

UGANDA / JUDGMENT

Munanura v Sure Care Doctors Clinic and Pharmacy (Labour Dispute Reference No. 325 of 2019) [2022] UGIC 10 (14 October 2022)

[2022] UGIC 10

COURT

Industrial Court of Uganda

BEFORE

Wabwire, J, Kagoye, Panel Member, Musimbi, Panel Member, Lapenga, Panel Member

CASE / FILE NUMBER

Labour Dispute Reference No. 325 of 2019

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THE REPUBLIC OF UGANDA IN THE INDUSTRIAL COURT OF UGANDA AT KAMPALA
LABOUR DISPUTE REFERENCE NO. 325 OF 2019 *(Arising from MGLSD/
LC/062/2019)*

MUNANURA GIBERT::CLAIMANT VERSUS SURE
CARE DOCTOR'S CLINIC &

PHARMACY::RESPONDENT

BEFORE:

THE HON. JUSTICE ANTHONY WABWIRE MUSANA

PANELISTS:

- 1. Mr. JIMMY MUSIMBI
- 2. Ms. ROBINAH KAGOYE
- 3. Mr. CAN AMOS LAPENGA

RULING

- 1.0 When this matter came up for mention on 15th day of September 2022, the Court directed Counsel to address it on how the arbitral process in MGLSD/LC/62/2019 was conducted.

- 2.0 Mr. Saad Ssengendo, for the Claimant, submitted that the Labour Officer had not made a decision but referred the matter to the Industrial Court under **Section 5 of the Labour Disputes(Arbitration and Settlement) Act, 2006(LADASA)**. The Labour officer did not give a reason for not rendering a decision. For the Respondent, Ms. Rwandaruguli noted that the claimant was now filling in gaps from the proceedings that arose during cross-examination before the labour officer. She cited **LDR No. 223 of 2019 FRANCIS DOMINIC MERU VS NAKASERO HOSPITAL** in support of the proposition that the present claim was an abuse of court process and prejudicial to the Respondent. Counsel prayed that the application be dismissed. In rejoinder, Mr. Ssengendo reiterated the view that the claim was not prematurely before this Court.
- 3.0 The lower court record reflects that on the 10th day of January 2019, the claimant registered a complaint with the labour office in Makindye Division seeking unpaid wages. A mediation session was conducted on 5th February 2019

but no settlement was reached. The matter was forwarded to the Commissioner, Industrial Relations and Productivity. On 8th March 2019, the Commissioner invited the Respondent to the arbitral proceedings. On diverse dates thereafter, evidence was taken by way of witness statements. There is mention of cross-examination of the witness and Messrs Masanga & Co. Advocates filed detailed written submissions on behalf of the Claimant while M/S Ssewagudde, Kalema & Co Advocates filed written submissions on behalf of the Respondent. The Claimants submission in rejoinder were filed on the 21st day of October 2019. However, and curiously, on the 2nd of October 2019, the Claimant made a reference to the Industrial Court on grounds that the labour officer had failed to dispose of the dispute within 8 weeks. On 2nd December 2019, the Labour Officer at the Ministry of Gender Labour and Social Development made a reference to this Court on the grounds that a substantial question of law had arisen. These questions were on unfair termination and non-payment of wages. There were no details of these questions or a decision of the Labour Officer.

- 4.0 Mr. Ssengendo submitted that a labour officer is at liberty to refer a dispute to the Industrial Court if he or she forms the opinion that a substantial question has arisen. In a circuitous attempt to place the reference squarely before this Court, he suggested that the Labour Officer had wide power to refer the matter. We do not think this to be realistically arguable. The matter that we are confronted with is not the power of a labour officer but a premature referral to this Court. The facts point to a reference made after the filing of submissions in arbitral proceedings. And it this premature reference that this Court must consider. In **LDR No.223 of 2019 FRANCIS DOMINIC MERU VS NAKASERO HOSPITAL LTD** this Court observed that where a reference is made after the claimant has called evidence and closed his or her case, it would be prejudicial to the Respondent. The Court further observed that the claimant would get advantage to call fresh evidence and close gaps that could have arisen in crossexamination. Abandoning the proceedings before the labour office only to replicate them in this court could only amount to abuse of Court process. In this regard, we accept Ms. Rwandaruguli's submission that the reference was premature.

