



award in his favour amounting to Ugx. 49,680,000/-. The Appellant was dissatisfied with the award hence this Appeal.

### **GROUND OF APPEAL**

- 1. The labour officer erred in law when she first conducted mediation and later adjudicated this matter leading to a miscarriage of Justice.**
- 2. The Labour officer erred in law when she found that, the Appellant breached the principles of fairness and natural Justice when she subjected the suspended Respondent to a disciplinary hearing before the final conclusion of the police investigation.**
- 3. The labour officer erred in law when she found that the disciplinary hearing and termination of the Respondent before the Police' final investigations and establishing of incriminating evidence against the Respondent and before the charging of the Respondent in Courts of law, was unfair and unlawful.**
- 4. The Labour officer erred in law when she held that the Appellant unfairly terminated the services of the Respondent once they failed to give a fair hearing whether or not the Respondent had genuine reasons.**
- 5. The Labour officer erred in law when she failed to properly evaluate the evidence on record thereby arriving at a wrong conclusion and making unjustifiable awards to the Respondent.**

### **REPRESENTATION**

The Appellant is represented by Ms. Nakiranda Rebecca of M/S Nakiranda and Company Advocates and the Respondent by Mr. Kamanzi Mark Enoch of M/S Kamanzi and Company Advocates.

Counsel for the Respondent raised a preliminary objection which we shall resolve before we delve into the Appeal.

## THE PRELIMINARY OBJECTION

The preliminary objection is to the effect that the Appeal is incompetent before this Court for being based on an unsigned, undated and unsealed award. According to Mr. Kamanzi, the Labour officers award on pages 13-21, which the Appellant seeks this Court to overturn is unsigned, undated and unsealed and therefore it is a forgery and an abuse of court process. He asserted that the Respondent adduced evidence of the authentic ruling and award marked "A", which according to him, should be the basis of this Appeal. He cited **Deox Tibeigana vs Vijay, Misc. Appln No 625/2019**, in which Justice Ssekana, cited the Black's law dictionary (6<sup>th</sup> Edition) for the definition of "abuse of court process" as *" A malicious abuse of the legal process occurs when the party employs it for some unlawful object, not the purpose which it is intended by the law to effect, in other words a perversion of it."*

It was his submission that the Appellants abused court process, when they relied on an unsigned, undated and unsealed award, therefore the Appeal should be dismissed on the grounds that the Appellants are fraudulent.

The Appellants did not make a reply to the objection save for a letter written to the Registrar responding to the Respondent's allegations of fraudulence against the Appellant. We shall therefore, not consider the letter as pleadings, for purposes of resolving this objection.

## RESOLUTION

We have carefully perused the record of appeal and found that indeed the award attached thereto on pages 13-21, is unsigned, undated and unsealed, by the Labour Officer.

It is trite that for a Judgment or Order to be considered authentic and binding, it must be signed by the judge or quasi-Judicial officer who delivered/ made it. It

must be sealed with the Court seal or in the case of a quasi-Judicial office such as the Labour office, with the stamp of the labour office where it was made and it must bear the date on which it was handed down or made.

According to Regulation 45(2) of the Employment Regulations 2011,

*“Upon receipt of notice of appeal with the registrar within fourteen 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.”*

Sub regulation 3 of the same regulation makes it a requirement for the labour officer to present this information to the Industrial Court within 21 days. Therefore, the record of appeal is prepared and forwarded to the Industrial Court by the Labour officer who adjudicated the matter and handed down the award/Decision and not either of the parties to the claim.

It is not in dispute that by letter dated 15/01/2020, the labour officer Ms. Irene Nabbumba, forwarded a copy of the Record of proceedings and relevant documents relating to the matter on which this appeal is based, to the Registrar of this Court. Although the Decision she attached on the record bears her name, “Irene Nabbumba”, it is unsigned, undated and does not bear the stamp of the Labour office. The Judgement is therefore not authentic and as stated by Counsel for the Respondents, it cannot form the basis of an Appeal.

It was therefore, not necessary for both Counsel in the instant Appeal, to level accusations against each other regarding the authenticity of the Labour officers award. The remedy to such an impasse would have been to refer the matter to the Registrar of the Industrial Court, who would have caused the Labour officer to rectify the record of proceedings, accordingly.

Given that it is not the responsibility of either party to furnish this Court with the record of proceedings and award of the Labour officer, and given that, the labour Officer forwarded, a record bearing an unsigned, undated and unstamped award, the matter is referred back to the Labour officer for her to forward an authentic record of proceedings, with a signed, dated and stamped award.

The Appeal is therefore set aside. No orders as to costs is made.

Delivered and signed by:

**1.THE HON. CHIEF JUDGE, ASAPH RUHINDA NTENGYE** .....

**2.THE HON. JUDGE, LINDA LILLIAN TUMUSIIME MUGISHA**  
.....

**PANELISTS**

**1.MS. ADRINE NAMARA** .....

**2.MS. SUSAN NABIRYE** .....

**3. MR. MICHEAL MATOVU** .....

**DATE: 29<sup>th</sup> JANUARY 2021**