

AARON ZHOMWE v BHP MINERALS COMPANY

SUPREME COURT OF ZIMBABWE
GUBBAY CJ, EBRAHIM JA & SANDURA JA
HARARE, JANUARY 18 & FEBRUARY 6, 2001

The appellant in person

J Siveregi, for the respondent

EBRAHIM JA: The appellant was employed by the respondent company. He was dismissed from his employment, it being alleged that he had participated in an unlawful collective job action. Following an internal disciplinary hearing by the company, it was recommended that he be dismissed. He appealed in terms of the procedures provided for by the respondent but was unsuccessful. He lodged a further internal appeal but this too failed. He then appealed to the Labour Relations Tribunal but his appeal was dismissed. He then appealed to this Court.

Appeals from the Labour Relations Tribunal to the Supreme Court are only permitted on a question of law – see s 92(2) of the Labour Relations Act [*Chapter 28:01*]. The phrase “question of law” has three distinct, though related, meanings and these are set out in *Mazuva v United Bottlers (Pvt) Ltd* 1994 (1) ZLR 217 (S) at 220 D-F.

In *National Foods Ltd v Mafudza* S-105-95 the observation was made:

“It is true that this Court only has jurisdiction to hear an appeal from the Tribunal on a point of law But clearly if there is a serious misdirection on the facts that amounts to a misdirection in law. The giving of reasons that are bad in law constitute a failure to hear and determine according to law.”

This passage was cited with approval in *Hama v National Railways of Zimbabwe* 1996 (1) ZLR 664 (S) at 669G. KORSAH JA went on to identify the circumstances where such a misdirection would be a question of law and where a determination based on such misdirection would be irrational.

It is patently obvious from a reading of the judgment of the Labour Relations Tribunal that the conclusion it reached was as a result of an analysis of the facts placed before it. In this regard the learned chairman highlighted the contradictions in the appellant’s defence. He did not believe the appellant.

It is my view that it cannot be said that the conclusion reached by the learned chairman was so outrageous as to warrant a finding that he misdirected himself in law.

It is also clear from the notice of appeal lodged by the appellant that the appellant’s appeal is based on him taking issue with the findings of fact made by the Tribunal. These are findings of fact which do not justify criticism.

Accordingly the appeal is dismissed with costs.

GUBBAY CJ: I agree.

SANDURA JA: I agree.

Dube, Manikai & Hwacha, respondent's legal practitioners