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LEGAL NEWS

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Court of Appeal of Tanzania Awards 24 Months' Salary for Unfair Termination

Recently, the Court of Appeal of Tanzania (the Court) delivered a judgment in *Lucy Mandara v. Tanzania Cigarette Company Limited*, Civil Application No. 282/2021, a case which concerned an application for review of the Court's judgment under Rule 66(1) (a) of the Tanzania Court of Appeal Rules, 2009. The Applicant, Lucy Mandara, sought a review of the Court's earlier decision, arguing that it contained manifest errors on the face of record regarding the compensation awarded to her following her unfair termination from employment.

Background

Lucy Mandara was employed by Tanzania Cigarette Company Limited from 11 December 1979 until her dismissal on 5 September 2016 on allegations of gross negligence and insubordination. She challenged the termination before the Commission for Mediation and Arbitration (CMA), which held that the dismissal was substantively fair but procedurally unfair and awarded her six months' salary as compensation. Dissatisfied, she sought revision before the High Court, which found that the termination was both substantively and procedurally unfair and awarded her TZS 904,864,473, representing retirement-related benefits and salaries she would have earned until her compulsory retirement. On appeal by the Respondent, the Court upheld the finding of substantive unfairness but set aside the High Court's award, substituting it with compensation equivalent to twelve months' salary under the Employment and Labour Relations Act (ELRA), prompting the present application for review.

Arguments raised by Parties

The applicant argued that the Court committed a manifest error by failing to recognize that her claim in the CMA Form effectively sought reinstatement in monetary terms, entitling her to salaries and benefits she would have earned until retirement. She further contended that, after finding her termination substantively unfair, the Court failed to consider relevant factors such as her nearly 37 years of service and the fact that she had only four years and four months remaining before retirement when determining compensation. Conversely, the respondent argued that the application did not disclose any error apparent on the face of record but merely reflected the applicant's dissatisfaction with the Court's reasoning. It maintained that the Court had properly exercised its discretion in awarding the statutory minimum compensation of twelve months' salary and that the application was effectively an appeal disguised as a review.

Decision of the Court

The Court dismissed the Applicant's argument concerning "monetary reinstatement," holding that the issue had already been fully considered in the earlier judgment and, therefore, could not form the basis of a review. However, the Court agreed that it had failed to properly exercise its discretion when assessing compensation after finding the termination substantively unfair. It held that relevant factors including the Applicant's long service and proximity to retirement should have been considered in determining a reasonable award. Consequently, the Court allowed the application in part, vacated the previous award of twelve months' salary, and substituted it with compensation equivalent to twenty-four months' salary. Each party was ordered to bear its own costs.

To read the Judgment [click here](#)

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ECRA Attorneys offers professional services in various areas of the law ranging from Taxation (both tax litigation and tax advisory); Corporate; Employment; Immigration; Intellectual property; Litigation, Arbitration and Regulatory; Engineering, Procurement and Construction (EPCs-related Services); Banking and Project Finance, Real Estate; Capital Market and Securities; Oil and Gas, Mining Law; Competition Law; Telecommunications and ICT Law; Payment Systems Law; Insurance Law and International Trade Law and Financing.

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