup in Monrovia at a traditional clinic. That communication was in no way a request to his employer to grant him sick leave to enable him to seek further medical treatment in Monrovia at a traditional clinic since his condition had not improved at the Finutolee Clinic in Bong County. This Court therefore disagrees with the contention of the appellee that he had requested his employer to grant him sick leave on May 26, 1997, and that the said request was granted by the appellant for him to seek medical treatment outside his area of assignment.

The appellee's letter of May 26, 1997 was one of information to his employer that he was taking his sick leave on the same day. The appellant was under no obligation to reply the appellee's letter of May 26, 1997, wherein he granted himself sick leave, since no request was made by the appellee to the appellant for the latter's approval. This Court therefore holds that the appellee was never granted sick leave by the appellant to undergo medical checkup at the traditional herbalist center located in Logan Town, Monrovia. This Court rules instead that the appellee abandoned his post of assignment when he sought further medical treatment away from his area of work assignment without the permission of his employer. Section 15.1 of the Labour Laws of Liberia provides that every employee whose illness is substantiated by a licensed medical doctor's report regarding his sick leave shall have a right to leave in the following manners: After his first, second and third year of continuous

employment, six working days per annum and after the fourth year, 12 working days per annum (Emphasis ours)

We observed from the records before this Court that there is no report from a licensed medical doctor substantiating the appellee's claim of illness, entitling him to sick leave. The Labour Laws require that the illness of an employee be substantiated by a licensed medical doctor's report as a precondition for sick leave. We fail to see the legal parity of reasoning which prompted the appellee to leave his assignment where he was attended to by the management's medical doctor and/or a medical doctor's report substantiating his illness and warranting sick leave. His departure for Monrovia without such medical report and the permission of his employer was tantamount to an abandonment of his job. It therefore follows that the appellee's abandonment of his job cannot be construed as a wrongful dismissal. This Court holds that an employee with a valid employment contract who abandons his job is not wrongfully dismissed by his employer when denied reinstatement and other benefits by the employer. Such employee is also not entitled to any benefits provided for by the Labour Laws of Liberia. In the situation narrated herein, the appellee is entitled to only two months' salary, one month for the month of May 1997, when he left for Monrovia, and second month for the month of September 1997, when he applied for and the appellant denied him reinstatement.

Wherefore, and in view of the foregoing facts and circumstances, the judgment of the lower court is confirmed, but with the modification that the appellee be paid only two months' salary, as stated hereinabove. The Clerk of this Court is hereby ordered to send a mandate to the court below informing the judge presiding therein to resume jurisdiction over the case and to give effect to this opinion. Costs are ruled against the appellant. And it is hereby so ordered.

Judgment affirmed with modification.