

**THE REPUBLIC OF UGANDA**  
**IN THE INDUSTRIAL COURT OF UGANDA AT KAMPALA**  
**LABOUR DISPUTE APPEAL NO. 022 OF 2018**  
**[ARISING FROM LABOUR COMPLAINT NO. 168/2017 OF HOIMA]**

**BETWEEN**

**TEAM**

**UNIVERSITY.....APPELLANT**

**VERSUS**

**BYARUHANGA MARTIN.....RESPONDENT**

**BEFORE**

1. Hon. Chief Judge Ruhinda Asaph Ntengye
2. Hon. Lady Justice Linda Lillian Tumusiime Mugisha

**PANELISTS**

1. Mr. Ebyau Fidel
2. Mr. F. X. Mubuuke
3. Ms. Harriet Mugambwa Nganzi

**AWARD**

This is an appeal against the decision and orders of the labour officer sitting at Hoima labour office. The appeal is brought under **Section 94 of the Employment Act and Employment Regulations 2011.**

The appellant was represented by Mr. Maxim Mutabingwa of M/S Mutabingwa & CO. Advocates while the respondent was represented by MR. Martin Mututa of M/S . T. Odeke & CO Advocates

The grounds of appeal are:

- 1) The labour officer erred in law when he made an award to the respondent without notifying the appellant through their authorized officers and without giving them an opportunity to be heard.**
- 2) The labour officer erred in law when he made an award to the respondent without proof that the appellant was indebted to the respondent.**
- 3) The labour officer erred in law when he made a decision without hearing or recording any evidence from the complainant and therefore without any basis.**

Briefly the facts before the labour officer were:

The respondent lodged a complaint to the labour officer on 23/3/2017 and on 5/4/2017 the labour officer sent a notification of the complaint to the respondent and it was received by one Grace, a front Desk officer of the respondent on 10/4/2017.

A reminder of the notification was sent to the respondent on 25/4/2017 with a deadline of 5/5/2017 for the respondent to reply to the complaint. This one was received on 26/4/2017 by the same desk officer.

On 11/5/2017 another reminder was sent and received by one Shalom Annet, an Assistant Public Relations Officer on 15/05/2017. This time the reminder fixed hearing for 23/5/2017. The record is not clear what happened on 25/5/2017 but on 23/6/2017 the labour officer considered what was on the record and held the respondent liable to pay wages of 4,550,000/= as alleged in the complaint and also ordered them to pay costs of 1,000,000/=.

In his submission, counsel for the appellant contended that the appellant did not receive the notifications since they were received by an unauthorized officer. He

also asserted that the labour officer unilaterally made the decision without hearing any evidence to support the allegations in the complaint. He argued that the decision was reached without evidence that the appellant was indebted to the respondent in the sum alleged in the complaint and that the labour officer had no jurisdiction to award costs.

In reply counsel for the respondent raised two preliminary points of law, to wit:

- (a) That the appeal was lodged out of time and
- (b) That the appeal was premature.

It was argued for the respondent that under **Section 79 of the Civil Procedure Act** every appeal must be lodged within 30 days of the decree which was not the case in the instant case and that since there was no extension of time within which to appeal, the appeal ought to be dismissed for being filed out of time.

For the appellant it was contended that the Civil Procedure Act did not apply to the labour officer and that under the Employment Act no time limit is specified for an appeal to be lodged in this court.

**Section 94 of the Employment Act** provides

**“(1) A party who is dissatisfied with the decision of a labour officer on a complaint made under this Act may appeal to the Industrial court in accordance with this section.**

**(2) An appeal under this section shall lie on a question of law and with leave of the Industrial court, on a question of fact forming part of the decision of the labour officer.**

**(3) The Industrial Court shall have power to confirm, modify or overturn any decision from which an appeal is taken and the decision of the Industrial court shall be final.**

There is nothing in the above Section of the law that suggests a limitation period within which an appeal may lie. Neither does the Labour Disputes (Arbitration & Settlement) Industrial Court Procedure Rules.

However **Regulation 45 of the Employment regulations 2011** provides

## **“45 Appeal**

- (1) A person aggrieved by the decision of the labour officer may within thirty days give a notice of appeal to the Industrial court in the form prescribed in the seventeenth schedule.**
- (2) Upon receipt of notice of appeal with the registrar within fourteen (14) days, the labour officer shall furnish the Industrial court with information concerning the complaint, the parties involved, the hearing proceedings, the decision of the labour officer and the matter of appeal.**
- (3) The labour officer shall present to the industrial court the information referred to in sub-regulation 2 within twenty one days.**
- (4) After receiving the information on the matter of appeal from the labour officer, the Industrial court shall summon the parties for hearing.**
- (5) The rules of Procedure for the Industrial court shall apply.**

True, as submitted by counsel for the appellant, the labour office is not governed by the Civil Procedure Act and therefore the limitation period within which to appeal provided under the C.P.A does not apply to the labour office. This is the same position that was decided by the court of Appeal in **ERIC MUGYENYI VS UGANDA ELECTRICITY GENERATIONS COMPANY CIVIL APPEAL 167/2018**

However, the regulations above mentioned were made under the Employment Act which is the law that governs the labour office. Consequently the limitation period provided under the regulations is applicable to the labour office.

There is no doubt that the appellant was aware of the decision of the labour officer on 27/06/2017 but only filed a memorandum of appeal on 16/5/2018.

This was contrary to regulation 45 above mentioned which provides for a notice of appeal within 30 days. As counsel for the respondent submitted, this was outside the time prescribed and since there was no extension of time allowed by this court, the appeal stands incompetent in this court. However we recognize that the labour officer had no jurisdiction to award costs to the respondent as this was contrary to the provision of **Section 78 of the Employment Act** that limits the amount of compensation to be awarded by a labour officer. Such order is hereby set aside.

Without considering any other grounds of the appeal or any other responses to such grounds, we form the opinion that this preliminary objection dispose of the appeal as having been incompetent. It is dismissed with no orders as to costs. The respondent shall be paid his wages as ordered by the labour officer with an interest of 8% from the date of judgment of the labour officer until payment in full.

**BEFORE**

1. Hon. Chief Judge Ruhinda Asaph Ntengye .....
2. Hon. Lady Justice Linda Lillian Tumusiime Mugisha.....

**PANELISTS**

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2. Mr. F. X. Mubuuke .....
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Date: 12/02/2020

