IN THE HONORABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA
SITTING IN ITS MARCH TERM, A.D. 2021

BEFORE HIS HONOR: FRANCIS S. KORKPOR, SR.……...CHIEF JUSTICE
BEFORE HER HONOR: JAMESETTA H. WOLOKOLIE……ASSOCIATE JUSTICE
BEFORE HER HONOR: SIE-A-NYENE G. YUOH…….ASSOCIATE JUSTICE
BEFORE HIS HONOR: JOSEPH N. NAGBE……..ASSOCIATE JUSTICE
BEFORE HIS HONOR: YUSSIF D. KABA……ASSOCIATE JUSTICE

The Management of Sethi Brothers, Inc. of the City of Monrovia, Liberia……Appellant	)	
Versus	)	APPEAL
Mr. Frederick Jenteh, of the City of Monrovia, Liberia…….Appellee	)	
GROWING OUT OF THE CASE:	)	
Mr. Frederick Jenteh, of the City of Monrovia, Liberia…….Petitioner	)	
Versus	)	PETITION FOR THE ENFORCEMENT OF
The Management of Sethi Brothers, Inc. of the City of Monrovia, Liberia……Respondent	)	JUDGMENT
GROWING OUT OF THE CASE:	)	
Mr. Frederick Jenteh, of the City of Monrovia, Liberia…….Complainant	)	
Versus	)	UNFAIR LABOR PRACTICE/WRONGFUL
The Management of Sethi Brothers, Inc. of the City of Monrovia, Liberia……Defendant	)	DISMISSAL

Heard: July 19, 2020 Decided: August 20, 2021

MR. JUSTICE KABA DELIVERED THE OPINION OF THE COURT

On November 16, 2016, Mr. Frederick Jenteh, appellee, lodged a complaint against the Management of Sethi Brothers, Inc., appellant, at the Ministry of Labour alleging as follows:

> "November 16, 2016
> Hon. Neto Z. Lighe
> Minister
> Ministry of Labour
> Monrovia, Liberia.

Dear Hon. Minister:

I present my compliments and wish to inform you that I worked with the Management of Sethi Brothers, Inc., with a monthly salary of **US$300.00.**

Minister, on Wednesday, November 2, 2016, when I went to work that morning, Management asked me to go home and that my services were terminated after I have spent thirteen (13) years with Management.
Sir, I am appealing to this Ministry through you to intervene so that I can get my benefits from the Management of Sethi Brothers, Inc.

Kind regards;
Very truly yours
Federick Jenteh
Complaint"

The Minister of Labour promptly forwarded the complaint to the Division of Labour Standards to resolve the matter. Mr. Charles M. Tuazama, Hearing Officer, cited the parties to a conference on two occasions, but the parties failed to appear for the first time. Appearing on the second citation for a conference, the parties failed to reach an agreement. So the Hearing Officer ordered an investigation into the complaint; in other words, the taking of evidence in the case.

At the call of the case for investigation on January 18, 2017, the Henries Law Firm represented the appellant. The appellee took the witness stand and testified that the appellant employed him; that he was not given a letter of employment; that the appellant gave him notebooks to record his attendance at each of the three compounds where the appellant assigned him; that he received a monthly cash salary of **US$300.00** for thirteen years; and that the appellant did not give him leave during said period of employment. Upon requests by the appellee, the Hearing Officer ordered subpoena duces tecum and ad testificadum which were served and returned served on the appellant to produce records on the “mode of payment”, attendance and employees to testify to the records on March 23, 2017 and April 27, 2017, respectively. The appellant failed and neglected to honor these subpoenas and instead wrote a letter dated March 30, 2017 to the Hearing Officer denying that the appellee was an employee of the appellant.

After that, several notices of assignment for the continuation of the investigation were issued and duly served on the parties. The certified records reveal that the appellant failed and neglected to appear without leave of the Hearing Officer. Based on the appellant's noticed unexcused absence for the fifth time in sequence,

the appellee applied for a default judgment on June 21, 2017, when the case was called for a hearing. The Hearing Officer there and then recited several unexcused absences of the appellant and ruled granting the application for an imperfect judgment in favor of the appellee. On the said June 21, 2017, the appellee produced his second witness in the person of Mr. Jutomu Gortor Paye who corroborated the testimony of the appellee.

Interestingly, the final ruling in the case was assigned for September 12, 2017. The appellant, who had refused and neglected to appear for the investigation since April 27, 2017, after five notices of assignments, appeared and announced representation by and through the Henries Law Firm. The Hearing Officer rendered the final ruling for the appellee without exception made by the appellant. Subsequently, copies of the ruling were received by the appellee and appellant on September 13 and 14, 2017, respectively.

We quote an excerpt of the final ruling as follows:

> "Wherefore and in view of the foregoing facts and circumstances, it is the holding of this Investigation to adjudge the Defendant/Management/Sethi Brothers, Inc. liable for Wrongful Dismissal action against the Complainant (Mr. Fredrick Jenteh).
>
> The Defendant/Management/Sethi Brothers, Inc. is hereby ordered therefore to reinstate the complainant with all his accrued benefits as though he was never dismissed or, in lieu thereof, pay the Complainant (Mr. Fredrick Jenteh) twenty-four (24) months of his monthly salary for Wrongful Dismissal plus his accrued annual leave in the amount of **US$10,575.00 (Ten Thousand Five Hundred Seventy-Five United States Dollars)**.
>
> See Tabulation Below:
> Wrongful Dismissal benefits: 24 months x US$300.00 = **US$7,200.00**
> Accrued annual leave benefits: 45wks x 25% x $75.00 = **US$3,375.00**
> Total **US$10,575.00"**

Further scrutiny of the certified records shows that on October 14, 2017, the appellee requested a clerk's certificate to the effect that the appellant had neglected to seek judicial review of the Hearing Officer's final ruling. After obtaining the said clerk's certificate, the appellee proceeded to the National Labour Court for Montserrado County and filed a five-count petition for enforcement of judgment substantially alleging that the Hearing Officer of the Ministry of Labour entered final ruling on September 12, 2017 against the appellant who had failed and neglected to seek judicial review in keeping with law. In support of his petition, the appellee exhibited copies of the clerk's certificate and the Hearing Officer's final ruling, *inter alia*.

Accordingly, the labor court ordered the issuance of a writ of summons commanding therein that the appellant file its formal appearance on or before the January 15, 2018. In obedience to the writ of summons, the appellant filed, on January 12, 2018, its nine-count returns to the petition for enforcement of the judgment by and through another legal counsel, J. Johnny Momoh & Associates Legal Chambers, Inc. The said returns substantially averred that appellee is known as a business entity engaged in the sales and importation of building materials on the Liberian Market; that the appellee having alleged that he was employed by the appellant as animal doctor had the burden to produce his employment letter, pay slips and dismissal letter; that the appellee having failed to produce documentary evidence to support his allegations, the September 12, 2017 final ruling of the Ministry of Labour is void *ab initio*; and that such void ruling cannot be enforced under the law.

After the hearing of the petition for the enforcement of judgment and the returns thereto, Her Honor Judge Comfort S. Natt, presiding over the National Labour Court for Montserrado County, rendered final judgment confirming the final ruling of the Hearing Officer, ordered the clerk of the court below to prepare the bill of cost and have same placed in the hands of the Sheriff to be served on the counsels for taxation and be returned for the approval of the court. In her determination of the facts, laws, and arguments presented by the parties, the Labour Court Judge considered four issues. However, this Court, having scrutinized the contentions of the parties, considered the last issue whether Counsellor J. Johnny Momoh was the counsel of record as extraneous to the determination of the appeal before it. We, therefore, reproduce the excerpt of the trial court's final judgment as follows:

> "This court, having given a synopsis of the pleadings, has decided on four (4) issues for determination of this case, as follows:
>
> Whether or not respondent/management excepted to and announced his exceptions and/or file his petition [for] judicial review upon actual receipt of the Hearing Officers Ruling as require[d] by law?
>
> Whether or not all of the contentions raised by the respondent/management were ever raised during the investigation at the Ministry of Labour?
>
> Whether or not petitioner/complainant was afforded an internal hearing prior to his dismissal?
>
> In addressing the first issue, this court will take a keen look at Chapter 10/APPEAL, Section 10.1 of the Decent Work Act (2015), page 32,

which reads (a) A person aggrieved by a decision of the Ministry under Section 9.2 not to take action concerning complaint may appeal against that order within thirty (30) days after been notified of the decision of the Ministry. (b) A party aggrieved by an order of the Ministry under Section 9.5 may appeal against that order within thirty days after service of the order on the parties'

Section 10.2 of the same book also reads: 'Proceedings under this part shall be brought before the Labor Court of the county in which the Ministry had its hearing in the case.'

To also support the issue raised, Section 4 of the Labor Law, Statutes, Cases, Decrees and Regulations by Cllr. Twen Wleh of the Regulations Concerning Procedures for Settlement of Cases: Limitation for Taking an Appeal reads: 'Any party dissatisfied with the decision of the Hearing Officer may take an appeal to the National Labor Court within thirty (30) days after receipt of the Hearing Officer's decision. The decision shall become final and conclusive upon the expiration of the [30th] day after copies of the Hearing Officer's Ruling have been received by the parties case.'

Respondent/Management's counsel, having signed for and received a copy of the Hearing Officer's Ruling on September 14, A.D. 2017, at 2:22 P.M. as evidenced by the ruling receipt, should have filed her petition for judicial review on or before the 14th day of October, A.D. 2017, which he failed, neglected and refused to do up to and including this Ruling.

Looking at the records transcribed to this court, respondent/management had all opportunity to have excepted to and announced an appeal to the Honorable National [Labour] Court either orally or through writing, which he failed, refused, and neglected to do so upon actual receipt of the Hearing Officer's Ruling; thus the Ruling of the Hearing Officer is conclusive and final and remains undisturbed.

In answering the second issue, which is, 'whether or not all the contentions raised by the respondent/management were ever raised during the investigation at the Ministry of [Labour], this court says no. That all of the contentions raised in respondent/management's returns filed before this court were never raised at the hearing conducted at the Ministry of [Labour] as respondent/management bluntly failed, refused, and neglected to honor any of the notices of assignment issued by the Investigation as shown on the Sheriff's Returns, neither did he submit those documents for which he was subpoenaed.

According to Chapter 10-APPEALS, Section 10.1 (c) and (d) of the Decent Work Act 92015,) pages 32 & 33, read: 'No party in a proceeding before a court under this section may raise any objection that was not urged before the Ministry unless the failure or neglect to urge objection may be excused because of extraordinary circumstances'. A party in a proceeding before a court under this section may move the court to remit the case to the Ministry in order to add additional specified and material evidence and to seek findings

thereon, provided that the party shows reasonable grounds for the failure to adduce that evidence before the Ministry.'

Also, in the case, Ammons v. Barclay, 18 LLR 212, Syl. 2, the court held that: 'if a party fails in any cause to do that which the law requires him to do for himself, the Supreme Court will not assume to grant him those rights which by his own negligence, he has failed to secure for himself.'

It was legally incumbent upon respondent/management to have attended to five notices of assignments, including the subpoenas issued by the Hearing Officer that were received, signed for, and return[ed] served, wherein he would have raised all of his concerns. But, he sat supinely. Upon receipt of the Hearing Officer's Ruling, he never excepted to the ruling; he never files his petition for judicial review, even up to this Ruling. But, to the contrary, respondent/management failed and neglected to do either of these things, for which petitioner/complainant counsel requested the Hearing Officer for default judgment, which this court feels was timely….

…This court also observed from the records before it that respondent/management did not only failed, refused, and neglected to attend the five (5) notices of assignments, but they also refused to obey the writs of subpoenas served on them to appear at the Ministry of [Labour] to testify as to certain knowledge what they knew about the case at bar as they had been linked by the petitioner/complainant witness in his testimony. This writ was for the general manager or any other responsible manager and its counsel. However, they all failed, refused, and neglected to appear.

WHEREFORE, and in view of the foregoing, it is the candid opinion of this Honorable Court that respondent/management having failed to appear upon signing for and receiving five notices of assignments including two writs of subpoenas to have them testify to certain documents and their failure to except to the Hearing Officer's Ruling upon actual receipt of same, their failure to file their petition for judicial review as well as their failure to adhere to Section 4 of the Labor Laws, Statute, Cases, Decrees, and Regulations – Limitation for Taking an Appeal, which reads: 'Any party dissatisfied with the decision of the Hearing Officer may take an appeal to the National Labor Court within thirty (30) days after receipt of the Hearing Officer's decision. The decision shall become final and conclusive upon the expiration of the [30th] day after copies of the Hearing Officer's Ruling have been received by the parties in the case.'

This Court, without reservation, upholds the decision of the Hearing Officer rendered September 12, A.D. 2017, thus awarding the petitioner/complainant the total sum of US$10,575.00 (Ten Thousand Five Hundred Seventy-Five United States Dollars).

The Final Ruling of the Hearing Officer is hereby confirmed and affirmed as in keeping with the law.

> The clerk of this court is hereby ordered to prepare the necessary bill of cost and have same placed in the hands of the Sheriff of this Honorable Court to be served on all lawyers concerned for taxation and thereafter for subsequent approval by this court in satisfaction of this judgment.
>
> AND IT IS HEREBY SO ORDERED
> GIVEN UNDER MY HAND AND SEAL OF
> THIS COURT THIS 26TH OF FEBRUARY, A.D.
> 2018.
> HER HONOR COMFORT S. NATT
> RESIDENT JUDGE, NATIONAL LABOUR COURT
> MONTSERRADO COUNTY, REPUBLIC OF LIBERIA"

From this final judgment of the court below, the appellant entered exceptions on the record and announced an appeal to the Supreme Court of Liberia. The appellant has contended that the trial court committed reversible errors and filed a five-count bill of exceptions premised on the contentions raised in its returns to the appellee's petition for enforcement of judgment aforesaid.

This Court identifies a single issue that is determinative of the controversy presented by the parties. That issue is: whether, given the facts and circumstances of this case, the appellant is concluded by the hearing officer's final ruling for wrongfully dismissing the appellee as confirmed by the trial judge as a matter of law? We answer this question in the affirmative.

We hasten to take judicial notice of the appellant's admission in its bill of exceptions and during argument before us that its counsel or labor consultant abandoned its cause. Yet, under the same breadth, the appellant contends and urges upon this Court that despite the abandonment of its cause to produce a denial or rebuttal to the appellee's evidence adduced during the investigation, the appellee failed to produce evidence in support of his allegation of the employer-employee relationship. The appellant contends that the appellee's failure to show a letter of employment, payslip, and letter of termination during the investigation operates in favor of the appellant's denial. Furthermore, the appellant argues that as the custodian of the employment records, it has written the Hearing Officer in a letter dated March 30, 2017, informing the investigation that the appellee was never an employee of the appellant. Therefore, the burden of proof rests on the appellee to prove otherwise, which the appellee failed to do. For this reason, a judgment procured in the absence of evidence of an employer-employee relationship in a labor suit as in the instant case is void *ab initio.*

On the contrary, the appellee has argued that he made a case for constructive dismissal, having served the appellant for thirteen unbroken years without the benefit of leave. That the Ministry of Labour conducted an investigation where the parties were allowed to produce evidence and present legal arguments; that at the end of the investigation, the Hearing Officer found for the appellee and held the appellant liable for wrongful dismissal. The appellee also argued that the appellant, having been held liable by the Hearing Officer, failed to enter exception and seek judicial review as in keeping with the law. Therefore, the appellee argued that the appellant is concluded by the final ruling of the Hearing Officer. In support of this position, the trial judge also upheld the holding of the Hearing Officer.

Assuming arguendo that the contentions of the appellant are founded on sound legal bases, it is trite law that the court will not do for a party what the party failed to do for himself. *Yardamah v. Her Natt et al, Supreme Court Opinion, March Term, A.D. 2015, William v. Kpoto, Supreme Court Opinion, October Term, A.D. 2012, The Garnett Heirs et al v. Allison, 37 LLR 611 (1994), Lib Port Storage v. Osabutey 33 LLR 506 (1985), Wilson v. Dennis 23 LLR 263 (1974)* The records before this Court are replete with the flagrant disregards and violations of the laws governing objections, judicial review and appeal which the appellant ought to have utilized in order to vest jurisdiction on the Supreme Court to open the records and delve into the merit of the appellee's evidence of employer-employee relationship. The Supreme Court not having acquired jurisdiction over the merit of this case, it is incapacitated by the appellant's blatant disregard and neglect of the laws on appeal to open the records and decide this case on the merit. Needless to mention that it is jurisdiction, conferred by law, that vests the authority and competence on a court, the Supreme Court being no exception to the rule, to delve into the real controversy urge upon it by the parties. *Lonestar Communication Corporation v. His Honor Chesson et al, Supreme Court Opinion, March Term, A.D. 2016, Cole v. His Honor Wah et al, Supreme Court Opinion, October Term, A.D. 2013, Blamo et al v. Catholic Relief Services, Supreme Court Opinion, October Term, A.D. 200, Scanship (Lib) Inc. v. Flomo 41LLR 181 (2002)*

In the instant case, the records reveal that the appellant, in spite of its refusal to attend five successive notices of assignments, appeared for the ruling of the Hearing Officer, but failed to except to the said ruling. As though its failure to except to the Hearing officer's ruling delivered on September 12, 2017 was inconsequential, the appellant again refused to enter exception upon receipt of the

said ruling on September 14, 2017, and egregiously failed to proceed to file a petition for judicial review before the National Labour Court for Montserrado County within thirty days prescribed by statute.

The appellant's failure and neglect to take advantage of the controlling laws on objections, judicial review and appeal can be equated to abuse of its right to appeal before the Supreme Court of Liberia. It is the law that the party who abuses his right is estopped from benefiting from his wrong. *Catholic Relief Services v. Junius et al, 39 LLR 397, Sheriff v. Pearson et al, 35 LLR 355*

We stress further that nothing was left for the appellant to urge upon the court below and by extension on the Supreme Court to review evidence adduced by the appellee. Therefore, the appellant's attempt to raise objections in its resistance to the appellee's petition for enforcement of judgment was nothing more than an exercise in futility. The Decent Work Act: 10.1(c) and 10.1(d) is supportive of this position taken by the Court as follows:

> "No party in a proceeding before a court under this section may raise any objection that was not urged before the Ministry unless the failure or neglect to urge objection may be excused because of extraordinary circumstances. A party in a proceeding before a court under this section may move the court to remit the case to the Ministry in order to add additional specified and material evidence and to seek findings thereon, provided that the party shows reasonable grounds for the failure to adduce that evidence before the Ministry."

As mentioned *supra,* the appellant concedes that one of its counsels abandoned its cause at the Ministry of Labour. In the face of this abandonment, we do not see any extraordinary circumstance to warrant remand of this case to the Ministry of Labour to consider the appellant's objections. We reiterate and affirm the lower court's ruling that "if a party fails in any cause to do that which the law requires him to do for himself, the Supreme Court will not assume to grant him those rights which by his own negligence, he has failed to secure for himself."

We are in full agreement with the judge's final judgment that the appellant having failed to utilize the laws controlling, the final ruling of the Hearing Officer is conclusive and final. Stated succinctly, the appellant's objections are belated, and therefore unsustainable in the light of the facts and circumstances gather from the transcribed records.

We cannot overstress any further our position than to say that the purpose of procedures and rules in courts of law is to promote the just, speedy and inexpensive determination of all cases. Parties to a suit before a competent tribunal, judicial or quasi-judicial, are duty-bound to adhere to the procedures and rules set forth for the expeditious and inexpensive determination of a dispute. A flagrant violation of the procedures and rules of court is counterproductive to the end of the law, justice, and equity. Our procedures in a court of law serve as the vehicle to convey justice and equity. Procedures and rules are essential elements of our justice system that must always be adhered to by party litigants who appear before our tribunals, judicial or quasi-judicial, for the fair administration of justice.

Notwithstanding the above, our law provides that on an application for judgment by default, the applicant shall file proof of service of the summons and complaint, and give proof of the facts constituting the claim, the default and the amount due. *Civil Procedure Law Revised Code: 1:42.6* Furthermore, this Court has held that when rulings obtained by default judgments are brought up on judicial review, the Labour Court Judge is obliged to review all documents as well as the oral evidence introduced at the investigation at the Ministry of Labour, take note of the Labor Statute, and determine whether the evidence and calculations support the Hearing Officer's award. *Hslao G. M. Trading Company v. Natt et al, Supreme Court Opinion, March Term, A.D. 2015, The Management of Liberia Bank for Development and Investment v. Her Honor Comfort S. Natt et al, Supreme Court Opinion, March Term, A.D. 2020*

Our review of the Labour Court Judge's final judgment clearly shows that the principle espoused in the foregoing opinions of this Court in respect of the evidence and calculation to support the Hearing Officer's award in a judgment by default did not obtain. This Court says that the judge's failure to review the evidence and calculation to determine whether the Hearing Officer's award is supported by the evidence is erroneous. In the face of this error, this Court also says that it is authorized under the law to render whatever judgment the court below should have rendered, and which in its opinion will best serve the end of justice and equity. *Williams v. Williams, 14 LLR 109 (1960), Reynolds Int'l Export Inc v. United Africa Co. Ltd, 30 LLR 143 (1982), Sibley v. Bility, 33 LLR 548 (1985) Sandolo v. LACE, Supreme Court Opinion, March Term, A.D. 2007, The Management of Liberia Bank for Development and Investment v. Her Honor Comfort S. Natt et al, Supreme Court Opinion, March Term, A.D. 2020 supra*

The evidence culled from the certified records shows that the appellee's services rendered to the appellant were not daily, but periodically. Therefore the facts and circumstances of the present case do not warrant the award of the maximum of twenty-four months and an accrued annual leave pay for wrongful dismissal of the appellee by the appellant. We are of the opinion that given due consideration to the above, the award to the appellee ought to be for seventeen months and that the appellee is not entitled to accrued leave pay considering the nature of his service and scope of work.

WHEREFORE AND IN VIEW OF THE FOREGOING, the final judgment of the National Labor Court is affirmed, with modification however, that the appellant pays the appellee the amount of US$5,100.00 (Five Thousand One Hundred United States) representing seventeen months' pay for wrongful dismissal. The Clerk of this Court is ordered to send a mandate to National Labor Court to resume jurisdiction over this case and give effect to the Judgment of Opinion. AND IT IS HEREBY SO ORDERED.

When this case was called for hearing, Counsellor J. Johnny Momoh of J. Johnny Momoh & Associates Legal Chambers, Inc. appeared for the appellant. Counsellor Joseph M. Kollie, Labor Solicitor, Ministry of Labour, appeared for the appellee.