



IN THE HIGH COURT OF SIERRA LEONE  
INDUSTRIAL COURT

IC24/15

MOHAMED MANSARAY

APPLICANT

AND

PHILIP SANKOH

DEFENDANTS

REPRESENTATION:

S. BOBANI BROWNE ESQ.

COUNSEL FOR THE PLAINTIFF

E.T. KOROMA ESQ,

COUNSEL FOR THE DEFENDANTS

**BEFORE THE HON. MR. JUSTICE SENGU KOROMA JA.**  
**RULING DELIVERED ON THE 9<sup>TH</sup> OCTOBER, 2018.**

10. PW2 – Max Allie. PW2 was a former employee of the Ministry and he investigated the complaint by the Plaintiff against the Defendant. He informed the Court that in the course of the investigations, he met with the Defendant four times during what it was established that the Plaintiff worked for the Defendant from 2004 to 2013.

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11. PW2 explained that he took over the investigation from one Foud Koroma after the Defendant expressed dissatisfaction over his manner of handling the complaint. PW2 testified that when it was discovered that no progress was made in the negotiations with the Defendant, the Minister instructed Mr. Foud Koroma to compute the terminal benefits of the Plaintiff. This was done and the computation was forwarded to the Defendant for his necessary action. When the Defendant did not respond, the matter was forwarded to the Industrial Court for redress.

12. PW2 explained that as the Defendant runs a construction company, the terms and conditions of service used to compute the entitlements of the Plaintiff were based on the Building and Construction Trade Group Agreement.

13. Before proceeding, I deem it necessary to comment on the later part of the testimony of PW2 in which he informed the court that he used the Building and Construction Trade Group Agreement to compute the entitlements of the Plaintiff. This is inconsistent with the testimony of PW1 who informed this Court that he was an employee of the Defendant as Security Guard. Nowhere did he testify that he was a Security Guard for a construction company.

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14. In view of this, I hold that the Plaintiff is entitled to benefits under the terms of the Trade Group for Security Guards, unless this is a special category for Security Guards under the Trade Group Agreement for Construction workers.

#### Conclusion of testimony of PW2

15. PW2 concluded his testimony by tendering the following exhibits:

- EXH "A" – Letter of complaints dated 30<sup>th</sup> October, 2013.
- EXH B1<sup>-6</sup> – Letters from the Ministry to the Defendant.
- EXH C – Computation of the entitlements of the Plaintiff.

#### Cross – examination of PW2

16. PW2 answered that he was a former worker of the Ministry and one of his duties was to settle disputes between employers and employees. He agreed that to establish a written contract of employment, these are times when the contract need not be written.

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17. PW2 agreed with Mr. Koroma for the Defendant that there were no minutes of the meeting at which the Defendant admitted accepted liability. He agreed that no letter of appointment was produced by the Plaintiff at the Ministry.

18. PW2 agreed that he computed the terminal benefits based on the terms of the Construction Trade Group Agreement. He denied bringing the wrong person to court.

19. My comment again on this is that if the computation under the Construction Trade Group Agreement is allowed, then the defence Counsel is right to say

Plaintiff came to him seeking accommodation, he also gave him a store to live in and when he found out that the Plaintiff was a tailor, he gave him a sewing machine.

29. Later on, DW1 Continued, he allowed the Plaintiff to train with the other trainees. However, in September, 2013, he asked the Plaintiff to vacate his premises after he found out that he was stealing from him.

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#### Cross examination of DW1

30. The DW1 insisted that the Plaintiff was just worker who came to him through his wife. He agreed that the Plaintiff worked in 2008, 2009 and 2010 – cleaning and laundering clothes – any work that could earn him money for the day. DW1 denied paying the Plaintiff directly.

31. He confirmed giving the Plaintiff shelter at SS camp where he later lived with his six children.

32. DW1 answered that he knew the Plaintiff since August, 2006. The Plaintiff worked for him for a year through SSA but did not know why he stopped working for them.

33. DW2 – Desmond Victor Emmanuel Mackay. The witness was at one time Head of Operations of SSA. He recalled 1<sup>st</sup> August, 2006 when an incident of theft occurred at the residence of the Defendant. DW2 agreed that the Plaintiff started working with the Defendant at that time.

34. DW1 informed the court that on the 25<sup>th</sup> day of each month, SSA would send an invoice to the client who would in turn pay by cash or cheque. They in turn would pay the Guard.

#### Cross examination

35. DW1 agreed that he started working for SSA on 7<sup>th</sup> March, 2006 and left in June, 2007. He admitted meeting the Plaintiff as a worker there. DW1 however did not have any evidence that he started working for SSA on 7<sup>th</sup> March, 2006.

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36. DW1 admitted that he abruptly resigned from SSA because he was not paid salary for three months.

**DW3: Patrick Sankoh.**

This witness merely corroborated the testimony of DW2, his father.

#### ADDRESSES:

Counsel E. T. Koroma for the Defendant.

37. Mr. Koroma for the Defendant submitted that the burden was on the Plaintiff to prove the existence of an employer/employee relationship as the Plaintiff submitted no letter of employment or proof of payment of salary was tendered in evidence. The relationship between the Plaintiff and Defendant was not a direct one.

38. Mr. Koroma referred to the testimony of DW2 who testified that the Plaintiff worked for the SSA which was never controverted.

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on humanitarian ground. Who is to be believed in this case? I have completely ignored the testimony of DW2 as not credible and in any event, irrelevant.

46. For the above reason, I hold that there was an employer/employee relationship between the Plaintiff and the Defendant.

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47. Having held that there was an employer/ employee relationship between the parties, the next issue for determination is the quantum of the entitlement of the Plaintiff.

48. The Plaintiff in his testimony informed this court that he started working for the Defendant in 2004.

However, under cross examination and from other testimonies, it was established that the Plaintiff was engaged by the Defendant after the incidence of theft on the 1<sup>st</sup> August, 2006. In the circumstance, the date of employment shall be deemed to be 1<sup>st</sup> September, 2006.

49. I note that the Ministry had done a computation of entitlements of the Plaintiff based on date of employment as 2004. For the reason already stated, this cannot be correct.

50. After considering the testimonies of the witnesses herein and perusal of the documents tendered, this court holds that the Defendant is liable to the Plaintiff and order as follows:-

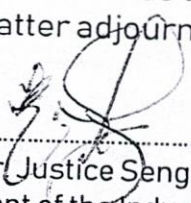
1. That the Ministry of Labour and Social Security recomputes the end of service benefits and other entitlements of the Plaintiff with date of employment as 1<sup>st</sup> September, 2006.

2. That the Trade Group Agreement to be used shall that of Security Guards not that of the Construction Industry.

3. Interest on the said sum at the rate of 10 percent per annum from the 17<sup>th</sup> day of November, 2015 to date of judgment.

4. No order as to costs.

51. Matter adjourned to Tuesday, 23<sup>rd</sup> October, 2018 at 9:30 AM.

  
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Hon. Mr. Justice Sengu Koroma (J.A.)  
President of the Industrial Court