

DAVID GARMONYOU, Appellant, v. LAMCO J.
V. OPERATING COMPANY and THE MINISTRY
OF LABOUR, Appellees.

APPEAL FROM THE NATIONAL LABOUR COURT, MONTSERRADO COUNTY.

Heard: October 16, 1988. Decided: December 29, 1988.

1. A final judgment generally grows out of the findings in a controversy and puts an end to a suit or action by declaring that plaintiff either is or is not entitled to recover the remedy sued for.
2. A decision is a determination of a judicial or quasi-judicial tribunal in the form of a judgment or decree pronounced in settlement of a controversy submitted to it; it is the authoritative answer to the questions raised before a tribunal.
3. A recommendation refers to an advisory action which does not have any binding effect.
4. Recommendations are not enforceable in law.

The Minister of Labour referred a labor dispute to the county labor commissioner to investigate whether or not 209 employees had been illegally dismissed. The labor commissioner recommended their reinstatement to the Ministry of Labour. The Ministry refused to reinstate the employees or to obtain the approval of the President of Liberia for an order compelling their reinstatement. Appellant having petitioned the National Labour Court seeking enforcement of the recommendation of the local labor commissioner. After a hearing, the National Labour Court determined that there was no decision taken by the labor commissioner that could be enforced and, accordingly, dismissed the petition. Appellant appealed to the Supreme Court, which *affirmed* the judgment of the National Labour Court, on the basis that the determination of the Labor Commissioner had not grown out of a formal complaint but, instead, was a mere recommendation growing out of an administrative investigation, and therefore was not enforceable.

J. Laveli Supuwood, Henrietta Koenig and Francis Y. S.

Garlawolo for appellants. *Boima K. Morris* for appellees.

MR. CHIEF JUSTICE GBALAZEH delivered the opinion of the Court.

This case is on appeal from the National Labour Court based on an earlier determination by the labor commissioner of Grand Bassa County. Petitioner/appellant was one of two hundred nine (209) employees dismissed by the management of Lamco J. V. Operating Company (LAMCO) in Buchanan, Grand Bassa County, for their alleged involvement in an illegal strike in 1981.

The matter was referred to the labor commissioner for Grand Bassa County by the Ministry of Labour to investigate whether or not their dismissal was illegal and required their reinstatement, as in the case of other employees whose supervisors had certified that they had reported for work at the proper time and had not taken part in the strike actions in defiance of government directives. Appellant was not among those exonerated from the strike actions and reinstated. Appellant contended that the labor commissioner had in fact ruled and had recommended his reinstatement upon the approval of the President of Liberia, which approval had been granted by the President; and therefore said ruling should be enforced by the Labour Ministry against LAMCO.

As a matter of fact, the findings and recommendation sought to be enforced by appellant were made by the labor commissioner of Grand Bassa County in 1982, and he stated:

1. That the management of Lamco J. V. Operating Company be required to immediately reinstate the employees as done in the case of the 38 workers already reinstated by management.
2. That management of Lamco J. V. Operating Company be required to pay all benefits or entitlements to the workers including payment of one month for each year served; certifying all those that reached the service age for pension; and, provide severance pay for the employees of severance service age according to management's policy.
3. That government takes some punitive action against those

senior employees who submitted names of other workers falsely just to accomplish their selfish aims or to get even with said workers, thereby breaching the guidelines set by government which provides penalty for its breach.

4. That this recommendation be forwarded to the Head of State for approval.

The findings and recommendations of the labor commissioner for Grand Bassa County were subsequently presented to the Minister of Labour for onward transmission to the Head of State. However, the Ministry of Labour refused to have the appellant and others reinstated as recommended, and also failed to obtain the approval of the Head of State of Liberia, in order to make the findings and recommendations enforceable.

Thereupon, appellant petitioned the National Labour Court complaining of the refusal of the Ministry of Labour to enforce the findings and recommendations of the labor commissioner of Grand Bassa County in respect of appellants' reinstatement and payment of all benefits due by LAMCO. However, the National Labour Court, after hearings, ruled that there was no ruling to be enforced in the findings and recommendation of the labor commissioner of Grand Bassa County. There was no judgment to be enforced and, therefore, the National Labour Court dismissed the petition with cost against appellant. Hence, this appeal by the appellant praying that the ruling of the National Labour Court will be reversed and the Ministry of Labour is compelled to implement the findings of the labor commissioner.

From the facts herein stated, there are only two issues which are pertinent to a final determination of the controversy in this matter:

1. What were the recommendations made by the commissioner which are the basis of the matter?
2. Whether or not the said recommendations constitute an enforceable ruling or a lawful determination of the controversy of wrongful dismissal.

Starting with the first issue, we say that the said recommendations were based upon a request from the Ministry of Labour for investigation of the conflict by the local labor commissioner. The commissioner obviously heard evidence from both the

dismissed employees and management. Thereafter, the labor commissioner submitted his findings and recommendations to the Deputy Minister of Labor, with the covering note that: “[w]e have the honor most respectfully to submit to you our findings with recommendations in the subject matter *which was heard by our office in compliance with your directive*. We have decided to submit to you our findings in this matter with appropriate recommendations due to the fact that *the subject issue emanated from state level and as such we are with the view that any decision to be taken in a matter* of such nature should be a recommendation to you, and perhaps, from you to the Head of State for approval through the Minister of Labour, R. L.” (Emphasis ours).

The specific recommendations to the deputy minister were as follows:

RECOMMENDATION

1. That the management of Lamco J. V. Operating Company be required to immediately reinstate the employees as was done in the case of the 38 workers already reinstated by management;
2. That management of Lamco J. V. Operating Company be required to pay all benefits or entitlements to the workers, including payment of one month for each year served, certifying wrongful dismissal; pension all those that reached the service age of pension; and provide severance pay for the employees of severance service age according to management policy;
3. That government takes some punitive action against those senior employees who submitted names of other workers falsely just to accomplish their selfish aims or to get even with said workers, thereby breaching the guideline set by government, which provides penalty for its breach.
4. That this recommendation be forwarded to the Head of Stage for approval.

These were the recommendations presented to the Deputy Minister of Labour on August 16, 1982 by the labor commissioner of Grand Bassa County based upon an investigation ordered by government; hence, the basis of this litigation.

Next, we will consider the second and final issue in the matter: whether or not the said recommendations constituted a final determination or a final ruling and therefore enforceable. The answer is simply no. The findings and recommendations of the labor commissioner were not based upon the personal complaint of dismissed employees themselves, but rather upon the order of the Ministry of Labour in Monrovia that investigations be conducted into the causes of an industrial unrest and thereafter to make appropriate recommendations to government for necessary action.

In the covering note cited earlier, the labor commissioner himself had made it crystal clear that: *“we have the honor most respectfully to submit to you our findings with recommendations in the subject matter which was heard by our office in compliance with your directive. We have decided to submit to you our findings with appropriate recommendations due to the fact that the subject issue emanated from State level and as such, we are with the view that any decision to be taken in matter of such nature should be a recommendation to you and perhaps from you to the Head of State for approval through the Minister of Labor, R.L.”* (Our emphasis).

Further, three specific recommendations were made by the labor commissioner. The fourth recommendation specifically proposed: “4. That this recommendation be forwarded to the Head of State for approval .”

There is no showing anywhere in the records before us that the recommendations were ever approved by the Head of State. There was no formal complaint before the labor commissioner on which he had made an enforceable ruling based upon the Labor Practices Laws of Liberia; no ruling was entered by the labor commissioner that could have been appealed by either party to the conflict. There was nothing to consider on appeal by Mr. David Garmonyou et al. to the National Labour Court in the nature of a petition for enforcing a favorable judicial determination earlier made by the labor commissioner of Grand Bassa, or by management in the nature of a petition for review of some adverse judicial determination.

The present matter is founded on mere recommendations or,

at most, a mere proposal for achieving industrial peace and harmony. *It does not even specifically refer to the employees to be particularly affected or to the level of the LAMCO's management's obligations to any of its dismissed employees.*

A final judgment usually grows out of the findings in a controversy, and it is "one which puts an end to a suit or action one which puts an end to an action at law by declaring that the plaintiff either is or is not entitled to recover, the remedy he sues for. *Kru and Wolo v. Tarpeh and Doe*, 19 LLR 472 (1970).

There was therefore, no ruling before the National Labour Court for enforcement, one which grows out of a contested controversy or otherwise. Black's Law Dictionary defines a decision as: "A determination of a judicial or quasi-judicial nature. A judgment or decree pronounced by a court in settlement of a controversy submitted to and by way of authoritative answer to the questions raised before it." BLACK'S LAW DICTIONARY 366-367 (5th ed).

Black's Law Dictionary also defines a recommendation thus: "Recommendation refers to an action which is advisory in nature rather than one having any binding effect." *Ibid.*, at 1144.

From the foregoing, it becomes clear what was the nature of the determination of the labor commissioner which precipitated the present controversy. It was not a determination growing out of findings in some formal complaint before him. It was a mere recommendation to government growing out of an administrative investigation into a labor dispute which, unfortunately, is not enforceable in law. In fact, the Head of State has not approved of the recommendations to make them binding on LAMCO. Hence, there was no enforceable judgment for the National Labor Court to enforce.

Therefore, and in view of all the foregoing facts and laws referred to *supra*, the ruling of the National Labour Court, dismissing the complaint or petition for enforcement, is hereby upheld. Cost disallowed. And it is so ordered.

Judgment affirmed.