



IN THE HIGH COURT OF SIERRA LEONE
INDUSTRIAL COURT DIVISION

IC12/13

MATHEW FODAY & ORS.

RESPONDENTS

AND

THE GENERAL MANAGER
NATIONAL POWER AUTHORITY

APPLICANT

REPRESENTATION:

MS. AUDREY WILLIAMS ESQ.

COUNSEL FOR THE JUDGMENT CREDITORS

TEJAN A.I. JAH ESQ.

COUNSEL FOR THE JUDGMENT DEBTORS

BEFORE THE HON. MR. JUSTICE SENGU KOROMA JA. PRESIDENT
OF THE INDUSTRIAL COURT RULING DELIVERED ON THE 26TH
SEPTEMBER, 2017

1. This is an application by way of Notice of Motion dated the 24th day of July, 2017 for the following Orders:-
2. The application is supported by the affidavit of Tejan Ahmed Israel Jah sworn to on to the 27th day of July, 2017 together with the exhibits attached thereto.

In this application, the Applicant was seeking two main reliefs

- a) That this Honourable Court grants an Order for the Electricity Distribution and Supply Authority (EDSA) and Electricity Generation Transmission Company (EGTC) to be joined as parties to this Action.
- b) That the Orders dated the 11th and 27th day of July, 2017 be set aside ex debito Justitiae on the following grounds.
 - i. That the Orders contravened Section 77 (b) of the National Electricity Act, 2011.
 - ii. That all debts due and owing the garnishees by the Judgment debtors to be attached or so much thereof as is sufficient to satisfy the Judgment debtors dated the 7th December, 2016 are not owned by EDSA and EGTC.
3. In His Submission, Mr. Jah stated that Section 77 (b) of the National Electricity Act, 2011 NEA specifically provides that only the obligations and debts of the Bo Kenema Power Services (BKPS) are to be borne by EDSA and EGTC.
4. The attachment of the accounts of EDSA and EGTC is not provided for in the Act. He argued that assuming without conceding that Section 77 (b) transferred the employees of National Power Authority (NPA) to two entities; this did not include their former employees as the former employees of

National Power Authority were no longer in the employment of the Authority when the 2011 Act was passed.

5. Mr. Jah finally submitted that there was in existence a Transitional National Power Authority Account to bear the liabilities of the former NPA employees.
6. Ms. Williams for the Respondents replied that Section 77 (b) of the 2011 Act referred only to the BKPS and therefore had no relevance to the instant case.
7. Furthermore, the existence of the Transitional National Power Authority Accounts was not known to the Public. The said Account was intended to be an internal affair for a smooth transition process. It had nothing to do with third parties.
8. Ms. Williams further submitted that quite aside from the legal implications, EDSA and EGTC have been conveniently conducting the business formerly carried out by the National Power Authority (NPA) and have been receiving payment of debts owed to NPA. In addition by Section 54 of NEA, 2011, the assets of NPA. were transferred to EDSA and EGTC.
9. This Application is on all fours with that made in the matter of CC 19/2012 M No.1 between KELFALA MARAH & ORS. -V- NATIONAL POWER AUTHORITY in which I held that firstly the employees of the NPA includes former employees. Mr. Jah's submission on this point does not hold. The very existence of Section 77 (a) only proves that it was never intended by parliament that the former employees of the defunct NPA were to be abandoned whilst the workers at the time of the enactment of the NEA 2011 were to be provided for.
10. To quote again from my Judgment in the KELFALA MARAH & NATIONAL POWER AUTHORITY case, "the reason why Section 77 (b) only made reference to BKPS is simple to discern. Prior to the enactment of the NEA, 2011, BKPS was an independent entity with its own Board and

Management Parliament by expressly providing for its liabilities in the Act was merely recognizing its prior independent status. It does not by any stretch of the imagination mean that it was absolve the successor entities from their liabilities to their former employees. That responsibility is continuous”

11. Mr. Jah made mention of a Transitional National Power Authority Accounts created with the object of dealing with the liabilities of the defunct NPA but failed to provide any further information on it.

In the circumstance, the application fails and I order as follows:

- 1) That the Sierra Leone Commercial Bank pays over to the Judgment Creditors the sum of Le366,697,220.00 being the Judgment debt Le10,000,000/99 being costs thereto and the sum of Le20,000.000/00 being costs of these Garnishee proceedings.
- 2) Costs of this application assessed at Le30, 000.000/00 to be paid over from the Accounts of the Judgment Debtors.
- 3) That the sums Ordered herein be paid into the accounts of the Solicitors for the Judgment Creditors


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HON MR. JUSTICE SENGU KOROMA JA.
PRESIDENT OF THE INDUSTRIAL COURT

