FLASH MALAYSIA EXPRESS SDN BHD v MUHAMMAD FIRDAUS BIN AZMI

CaseAnalysis
| **[2025] MLJU 3710**

Flash Malaysia Express Sdn Bhd v Muhammad Firdaus bin Azmi [2025] MLJU 3710

Malayan Law Journal Unreported

HIGH COURT (MUAR)

KALYANA KUMAR SOCKALINGAM JC

CIVIL APPEAL NO JB-16-6-04 OF 2025

9 October 2025

Ng Juen Yee (Jenny) (with Roeshan Celestine Gomez) (Ng & Gomez) for the appellant.

Kalyana Kumar Sockalingam JC:

JUDGEMENT

[1] This is an appeal by the Appellant pursuant to *section 77* of the *Employment Act 1955* against the whole decision of the Director General of Labour at Batu Pahat in awarding the Respondent the sum of RM 1,129.03 as wages in lieu of notice and the sum of RM 1, 520.00 as termination benefits. It is the contention of the Appellant that the Labour Court erred in law and/or in fact and/or misdirected itself in arriving at the decision.

BRIEF BACKGROUND

[2] The Respondent started his work with the Appellant on 25.1.2023 with a monthly salary of RM 1, 500.00. His salary at the time of dismissal was RM 2,500.00 and was the Appellant's branch supervisor. On 2.1.2025, a show cause letter was issued to the Respondent by the Appellant for the following three charges: -

> ***"10(1) Salah laku (16.3.7) - ketidakjujuran, termasuk penipuan, penyelewengan, memiliki harta benda syarikat tanpa kebeneran. Merujuk kepada siasatan syarikat, and sebagai Branch Supervisor di PTS-SP-Pt Sulong telah didapati menipu 2 orang pekerja dibawah seliaan anda dan juga telah menipu orang atasan anda tentang penerimaan "shell card". Menurut iaporan, kedua-dua pekerja tersebut masih belum menerima kad tersebut 10(2) Salah laku (16.3.7)- ketidakjujuran termasuk penipuan, penyelewengan, memiliki harta benda syarikat tanpa kebenaran.***
>
> ***Salah laku (16.2.4) *■ penyalahgunaan harta syarikat, informasi dan servis. Merujuk kepada siasatan syarikat, anda sebagai Branch Supervisor di PTS~SP-Parit Sulong telah didapati menyalahgunakan "Shell Card" tersebut dengan mengisi minyak pada 29.11.2024 jam 5.06 petang sebanyak RM66.07.***
>
> ***10(3) Salah laku (16.2.8)- lewat dating atau meninggalkan tempat kerja sebelum waktu kerja."***

[3] The Respondent denied the first two charges and pleaded guilty to the third charge of late coming and leaving the office early before the actual time. Based on that the Appellant did not proceed with the first two charges and dismissed the Respondent for misconduct based on his admission for the third charge. The Labour Court in arriving

at the decision was of the view that all the three charges constitute misconduct and that a domestic inquiry must be established for all the three charges even though the Respondent has pleaded guilty to the third charge. The Labour Court relied on *section 14* of the *Employment Act 1955* which uses the word after due inquiry and the case of *Said Dharmalingam Abdullah v Malayan Breweries (Malaya) Sdn Bhd* (1997) 1 CLJ 646 in arriving at its decision. It is the contention of the Appellant here that a domestic inquiry is not necessary here since the Respondent had pleaded guilty to the third charge and the Appellant had abandoned the first and second charges. Since the third charge for which the Respondent pleaded guilty is also a misconduct, the Appellant is entitled to dismiss the respondent without notice pursuant to *section 14* of the *Employment Act 1955*.

FINDINGS OF THIS COURT

[4] It is the finding of this court that the show cause letter on the third charge is sufficient to amount as due inquiry prior to dismissing the respondent for purposes of *section 14* of the *Employment Act 1955*. Further, the respondent had admitted to the misconduct. As such, there was no necessity for the Appellant to conduct due inquiry before proceeding to dismiss the Repsondent. Support for this can be found in the case of *Che Zamberi bin Che Che Ani v MAB Kargo Sdn Bhd* *(2025) ILJU 106*. In the case of *Petroleum Nasional Bhd V En Mohd Radzuan Ramli* (1993) 1 LR 100 at page 102 para E the court held that “It is established by authority that where a workman in answer to a charge levelled against him admits his guilt there will be nothing more for the Management to inquire into and in such a case the holding of an Inquiry would be an empty formality” (*Central Bank of India v Karumary Bannerjee* (1967) 1 LUSC).

[5] The case of ***Said Dharmalingam Abdullah v Malayan Breweries (supra)*** deals with due inquiry for the purposes of *section 14* of the *Employment Act 1955* when the Claimant denies the charges against him or her. It would not apply to a case where the Workman pleads guilty to a charge which amounts to a misconduct. In fact, the Labour Court in the grounds of decision does agree that the third charge amounts to a misconduct.

[6] In the present case based on the records produced, the respondent is a habitual late comer and the Appellant had allowed flexibility hours in coming to work but still the Respondent was unable to come within the stated time. In order for the Appellant to sustain its business smoothly and efficiently, the company has the right to require the employees to come to work punctually and that it also has the right to take disciplinary action amounting to dismissal in order to ensure that these requirements are fulfilled. It is an established principle of industrial law that habitual late coming is a good ground for dismissal. Alfred Avins in his book ***“Emplyees Misconduct’*** wrote that “lateness is absence without leave for the period between the time the employee is required to arrive and the time he actually does arrive and as a species of unauthorised absence it too is a misconduct. (*Petroliam Nasional Bhd v Anuar Mohd Ariff* (2000) 3 ILR 492; *Taipan Asia Travel v Thomas Chong Vei Meng* (1996) 2 ILR 174 and *Yee Lee Corporation v Mallika A/P Paul* (1995) 11 LR 4320)

[7] Premised on the above I find that the Labour Court has erred in law and in fact in making the Orders. The Appellant’s appeal is allowed with no order as to costs.

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