



CASE SUMMARY

ESEZA CATHERINE BYAKIKA VS. NATIONAL SOCIAL SECURITY FUND (CIVIL APPEAL NO. 06/2021)

BRIEF FACTS	ISSUES	COURT DECISION	LESSONS LEARNT
<p>On June 6, 2013, the Appellant accepted an offer of employment with NSSF, the Respondent, and started work on July 1, 2013. On May 28, 2015, the Managing Director of NSSF wrote to the Appellant stating that he had received information that the Appellant gave an interview to the media where she spoke about proceedings of the NSSF board. The Managing Director then suspended the Appellant from employment and commenced investigations into her alleged misconduct.</p> <p>On closure of investigations, the Appellant was told that she was to face the staff disciplinary committee to defend herself against two offences—</p> <ol style="list-style-type: none"> flagrant disregard of fund policies, procedures, regulations, or rules; and breach of confidentiality. <p>After the hearing, the disciplinary committee found that the Respondent had made a case against the Appellant who was subsequently summarily dismissed in a letter dated June 22, 2015.</p> <p>This is the second appeal stemming from the decision of the Court of Appeal which dismissed the appellant's appeal and which upheld the decision of the Industrial Court, the appellant contested her dismissal from employment by the respondent which made the Appellant to lodge a suit in the Industrial Court against the respondent on 27th/August/2015 and 16th/March/2017 where the Industrial Court dismissed the application upon finding that her dismissal was lawful.</p> <p>The appellant was dissatisfied with this outcome and appealed to the Court of Appeal which upheld the decision of the Industrial Court concluding that the appellant was lawfully dismissed for violating the terms of employment and there were no orders to the costs made.</p> <p>Being aggrieved with the ruling of the Court of Appeal, the appellant appealed to the Supreme Court presenting 12 grounds of appeal.</p> <p>The first 2 grounds are on matters of law concerning the jurisdiction of the Supreme Court and necessitate determination prior to the consideration of any other matters.</p> <p>The court first handled the preliminary two grounds of appeal.</p>	<ol style="list-style-type: none"> The learned Justices of Appeal erred in law and fact when they held that the Court of Appeal has no jurisdiction to hear appeals from the Industrial Court on points of law or mixed law and facts there by arriving at a wrong decision occasioning miscarriage of justice. The learned Justices of the Court of Appeal erred in law and fact by raising the issue on the Court's jurisdiction on their own without giving the appellant an opportunity to address the Court on the same and there by arriving on a wrong conclusion hence occasioning miscarriage of justice. 	<p>On preliminary points of law on whether the Supreme Court had jurisdiction to hear and determine an appeal from the decision of the Court of Appeal in judgement arising from the Industrial Court, the Court stated that this matter of law in issue is fundamental and the Court should first determine this preliminary point of law before proceeding to any other issue presented before it.</p> <p>The Court stated that the Parliament did not prescribe such further right to Supreme Court to hear and determine appeals arising from the Court of Appeal's decision as provided under section 22 of the Labour Dispute and Alternative Settlement Act.</p> <p>On the examination of article 132 clause 2 of the Constitution of the republic of Uganda of 1995 as amended, the Court based on section 6 subsection 1 of the Judicature Act which anticipates an appeal to the Supreme Court according to the laws prescribed by Parliament of the republic of Uganda.</p> <p>Therefore, while the Supreme Court is acknowledged as the highest appellant court under article 132 clause 2 of the Constitution of the republic of Uganda, its status and power remains found in the Statutes enacted by Parliament.</p> <p>The Court stated that the Industrial Court was not established under article 129 clause 1 paragraph D of the 1995 Constitution of the republic of Uganda as amended which provides that the Parliament may create such subordinate Courts to the High Court. However, article 40 of the Constitution of the republic of Uganda of 1995 as amended empowers the Parliament to make laws concerning economic rights.</p> <p>The Court ruled that the law governing labour disputes does not categorize Industrial Court as a subordinate Court to the High Court. Therefore, the Industrial Court is a special labour tribunal established by Parliament and governed by a distinct law for the settlement of labour disputes.</p> <p>That the Industrial Court is endowed with specialized powers and procedures meant to address labour disputes through mediation, consensus and arbitration. During its arbitration procedures, the Industrial Court is empowered to a judicate matters of both facts and law.</p> <p>The Supreme Court ruled that the specific mandate of the Industrial Court is defined by the Employment Act cap 226 and the Labour Disputes arbitration and Settlement Act cap 227 revised laws of Uganda 2023.</p> <p>That the proceedings in labour disputes commences before a Labour Officer, a designated office dealing with labour disputes resolution under the Employment Act chapter 226.</p> <p>The Supreme Court ruled and reaffirmed that it lacks jurisdiction to hear the appeal of a matter arising from the decision of the Industrial Court and therefore the appeal was struck out without any order as to cost.</p>	<p>All appeals stemming from the industrial court have the last appeal before the court of appeal with no further appeal to the supreme court.</p>