

THE REPUBLIC OF UGANDA

COURT OF APPEAL

CIVIL APPEAL NO. 46 OF 2005

(An Appeal from the decision of the High Court at Kampala dated December 15, 2004 in High Court Civil Suit No. 77 of 2003)(Yorokamu Bamwine, J.)

(CORAM: MUKASA-KIKONYOGO; DC.J, TWINOMUJUNI AND KAVUMA, JJ.A)

UGANDA ELECTRICITY BOARD;;;;;;;;;;;;; APPELLANT

VERSES

KIGANDA PETER;;;;;;;;;;;;; DEFENDANTS

Labour Law—Employment—Pension—Calculation of pension for employee where salary/wages and allowances are consolidated

The respondent was employed by the appellant from June 1980 as an Accounts Assistant. He was subsequently promoted to the post of Accounts Clerk. His services were terminated on grounds of flouting the Board's procurement; hence gross misconduct. On termination, the respondent was paid terminal benefits which he disputed and claimed for

gratuity. It was contended that the appellant did not qualify for pension at the time his services were terminated. The appellant denied any liability. Save for the extra two months in lieu of notice, the appellant asserted that it had paid the entire respondent's terminal benefits/gratuity.

Judgment was entered in favour of the respondent. Aggrieved by part of the judgment, an appeal was lodged on grounds inter alia that the consolidated salary figure did not constitute his basic pay after consolidation.

HELD:

Calculation of pension for employee where salary/wages and allowances are consolidated should be based on the consolidated figure. In the instant case, it would have been better for the Board to come out with a specific statement on the computation of service gratuity. The defendant having agreed to consolidate the plaintiffs emoluments, it could not now turn around and seek to open it to look at the individual elements of that package for purposes of computing his gratuity.

Appeal dismissed with costs. Orders of High Court upheld.

Dated this 27th day of October 2006

Mukasa Kikonyogo, D.C.J

Twinomujuni, J.A

Kavuma J.A