

RWANDA / JUDGMENT

DP WORLD LOGISTIC Ltd v. RUTETINDA

RSOCA00219/2023/HC/KIG

COURT

High Court

DECIDED

21 March 2025

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DP WORLD LOGISTIC Ltd v. RUTETINDA

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Text

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DP WORLD LOGISTIC Ltd v. RUTETINDA [Rwanda URUKIKO RUKURU – RSOCA00219/2023/HC/KIG (Kamali, J. P.) 21 Werurwe 2025] Amategeko agenga imanza z’umurimo – Amasezerano y’umurimo – Iseswa ry’amasezerano y’umurimo – Indishyi – Ibarwa ry’indishyi – Iseswa ry’amasezerano y’umurimo rinyuranyije n’amategeko rituma hatangwa indishyi zibazwe hashingiwe ku mafaranga y’umushahara umukozi atahana mu ntoki (net salary). Incamake y’ikibazo: Rutetinda wari umukozi wa DP World Logistic Ltd, yatanze ikirengo mu RukikoRwisumbuye rwa Nyarugenge arega iyo company ko yamwirukanye mu buryo bunyuranyije n’amategeko, akaba yarabisabiye indishyi. Avuga ko mu ibaruwa isesa amasezerano bari bafitanye, umukoresha avuga ko yasanze adatanga umusaruro yari yitezweho, nyamara yaba iby’umusaruro muke cyangwa guta akazi byavugwaga muri iyo baruwa, nta na kimwe kigeze gikorera raporo ngo imenyeshwe umukozi nk’uko biteganyijwe n’amategeko. DP World Logistic Ltd yavuze ko ikirego cya Rutetinda nta shingiro gifite, kuko nyuma y’uko ahabwa akazi ariko mu gihe cy’igeragezwa basanze adatanga umusaruro yari yitezweho akaba aribyo byatumye amasezerano y’akazi aseswa, naho kuvuga ko amasezerano ye yari anyuranyije n’itegeko akaba yaragombaga kuvugururwa, bikaba nta shingiro bifite. Urukiko Rwisumbuye rwaciye urubanza

rwemeza ko Rutetinda yirukanwe mu buryo bunyuranyije n'amategeko, rutegeka ko DP World Logistic Ltd imuha indishyi zijyanye n'uko kwirukanwa ndetse n'indishyi zijyanye n'ibyakozwe mu rubanza. DP World Logistic Ltd yajuririye muri uru Rukiko Rukuru ivuga ko anenga urubanza rwaciwe n'Urukiko Rwisumbuye kuko rwemeje ko Rutetinda yasezerewe mu buryo bunyuranyije n'amategeko, ngo kuko nta suzumabushobozi yakorewe, rwirengagiza ko yagiye yandikirwa ibaruwa agaragarizwa ko adatanga umusaruro. Ikindi ngo ni uko mukumubarira indishyi rwashingiye ku mushahara utari uwo atahana, bityo bikaba byakosorwa ndetse ikagenerwa n'indishyi zijyanye n'uru rubanza. Rutetinda nawe yatanze ubujurire bwuririye ku bundi, asaba urukiko gutegeka kumugenera indishyi zo gusesa amasezerano y'akazi ingana n'umushahara w'amezi atandatu (6), aho kuba umushahara w'amezi atatu (3) yagenewe mu rubanza rujuririrwa, kuko kumwirukana byamugiriyeho ingaruka we n'umuryango we; ndetse akagenerwa n'indishyi zo kudahabwa integuza atahawe. Ariko kuri ubu bujurire bwe, uru Rukiko rwemeje ko nta nshingiro bufite kuko yari amaze igihe gito (amezi 6 gusa) akorera DP World Logistic Ltd. Rutetinda yasubije ubwo bujurire bwa DP World Logistic Ltd, avuga ko kuba atarakorewe isuzumabushobozi ngo abe ariryo rishingirwaho haseswa amasezerano y'umurimo ari ukumwirukanwa mu buryo budakurikije amategeko. Avuga kandi ko ibyo DP World Logistic Ltd ivuga ko yabariwe indishyi hashingiwe ku mushahara utariwo, nta shingiro bifite. Asobanura ko urukiko rwamugeneye indishyi rushingiye ku mushahara umukozi ahabwa ariwo "basic salary" kuko ariwo afiteho uburenganzira, cyane ko ubwo bari kuburana mu Rukiko Rwisumbuye, DP World Logistic Ltd yasabwe kugaragaza uburyo umushahara we ubarwa, ntiyabigaragaza kandi ngo no muri uru rubanza ntibagaragaje umushahara mbumbe yahembwaga kuko uwagaragajwe ni "net salary" hakuwemo ibyo yagombaga kwishyura.

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Incamake y'icyemezo: Iseswa ry'amasezerano y'umurimo rinyuranyije n'amategeko rituma hatangwa indishyi zibazwe hashingiwe ku mafaranga y'umushahara umukozi atahana mu ntoki (net salary). Ubujurire bufite ishingiro kuri bimwe. Amagarama aherera k'uregwa. Amategeko yashingiweho: Itegeko N° 66/2018 ryo ku wa 30/08/2018 rigenga umurimo mu Rwanda, ingingo ya 13, 24, 30, 120 n'ya 123. Itegeko No 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ingingo ya 111. Imanza zifashishijwe: RS/INJUST/RSOC00001/2019/SC, Niwemugeni Jeannette na KCB Bank Rwanda Ltd, rwaciwe n'Urukiko rw'Ikirenga ku wa 18/01/2013. Urubanza I. IMITERERE Y'URUBANZA [1] Uru rubanza rwatangiriye mu Rukiko Rwisumbuye rwa Nyarugenge, Rutetinda Chris arega uwari umukoresha we DP World Logistic Ltd, ko yamwirukanywe ku kazi binyuranyije n'amategeko, akabisabira indishyi; avuga ko yabaye umukozi wa DP World Logistic Ltd, kuva ku wa 01/07/2018 afite amasezerano y'akazi y'igihe kitazwi, akora ku mwanya w'umuyobozi w'Imari (Finance Manager), ahembwa umushahara ungana na miliyoni mirongo itatu n'imwe n'amafaranga ijana n'ane (31.104.000Frw) ku mwaka. Akavuga ko umukoresha yaje kumwirukana ku kazi avuga ko yasanze adatanga umusaruro yari yitezweho, nyamara yaba iby'umusaruro muke cyangwa guta akazi byavugwaga mu ibaruwa isesa amasezerano, nta nakimwe kigeze gikorera raporo ngo imenyeshwe umukozi nkuko biteganyijwe n'amategeko, bikaba byerekana ko yirukanywe ku kazi

binyuranije n'amategeko, niyo mpamvu yatanze ikirego asaba indishyi zo kwirukanwa ku kazi binyuranije n'amategeko, ndetse akagenerwa indishyi zijyanye nayo ndetse agasubizwa amafaranga y'ikurikiranarubanza n'igihembo cya Avoka. [2] Uhagarariye DP World Logistic Ltd yavuze ko ikirego cya Rutetinda Chris nta shingiro gifite kubera ko nyuma y'uko ahabwa akazi ariko mu gihe cy'igeragezwa basanze adatangira umusaruro yari yitezweho akaba nibyo byatumye amasezerano y'akazi aseswa, naho kuvuga ko amasezerano ye yari anyuranyije n'itegeko akaba yaragombaga kuvugururwa, bikaba nta gaciro byahabwa kuko iyo aza gukomeza amasezerano nyuma y'igeragezwa, amasezerano ye yari kugenda avugururwa nubwo ibyo avuga ko hari ibitarahujwe n'itegeko rishya nabyo nta shingiro. Ndetse uhagarariye DP World Logistic Ltd yasabye gusubizwa amafaranga y'ikurikiranarubanza n'igihembo cya Avoka.

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[3] Mu Rubanza RSOC00140/2022/TGI/NYGE rwaciye ku wa 08/06/2023, Urukiko Rwisumbuye rwa Nyarugenge rwemeza ko Rutetinda Chris yasezerewe ku kazi binyuranyije n'amategeko. Rutegeka DP World Logistic Ltd kumuha indishyi zingana na miliyoni cumi n'eshatu n'ibihumbi makumyabiri na bibiri na mirongo cyenda n'arindwi (13.022.097Frw); kumuha amafaranga ibihumbi magana inani (800.000Frw) akubiyemo igihembo cy'avoka n'ikurikiranarubanza; no kumuha amafaranga ibihumbi makumyabiri (20.000Frw) yatanzeho ingwate y'amagarama arega azayasubizwa. [4] Uhagarariye DP World Logistic Ltd ntiyishimiye imikirize y'urubanza, ajurira mu rukiko Rukuru avuga ko anenga urubanza rwaciye n'Urukiko Rwisumbuye kuko rwemeje ko Rutetinda Chris yasezerewe mu buryo bunyuranyije n'amategeko, ngo kuko nta suzumabushobozi yakorewe, rwirengagiza ko yaragiye yandikirwa ibaruwa agaragarizwa ko adatangira umusaruro; ikindi nuko urukiko rwageneye Rutetinda Chris indishyi zo gusezererwa ku kazi rubarira ku mafaranga y'umushahara utariwo, agasaba ko byakosorwa; ndetse agenerwa amafaranga y'ikurikiranarubanza n'igihembo cya Avoka bitari ngombwa kuko ariwe wishoye mu manza. Yanasabye gusubizwa amafaranga y'ikurikirabarubanza n'igihembo cya Avoka kuri uru rwego. [5] Rutetinda Chris nawe yatanze ubujurire bwuririye ku bundi, asaba urukiko gutegeka kumugenera indishyi zo gusesa amasezerano y'akazi ingana n'umushahara w'amezi atandatu (6), aho kuba umushahara w'amezi atatu (3) yagenewen 'urukiko rubanza kuko kumwirukana byamugiriyeho ingaruka we n'umuryango we; ndetse akagenerwa indishyi zo kudahabwa integuza yaro yasabye kuko yirukanywe ku kazi nta nteguza ahawe. Yanasabye gusubizwa amafaranga y'ikurikiranarubanza n'igihembo cya Avoka. [6] Iburanisha ry'urubanza ryabaye mu ruhamwe ku wa 05/09/2024, DP World Logistic Ltd ihagarariye na Me Kalimba Daniel na Me Ntwari Elvis, naho Rutetinda Chris ahagarariye na Me Mugisha Fred. [7] Ibibazo bisuzumwa muri uru rubanza ni ibi bikurikira: - Kumenya niba Rutetinda Chris atigeze asezererwa ku kazi binyuranije n'amategeko, n'indishyi yagenewe yakurwaho; - Kumenya niba Urukiko Rwisumbuye rwageneye Rutetinda Chris indishyi zo gusesa amasezerano y'akazi binyuranije n'amategeko ku mushahara utariwo, no kureba niba byakosorwa; - Kumenya ubujurire bwuririye ku bundi bwa Rutetinda Chris; - Kumenya niba amafaranga y'ikurikiranarubanza n'igihembo cy'avoka no Gusubizwa

ingwatwe y'amagarama. II. ISESENGURA RY'IBIBAZO BIGIZE URUBANZA Kubyerekeye kumenya niba Rutetinda Chris atigeze asezererwa ku kazi binyuranije n'amategeko, n'indishyi yagenewe yakurwaho [8] Me Kalimba Daniel na Me Ntwari Elvis, bahagarariye DP World Logistic Ltd bavuze ko banenga urubanza rwaciwe n'urukiko Rwisumbye kubera ko rwavuze ko kuba umukoresha

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yaragiye yandikira umukozi kenshi amugaragariza ko umusaruro we udashimishije, bidakwiye gufatwa nk'isuzumabushobozi ngo kuko yagombaga kugaragarizwa birambuye ibyo yabashije kugeraho n'ibitaragezweho, nawe akagira icyo abivugaho akabona gusezererwa. Ngo babona urwo rukiko rwarabyumvishe nabi kuko harebwe za Email yagiye yandikirwa agaragarizwa ko atari kugera ku musaruro yitezweho zihagije, bakaba basanga nta suzumabushobozi rirenze iryo ku buryo urukiko rubanza rwari kubyirengagiza. Ngo za Email yandikwe hari ayo yandikiwe ku wa 06/10/2018 bamusaba gusubiza ibyo yasabwe gukora akaba atabikora; iyo ku wa 4/11/2018 abazwa impamvu akoresha format idahura, akanatanga imibare itari yo; iyo ku wa 17/11/2018 asabwa ubusobanuro bwo kuba yatanze raporo idahura, iyo ku wa 18/12/2018, abazwa impamvu atubahiriza igihe cyo gukora ibyo aba yahawe, n'iyi ku wa 23/12/2018 imugaragariza ko ibyo yakoze bidahura nibyo DP World ikeneye. Akavuga ko ibyo byose urukiko rubanza rwarabyirengagije, ruvuga ko nta suzumabushobozi yakorewe, bakaba basaba ko urukiko rujuririwe rwabihindura, rukemeza ko yasezerewe mu buryo bukurikije amategeko. [9] Me Mugisha Fred uhagarariye Rutetinda Chris yavuze ko ubujurire bwa DP World Logistics Ltd kuri iyi ngingo nta shingiro bufite kubera ko Urukiko rwasesenguye iyi ngingo, ruvuga ko mbere yo gufata icyemezo ko umukozi akomeza akazi cyangwa ahagarikwa hagomba kubanziriza isuzumabushobozi, bityo kuba bitarakozwe nk'uko amategeko abiteganyaga ari gusesa amasezerano mu buryo bunyuranyije n'amategeko. Naho za Email umukoresha yise ko ari isuzumabushobozi, nta gaciro ryahabwa kuko ntaho bitandukanye na za Email zisanzwe zo mu kazi umukoresha yandikira umukozi kuko isuzumabushobozi rifite uburyo rikorwa kandi nabo barabizi cyane ko batanze urugero ry'isuzumabushobozi DP World yakoreye undi mukozi wayo witwaga Atuhwera Enock, kandi isuzumabushobozi rikorwa igeragezwa rigeze ku musozo rigaragaza ibyo umukozi yagombaga gukora, ibyo yakoze ntibyo atakoze, nawe agasabwa gutanga ibisobanuro by'impamvu bitakozwe, hanyuma supervisor agatanga amanona hashingiwe ku byakozwe ntibitakozwe n'icyemezo cyafatwa, aribyo umukoresha ashingiraho afata icyemezo, ibi rero ntabwo byakozwe, kandi urukiko rwarabisesenguye n'uko bikubiye mu ngingo ya 1 y'amasezerano y'umurimo n'ingingo ya 13 y'Itegeko ry'umurimo rya 2018, ko amasezerano ya Rutetinda Chris yaseswe mu buryo bunyuranyije n'amategeko. CPI ni task yahawe gukora. UKO URUKIKO RUBIBONA [10] Urukiko rubona amasezerano y'akazi yakozwe hagati ya Rutetinda Chris na DP World Logistic yo ku wa 01/07/2018, mu ngingo yayo ya mbere igira iti "The duration of this Contact is open-ended starting on the date of signature by both parties and is subject to six months probation. Prior to the end of this probation period, the performance of the Employee shall be evaluated for confirmation of the employment". [11] Urukiko rurasanga ubujurire bwa DP World Logistic Ltd nta shingiro bufite kubera ko nk'uko bari bemeranyijwe n'umukoze mu

masezerano y'akazi ko igihe cy'igeragezwa nikirangira azakorerwa isuzumamikorere mbere yo kumweza nk'umukozi ariko ntibyakozwe kuko ntaho umukoreshe yigeze agaragaza icyo suzumamikorere igaragaza icyaranze imikorere ye mu guhe cy'amezi atandatu (6 months), ibyo yakoze neza n'ibyo atakoze neza, bigashirwa mu ijanisha ndetse agahabwa amanota, ndetse agafatirwa icyemezo cy'uko yemejwe nk'umukozi cyangwa asezerewe ku kazi kubera ko adashoboye. Naho kuba yarandikiye za "emails" enye (4)

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asabwa kugira ibyo akora, no kugaragarizwa ibyo yakoze nabi bitakwiye gufatwa nk'isuzumamikorere kubera ko mu mezi atandatu yahamaze yakoze ibintu byinshi; bityo rurasanga icyemezo n'urukiko rwisumbuye kuyo iyi ngingo mukwemeza ko yirukanywe ku kazi binyuranyije n'amategeko ndetse akagererwa indishi idahindutse. Kubyerekeye kumenya niba Urukiko Rwisumbuye rwarageneye Rutetinda Chris indishyi zo gusesa amasezerano y'akazi binyuranyije n'amategeko ku mushahara utariwo, no kureba niba byakosorwa [12] Me Kalimba Daniel na Me Ntwari Elvis bahagarariye DP World Logistic Ltd bavuze ko banenga urubanza rwaciwe n'urukiko Rwisumbuye kubera ko nyuma yo kwemeza ko Rutetinda Chris yarasezerewe ku kazi binyuranyije n'amategeko, rwamugeneye indishyi zibazwe ku mushahara wa 4.340.699Frw ku kwezi kandi atariwo mushahara yahembwaga ku kwezi, ahubwo ko yahembwaga umushahara wa 2.980.800Frw ku kwezi nk'uko bigaragazwa n'inyandiko y'umushahara urukiko rwashyikirijwe. Bakaba basaba urukiko ko rwabikosora. [13] Me MUGISHA Fred uhagarariye Rutetinda Chris yavuze ko ubujurire bwa DP World Logistic Ltd kuri iyi ngingo nta shingiro bufite kubera urukiko rwamugeneye indishyi rwashingiye ku mushahara umukozi ahabwa mbumbe ariwo basic salary kuko ariwo afiteho uburenganzira. Cyane ko ubwo bari kuburana mu Rukiko Rwisumbuye urwo rukiko rwasabye DP World ko igaragaza uburyo umushahara wa Rutetinda Chris ubarwa, banga kubigaragaza kandi nubw ntabwo bagaragaza umushahara mbumbe yahembwaga a kuko uwagaragajwe ni "net salary" hakuwemo ibyo yagombaga kwishyura ariko ntabwo ariwo wari umushahara we mbumbe ku kwezi ariwo 4.340.699Frw, bityo ibyo bavugaga nta shingiro bifite kuko nta bimenyetso babigaragariza. UKO URUKIKO RUBIBONA [14] Ingingo ya 30 y'Itegeko N° 66/2018 ryo ku wa 30/08/2018 rigenga umurimo mu Rwanda iteganya ko iseswa ry'amasezerano y'umurimo rinyuranyije n'amategeko rituma hatangwa indishyi. Indishyi zihabwa umukozi wirukanywe binyuranyije n'amategeko ntizishobora kujya muni y'umushahara w'amezi atatu (3), ariko kandi ntizishobora kurenza umushahara ahabwa w'amezi atandatu (6). [15] Kubyerekeye kumenye igihe habayeho gusezerera umukozi binyuranyije n'amategeko kandi akwiye kugenerwa indishyi, hibazwa niba yabwirwa indishyi hashingiwe ku mushahara mbumbe (gross salary) cyangwa umushahara atahana (net salary), urukiko rurasanga hari umurongo watanze n'Urukiko rw'Ikirenga mu rubanza RS/INJUST/RSOC00001/2019/SC, rwaciwe ku wa 31/01/2020 aho mu gika cya 36, urukiko rwaravuze ngo amafaranga umukozi ahabwa igihe asezerewe mu kazi, atari amafaranga mbumbe (brut) nk'uko Niwemugeni Jeannette n'abamwunganira babivugaga, ahubwo ari amafaranga atahana mu ntoki (net) hamaze kumanwamo imisoro ku musaruro1.

1 Reba igika cya 36 cy'urubanza RS/INJUST/RSOC00001/2019/SC, haburana Niwemugeni Jeannette na KCB Bank Rwanda Ltd, rwaciwe ku wa 18/01/2013.

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[16] Urukiko rurasanga ubujurire bwa DP World Logistic Ltd kuri iyi ngingo bufite ishingiye kubera ko urukiko Rwisumbuye rwakoze ikosa mukubarira Rutetinda Chris indishyi kuko rwamubariye hashingiwe ku mushahara we mbumbe kandi rwagombaga gishingira ku mushahara atahana (net salary), bityo indishyi yo kwirukanwa binyuranije n'amategeko yari yagenewe yabarwa uburyo bukurikira: $2.980.800\text{Frw} \times 3 = 8.942.400\text{Frw}$. Kubyerekeye kumenya niba amafaranga y'ikurikiranarubanza n'igihembo cya Avoka Rutetinda Chris yagenewe n'urukiko Rwisumbuye rwavanwaho [17] Me Kalimba Daniel na Me Ntwari Elvis bahagarariye DP World Logistic Ltd bavuze ko basaba uru rukiko gutegeka ko amafaranga y'ikurikiranarubanza n'igihembo cya Avoka Rutetinda Chris yagenewe n'urukiko Rwisumbuye rwavanwaho kuko ariwe wishoye mu manza ndetse anazishoramwo DP World Logistics kandi abizi neza ko ariwe watumye amasezerano ye y'akazi arangira kubwo kutanoza akazi yari ashinzwe no kugaragaza umusaruro muke. Bityo agomba kwirengerera ingaruka zabyo. [18] Me Mugisha Fred uhagarariye Rutetinda Chris yavuze ko ubujurire bwa DP World Logistic Ltd kuri iyi ngingo nta shingiro bufite kubera ko urukiko rwagennye ayo mafaranga nyuma yo gusanga DP World Logistics itsinzwe urubanza. Bityo iyi ngingo ikaba itagomba guhabwa agaciro kubera ko uwatsinzwe niwe uryozwa ibyatakajwe murubanza. UKO URUKIKO RUBIBONA [19] Urukiko rurasanga ubusabe bwa DP World Logistic Ltd nta shingiro bufite kubera ko rwasanze Rutetinda Chris yirukanywe ku kazi binyuranije n'amategeko, akaba ariyo mpamvu yegenewe indishyi ndetse n'amafaranga y'ikurikiranarubanza n'igihembo cya Avoka. UBUJURIRE BWURIRIYE KU BUNDI BWA RUTETINDA CHRIS Kubyerekeye kumenya niba urukiko rwarageneye Rutetinda Chris indishyi z'umushahara w'amezi atatu (3), aho kuba atandatu iteganywa n'itegeko [20] Me Mugisha Fred uhagarariye Rutetinda Chris yavuze ko banenga urubanza rwaciwe n'Urukiko Rwisumbuye kubera ko bari barusabye kwemaze ko Rutetinda Chris yasezerewe ku kazi binyuranije n'amategeko, ndetse akagenerwa indishyi zo kwirukanwa ku kazi zihwanye n'umushahara we w'amezi atandatu nk'uko biteganywa mu ngingo ya 30 y'itegeko N° 66/2018 ryo ku wa 30/08/2018 Itegeko rigenga umurimo mu Rwanda, ariko rwemeje ko yasezerewe ku kazi binyuranije n'amategeko rurangije rumugenera indishyi zihwanye n'umushahara we w'amezi atatu (3) gusa, niyo mpamvu basaba uru rukiko kubikosora, maze agakenerwa indishyi zingana n'umushahara w'amezi atandatu (6) kuko kwirukanywa kwe mu buryo bunyuranyije n'amategeko byateje umukozi ingaruka zikomeye no ku muryango we, kandi yamaze igihe adafite akazi kubera ko aho yajyaga bavugaga ko nta bushobozi afite ndetse n'umuryango we wagize ibibazo by'imibereho mibi bikabije. [21] Me Kalimba Daniel na Me Ntwari Elvis bahagarariye DP World Logistic Ltd bavuze ko ubujurire bwa Rutetinda Chris nta shingiro bufite kubera ko atari anakwiye kugenerwa indishyi asaba kuko atigeze areganywa, naho ibijyanye n'akababaro ka Rutetinda yagize, bikaba bitabazwa uwari umukoresha we kuko nawe yababazwaga no kubona uwari umukozi we adakora

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inshingano ze uko bikwiye, maze ahitamo guhagarika amasezerano, maze agashaka undi ushoboye nkuko amategeko abiteganywa. UKO URUKIKO RUBIBONA [22] Ingingo ya 30 y'Itegeko N° 66/2018 ryo ku wa 30/08/2018 rigenga umurimo mu Rwanda iteganywa ko iseswa ry'amasezerano y'umurimo rinyuranyije n'amategeko rituma hatangwa indishyi. Indishyi zihabwa umukozi wirukanywe binyuranyije n'amategeko ntizishobora kujya munsu y'umushahara w'amezi atatu (3), ariko kandi ntizishobora kurenza umushahara ahabwa w'amezi atandatu (6). [23] Urukiko rurasanga ubujurire bwa Rutetinda Chris kuri iyi ngingo nta shingiro bufite kubera ko kuba urukiko rwamugeneye indishyi zingana n'umushahara w'amezi atatu (3 months) nta kosa ririmo hashingiwe ku bushishozi byayo cyane ko yari amaze igihe gito kingana n'amezi atandatu gusa akorera iyo Company. Kubyerekeye kumenya niba Rutetinda Chris yagombaga kugenerwa amafaranga asimburwa integuza [24] Me Mugisha Fred uhagarariye Rutetinda Chris yavuze ko banenga urubanza rwaciye n'Urukiko Rwisumbuye kubera ko rwamwimye indishyi zo kudatanga integuza kuko umukoresha we yamwirukanye ku kazi atamuhaye integuza ruvuga ko yari akiri mu gihe kigeragezwa kandi ataribwo kuko icyo gihe cyarangiye amaze amezi atatu (3) mu kazi. Akaba ariyo mpamvu asaba ko urukiko rwategeka uregwa kwishyura indishyi zo kudatanga integuza zingana n'inshuro imwe y'umushahara we, zihwanye na 4.340.699Frw. [25] Me Kalimba Daniel na Me Ntwari Elvis bahagarariye DP World Logistic Ltd bavuze ko ubujurire bwa Rutetinda Chris kuri iyi ngingo nta shingiro bufite kubera ko yasezerewe akiri mu gihe cy'igeragezwa kandi nta nteguza yagombaga guhabwa nkuko byateganywaga n'ingingo ya 27 y'itegeko rya 2009 rigenga umurimo ryakurikizwaga icyo gihe. Ikindi kandi ingingo ya 123 mu gika cya 2 y'itegeko N° 66/2018 ryo ku wa 30/08/2018 Itegeko rigenga umurimo mu Rwanda iteganywa ko icyakora, ingingo y'amasezerano y'umurimo inyuranyije n'iri tegeko igomba kuba yahujwe naryo mu gihe kitarenze amezi cumi n'abiri (12) uhereye igihe iri tegeko ritangiye gukurikizwa, kandi amezi 12 avugwa mw'itegeko yari atararangira nkuko itegeko ryabivugaga. UKO URUKIKO RUBIBONA [26] Ingingo ya 120 y'Itegeko N° 66/2018 ryo ku wa 30/08/2018 rigenga umurimo mu iteganywa ko amasezerano y'umurimo yashyizweho umukono mbere y'uko iri tegeko ritangira gukurikizwa agumana agaciro kayo. icyakora, ingingo y'amasezerano y'umurimo inyuranyije n'iri tegeko igomba kuba yahujwe naryo mu gihe kitarenze amezi cumi n'abiri (12) uhereye igihe iri tegeko ritangiye gukurikizwa. Ingingo ya 24 y'iri tegeko itegeka uruhande rusheshe amasezerano guha urundi integuza iteganyijwe ikanavugaga ko nta nteguza ishobora kubaho mu gihe cy'igeragezwa. Ingingo ya 13 y'iri tegeko iteganywa ko igihe cy'igeragezwa ku murimo ntigishobora kurenza amezi atatu (3). icyakora, nyuma y'isuzuma ryanditse kandi ryamenyeshejwe umukozi, umukoresha ashobora gusubirishamo igeragezwa mu gihe kitarenze

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amezi atatu (3) bitewe n'impamvu zumvikana, zishingiye ku miterere y'akazi, imikorere n'imyatwarire by'umukozi. Iyo igeragezwa rirangiye rikagaragaza ko umukozi ashoboye akazi, ahita ahabwa akazi abimenyeshejwe mu nyandiko n'umukoresha. [27] Urukiko rurasanga ubujurire bwa Rutetinda Chris kuri iyi ngingo nta shingiro bufite kubera ko yasezerewe ku kazi ari mu gihe cy'igeragezwa kandi itegeko riteganywa ko nta nteguza bahabwa. Kubyerekeye

kumenya niba DP World Logistics Ltd yahabwa amafaranga y'ikurikiranarubanza n'igihembo cy'avoka [28] Me Kalimba Daniel na Me Ntwari Elvis bahagarariye DP World Logistic Ltd bavuze ko barasaba urukiko gutegeka Rutetinda Chris gutanga amafaranga y'ikurikiranarubanza hamwe n'igihembo cya Avoka angana na 1.000.000Frw yiyongera kuyo yasabye ku rwego rwa mbere ntiyahabwe. [29] Me Mugisha Fred uhagarariye Rutetinda Chris yavuze ko basaba urukiko Rukuru kudaha ishingiro ibyo DP World Logistics Ltd isaba kubera ko ariyo nyirabayazana, bityo ikaba itagenerwa indishyi. Akavuga ko nabo batanze ikirego basaba urukiko gutegeka DP World Logistic Ltd kwishyura Rutetinda Chris 4.000.000Frw y'igihembo cya Avoka wamuburaniye kuko yashowe mu manza zitagira impamvu kandi kuburyo bw'amaherere; na 500.000Frw zo gukurikirana uru rubanza ku rwego rwa mbere no k'ubujurire. UKO URUKIKO RUBIBONA [30] Urukiko rurasanga ubusabe bwa RUTETINDA Chris busaba uru rukiko gusubizwa amafaranga y'ikurikiranarubanza n'ay'igihembo cya Avoka nta shingiro ryahabwa kubera ko rwasanze ubujurire bwe nta shingiro bufite. Naho kubijyanye n'amafaranga y'ikurikiranarubanza n'igihembo cya Avoka asabwa na DP World Logistics Ltd bufite ishingiro kubera ko rwasanze ubujurire bwe bufite ishingiro kuri bumwe. Hashingiwe ku ngingo ya 111 y'Itegeko No 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsiz, n'ingingo ya 26 y'Amabwiriza N° 01/2014 akena ibihembo mbonera by'Abavoka³, rurasanga ariko kubera ko ayo yasabye ari menshi ndetse n'igihembo cya Avoka ko yatanze menshi bitavuze ko urukiko rugomba kubishingiraho mu gihe hari amabwiriza yashyizweho; bityo rusanga igomba kugenerwa mu bushishozi bw'urukiko. Bityo rursanga DP World Logistics Ltd ikwiye kwishyurwa amafaranga 50.000Frw yo gusiragizwa, n'Amafaranga 250.000Frw y'igihembo cya Avoka wamuburaniye ku rwego rw'ubujurire, ndetse agasubizwa ibihumbi mirongo ine (40.000Frw) y'ingwate y'amagarama.

2 Ikirego cy'amafaranga y'ikurikiranarubanza ni ikirego gishamikira ku kirego cy'iremezo kigamije kwishyura ibyakoreshejwe mu rubanza. 3 Avoka w'urega wateguye dosiye n'inyandiko ashobora gusaba igihembo fatizo kiri hagati y'amafaranga 500.000 n'amafaranga 5.000.000, cyongerwaho, iyo hari imyenda yagarujwe nawe ubwe cyangwa n'intumwa ye, igihembo cyinyongera cyo kwishyura, kibarwa hakurikijwe ijanisha riteganywa mu gace ka II k'ingingo ya 23. Avoka w'uregwa akena ibihembo bye akurikije agaciro k'ikiburanwa, ingorane ziri mu rubanza, hamwe n'ibyo agomba kubanza gukora byose, ndetse n'ingaruka z'icyemezo cyafashwe; ariko igihembo ntikijye muni y'amafaranga 500.000 kandi ntikirenge amafaranga 3.000.000. Iyo habaye ubujurire, avoka w'urega n'uw'uregwa bashobora gusaba kimwe cya kabiri cy'igihembo cyumvikanyweho ku rwego rwa mbere.

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III. ICYEMEZO CY'URUKIKO [31] Rwemeje ko ubujurire bwatanzwe na DP World Logistic Ltd bufite ishingiro kuri bumwe. [32] Rwemeje ko Rutetinda Chris akwiye kugenerwa indishyi zo kwirukanwa binyuranije n'amategeko hashingiwe ku mushahara atahana (net salary). [33] Rwemeje ko imikirize y'urubanza RSOC00140/2022/TGI/NYGE rwaciye n'Urukiko Rwisumbuye rwa Nyarugenge ku wa 08/06/2023, ruhindutse kubijyanye n'ingano y'indishyi zo gusesa amasezerano y'akazi binyuranije n'amategeko Rutetinda Chris yaragenewe; akaba akwiye

kugenerwa indishyi zingana na 8.942.400Frw; ndetse agasubizwa 800.000Frw akubiyemo igihembo cya Avoka n'ikurikiranarubanza, na 20.000Frw yatanzeho ingwate y'amagarama arega nk'uko byari byemejwe mu rwego rubanza. [34] Rutegetse Rutetinda Chris kwishyura DP World Logistic Ltd amafaranga ibihumbi magana abiri na mirongo itanu (250.000Frw) y'igihembo cy'avoka, na 50.000Frw y'ikurikiranarubanza. [35] Rutegetse kandi Rutetinda Chris gusubiza DP World Logistic Ltd amafaranga mirongo ine (40.000Frw) y'ingwate y'amagarama yatanze.

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