IN THE HONORABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA
SITTING IN ITS OCTOBER TERM, A. D. 2022

BEFORE HER HONOR: SIE-A-NYENE G. YUOH......... CHIEF JUSTICE
BEFORE HER HONOR: JAMESETTA H. WOLOKOLIE.... ASSOCIATE JUSTICE
BEFORE HIS HONOR: JOSEPH N. NAGBE.................... ASSOCIATE JUSTICE
BEFORE HIS HONOR: Yussif D. KABA..........................ASSOCIATE JUSTICE

Firestone Plantations Company by and thru its)
General Manager and all Corporate)
Officers of the City of Harbel, Margibi County,)
Republic of Liberia.............................Appellant)
)
Versus) APPEAL
)
His Honor Philip G. Williams, Hearing Officer,)
Ministry of Labor and Mr. John Cornomia, also)
Of the City of Monrovia Liberia...............Appellee)
)
)
GROWING OUT OF THE CASE:)
)
John Cornomia, of the City of Monrovia, Liberia)
....Complainant)
)
Versus) UNFAIR LABOR PRACTICE
)
The Management of Firestone Plantations)
Company by and thru Col. Eric A. Mensah)
....Defendant)

Heard: May 5, 2022 Decided: January 25, 2023

MADAM JUSTICE WOLOKOLIE DELIVERED THE OPINION OF THE COURT

This case is before us on appeal from a ruling made by the Judge of the National Labor Court, Her Honor Comfort S. Natt, confirming the ruling of the Hearing Officer from the Ministry of Labor in favor of the appellees in an unfair labor practice action.

This case has its origin in a complaint filed by the appellee, Mr. John Cornomia against the appellant, the Management of Firestone Plantations Company, on February 26, 2004, before the Honorable George S. Dweh, then Speaker of the National Transitional Legislative Assembly, alleging inhumane and unlawful treatment meted out against him by the appellant. Based on this letter, the Clerk of the National Transitional Legislative

Assembly wrote a letter on March 23, 2004, referring the matter to the Ministry of Labor for resolution.

Predicated upon this letter, the Hearing Officer, Philip G. Williams, cited the parties to a conference on April 12, 2004 in order to find an amicable solution to the dispute but the parties failed to reach an amicable resolution; therefore, the case was ruled to a full investigative hearing on its merits. The appellee along with two other witnesses testified on his behalf.

The appellee testified that he was employed by the Firestone Plantations Company on June 6, 1984, as a heavy duty driver with a monthly salary of US$157.35; that he was involved in an accident with the Company's vehicle on November 2, 2003, when an approaching vehicle flashed bright lights into his eyes and while trying to dodge the vehicle, he lost control and the appellant's vehicle he was driving hit an embankment on the road; that after the hit the truck engine was still on and the truck later hauled to the garage. He further testified that he was called by the appellant management and asked about two questions concerning the accident without any representation by the Firestone Workers Union on the investigation board and he was later told to go back to work. The 27 of November was his day off and when he returned to work on the 28", his manager told him to go home until he hears from the appellant management. The appellee testified that he did not hear from the appellant until December 31, 2003, when he received a dismissal letter terminating his employment as of November 27, 2003; that he proceeded to the Workers Union for redress and the Union wrote the appellant management requesting it to pay him off for his services or retire him, but the appellant refused.

He testified that the police was denied access to investigating the accident as the appellant security, the Plant Protection Department (PPD) assured the police that it would conduct its own investigation since it was a self-accident; that a report from the Appellant's Accident Review Board was given to him which stated that the accident occurred when an unidentified vehicle flashed bright lights into the appellee's eyes and blindfolded him, causing him to lose control. There was however a caveat in the report which indicated that the appellee should have exercised extreme care while driving at night.

The appellee first subpoenaed witness, Major D. Benson Hinneh, of the Liberia National Police, testified that he was informed about the accident in Firestone, involving the appellee, Mr. John Conormia, and proceeded to call his assigned officer, Officer Uriah Dixon, in Firestone who informed him that indeed an accident had occurred on November 2, 2003, involving the

appellee; that Officer Uriah Dixon told him that when he got on the accident scene, he was told by the appellant security that it was a self-accident and therefore there was no need for the officer to intervene; that Officer Uriah Dixon not been given an opportunity to handle the matter, he did not submit a report to the Central Police Station. The witness testified that to his knowledge, the Liberia National Police is authorized to investigate all accident cases occurring within the Republic of Liberia and since the police was not allow to investigate the accident, they were not officially aware of the accident. He testified further that he later visited the appellant facilities and interacted with the appellant's securities and was presented a photocopy of the accident report stating that the accident was a self-accident and because of this the police need not bother. The witness said that he then wrote the chief of traffic about the accident and the events surrounding it.

The appellee had the assigned police officer, Uriah Dixon, subpoenaed to testify about his knowledge of the accident. Officer Dixon testified that on November 2, 2003, he was informed about an accident involving a Firestone Tanker on the Division 44 highway by his Chief, Major Benson Hinneh, who dispatched him to the accident scene. Upon his arrival on the scene, he confirmed that he was told by Colonel John Sana of the appellant's Plant Protection Department (PPD), that since the accident was a self-accident, he should not bother as the PPD would handle the matter. The witness said that he informed Major Benson Hinneh, that he was prevented from investigating the accident by the PPD and Major Hinneh that he would do a follow-up on the matter; that after a while, the appellee brought them a copy of the investigation report conducted by the PPD which stated that the accident was caused by a vehicle with bright light that blind-folded the appellee's eyes and caused him to lose control.

The appellee then rested with evidence; thereafter, the appellant took the stand, bringing forth three witnesses to testify on its behalf.

The appellant first witness, Lieutenant Varney Kaba of the PPD, testified that on November 2, 2003, at around 8:P.M., he was informed about an accident on the Harbel-Buchanan Highway, involving the appellant's truck and was instructed by his supervisor to pick up Lieutenant Uriah Dixon of the Liberia National Police assigned at Robertsfield; that they then proceeded to the scene and investigated the accident and discovered that it was a self-made accident. He testified that the accident was jointly investigated by him and Officer Uriah Dixon. On the cross, witness Kaba was asked if he and Officer Dixon signed the findings of the accident jointly since he claimed that they

jointly investigated the accident, and he responded that they both prepared different reports and forwarded said reports to their various bosses. He also testified on the cross that the PPD was subject to the Liberia National Police (LNP) and it was Officer Uriah Dixon who imposed the charge; that the report from the LNP contains the same information as that sent to the appellant's management when further asked whether the appellant conducted an internal investigation before dismissing the appellee and if there is a report to such investigation, he answered that there is a policy that when the PPD investigates an accident and finds you liable, the administration sends you to the police, since the police has authority above the PPD.

The appellant's second witness, Mr. Jonathan Sackie, maintenance personnel of the appellant, testified that after the accident occurred, they were called upon to take the vehicle to the garage and ordered to make an assessment of the vehicle; that after the assessment, he realized that the vehicle was damaged beyond repair and he presented a report to his supervisor. He explained that if there is an accident, based on the damage done to the vehicle, penalties are attached. When the witness was asked on the cross whether the appellee was served a copy of the assessment report, he responded that he made the report and presented it to his boss.

The appellant's third witness, Alfred Matarday, took the stand and testified that the appellee was operating a F-37 Pick—up for the appellant, and on November 2, 2003, while en route between divisions 44 and 45, the appellee had a self-cause accident; that as a result of the accident, the vehicle was scrapped. He explained that appellant company has a policy in vogue which provides for the summary termination of the services of an employee who has an accident and the damage resulting therefrom is US$5,0001.00 or above, and the accident is not caused by uncontrollable mechanical failure. The appellant explained that the appellee had a self-accident which was not attributed to uncontrollable mechanical failure and as a consequence of which the vehicle, Unit F-37, was damaged to the value of over US$42,000.00; that accordingly, on November 27, 2003, the appellee services was terminated based on the recommendation of the appellant's Accident Review Board.

On cross-examination, the witness was asked who declared the vehicle to be scrapped and he responded that it was the mechanics. When further questioned whether he was told that the vehicle was scrapped, he answered that he is the Secretary General of the appellant's Accident Review Board so

he knows that the vehicle was scrapped and he was not told. When further asked whether he was part of the team that conducted the investigation involving the appellee, he answered that he did not conduct any investigation and did not participate in the investigation, that he only serve as secretary of the Accident Review Board. He further testified that under normal circumstance, whenever an accident occurs, the Liberia National Police is called by the PPD to jointly investigate the cause of the accident and the PPD informs Management about the accident thru the Accident Review Board. He also testified that the report was jointly conducted by the PPD and the LNP and jointly signed by the both parties.

Having heard from both parties, the Hearing Officer ruled in favor of the appellee, adjudging the appellant liable for the wrongful dismissal of the appellee. The Hearing Officer based his ruling on the Labor Law (1964) which was in vogue when the dispute occurred. The Hearing Officer found that the appellee dismissal based on the appellant's vehicle policy could be equated to payment by the appellee to the appellant for the damage to the appellant's car; that this act of the appellant was in violation of the Labor Law of Liberia (1964), specifically Section 1511-8 (b) therefore and ordered that the appellant reinstate the appellee and restore all his rights; that failure of the appellant to reinstate the appellee, the appellant should in accordance with Section 9 (a) (i) and (a) (ii) of the Labor Law (1964) pay to the appellee the total amount of Seven Thousand Seven Hundred and Ten United States Dollars and Fifteen Cents (US$7,710.15) as follows:

1. Forty-seven (47) months' salary x US157 .35	US$7,395.45
2. One (1) month salary in lieu of notice (US$157.35)	157.35
3. One (1) month salary for December 2003.............	US$ 157.35
	Total: US$7,710.15

The appellant, being dissatisfied with this ruling of the hearing officer filed a petition for judicial review before the National Labor Court. The National Labor Court after reviewing the records affirmed the ruling of the Hearing Officer and the appellant again being dissatisfied with the ruling of the National Labor Court excepted and announced an appeal to the Honorable Supreme Court.

The appellant argues in its bill of exceptions that the appellee services were terminated for serious breach of duty occasioned by a self-accident he had with the appellant's vehicle, and that the appellant did not impose a fine on the appellee or entered into any arrangement or contract with the appellee in respect of a fine for bad work, or for damage to material or property of the appellant and the appellee salary or wages was never deducted based on

these reasons; that the Labor Court Judge erred when she erroneously applied Section 1511-8 (b) of the Labor Law of Liberia and confirmed the ruling of the Hearing Officer; that the doctrine of res ipsa loquitur is applicable in this case as the mere fact of an accident's occurrence raises an inference of negligence so as to establish a prima facie case, and that in the instant case, no other vehicle was involved in the said accident except for the fact that the appellee alleged that an on-coming vehicle showed bright light in his eyes; that had the appellee not been negligent in his operation of the vehicle, the accident would not have occurred. Further, the fact that the appellee and the two other persons who testified on his behalf admitted that he had a self-accident, the judge erred when she ruled that the accident involving the appellee was not a self-accident and therefore did not constitute a breach of duty for summary termination of the appellee by the appellant; that it is the law that when the conduct of an employee results into a substantial loss of money to the employer, same would constitute a good ground for and justifies the summary termination of the employee's services for gross negligence of duty. Therefore, appellant acted legally when it terminated the services of the appellee who had a self-accident and damaged the appellant vehicle in the amount of Forty-five Thousand Eight Hundred and Thirty-one United States Dollars (US$45,831); that under the Labor Law, an employer may promulgate policy(ies.) to enhance his operation and protect its property; therefore, the appellant's policy of terminating an employee's contract summarily when he/she causes the appellant damage in the amount of Five Thousand United States Dollars One Cent and above (US$5000.01) which is not linked to any uncontrollable mechanical failure is not in violation of the Labor law.

The appellant further contends that the appellee was employed with the appellant in 1984 and served up to 1990, when the appellant was forced to cease and close down operation as a result of the Liberian Civil Crisis; that the appellee was rehired in 1992, but his services were later terminated in 1993 as a result of renewed hostilities, which again forced the appellant to cease and close down its operations and did not resume operation until 1996 when the appellee was again rehired; that under the law, each time there is a break in service, a new employer-employee relationship is established when the services of the employee is rehired, and therefore the appellee did not serve the appellant for nineteen (19) unbroken years as alleged by the appellant.

This Court notes from the records that the appellant contention is that the investigation of the accident was jointly conducted by it and the LNP, and the outcome of the investigation showed that the appellee's negligence resulted to the accident which damaged the appellant's vehicle. The appellant asserts therefore that the conduct of the appellee amounted to a gross breach of duty and his summary dismissal is justified in keeping with the appellant's policy and the Labor Law of Liberia. The appellant brought two witnesses to testify that the investigation of the accident was jointly conducted by the PPD and the LNP and the report made to the appellant's management. The appellant's third witness, Alfred Mataraday, stated that after the investigation was conducted by the PPD and the police, they jointly signed the report.

This testimony of the appellant's witnesses was however contrasted by the LNP officers who were subpoenaed to testify for the appellee. The LNP officers denied that the police did participate in the investigation; they stated that the police was told by the appellant's PPD that the accident being a self-accident, there was no need for the police to be involved, and that it was the appellee that took the accident report to the police.

Like the National Labor court established from the evidence, we are inclined to believe that the police was not involved in the investigation of the accident by the appellee, particularly as the appellant did not produce any report jointly signed by the PPD and the LNP as the appellant witnesses had stated. Under the circumstance of this case, the best evidence to have shown that the PPD and the LNP jointly conducted the accident investigation was the report co-signed by the two institutions. In the absence of such report, the mere testimonies of the appellant's witnesses cannot suffice as sufficient proof of the participation of the LNP in investigating the accident.

We wonder why the appellant's security, the PPD, denied the Liberia National Police from conducting an investigation to ascertain the cause of the accident. In this jurisdiction, it is the police that has the statutorily duty to investigate traffic accidents and refer charges against any person who violates the law.

The Liberian Code of Laws Revised, adopted by the Legislature of the Republic of Liberia, VI, published under Authority of the Legislature, March 1, 1979, vest the authority in the Liberia National Police to enforce the Vehicles and Traffic Law on the roads in Liberia. Section 9.4 of the said Statute on the Duty of Police Officer states:

> "When a police officer is present at or is called to the scene of a traffic accident, **he shall** investigate the causes thereof and prefer charges against any person who has violated the law; and in case of death resulting therefrom, he shall summon a colonel to hold an inquest. The police officer shall prepare and submit to the Minister a report on the accident with a diagram thereof, the names and addresses of all witnesses thereto and a list of persons arrested or to whom notices to /appear were issued and the charges preferred against them."

The appellant argument that under the doctrine of res ipsa loquitur, the mere fact of the accident's occurrence raises an inference of negligence considering that no other vehicle was involved in the accident except that of the appellee is untenable without a proper report made by the proper authority, emphasizing that the appellant's PPD lacked the expertise to establish the cause of the accident. Had the LNP who has the training and expertise and authorized by law been allowed to establish the cause of the accident under the circumstances, the police report would have been sufficient to establish whether the appellee was negligent or not and in which case the appellant would have had the right to act in line with its policy.

In addition, the police investigation would have afforded the appellee his due process rights as guaranteed under the Constitution as the appellee would have been given an opportunity to be thoroughly and expertly questioned during the investigation to ascertain the nature and manner of the accident. Without the police report, we cannot rely on the appellant's PPD report which deduced that the total loss of its vehicle could have only been because of the appellee negligence which has caused the appellant a loss Forty-five Thousand Eight Hundred and Thirty-one United States Dollars (US$45,831). Suffice it to say that the enforcement of the appellant's policy depended on the report of the LNP establishing the cause of the accident and like the national Labor Court Judge stated, in the absence of such investigation, the appellant has no evidence to dismiss the appellee. We are therefore constrained to uphold the ruling of the National Labor Court which held that the company could only assert its company's policy until a proper investigation had been conducted by the LNP and the cause of the accident established by them as been due to the negligence of the appellee.

In conclusion, we hold that the appellant's investigation report into the accident involving the appellee was insufficient to establish that the appellee's negligence resulted to the accident and the conduct of the

appellee amounted to gross breach of duty which warranted his summary dismissal in keeping with the appellant's policy.

We also take note of the appellant's argument in its bill of exceptions that the Labor Court Judge erroneously ruled that the appellee spend nineteen (19) unbroken years in the employ of the appellant. The appellant contends that if this conclusion of the judge is upheld, the appellee will unjustly benefit in unpaid wages; that there was a period of two breaks when the appellant's company was forced to close down and these breaks total six years. The appellee does not deny this contention of the appellant and recourse to historical judicial notice of the civil crisis shows that the appellant's business operation, like many other businesses, was intermittently stopped during the height of the civil crisis. Put together, the appellant's operation was stopped for a period of five years during which time there was no activities on the appellant's plantation. Hence, we agree that the appellant worked with the appellant for a period of fourteen (14) years prior to his dismissal in 2003.

What this court does not comprehend is the calculation summing up the award. The Hearing Officer of the Ministry of Labor awarded US$7,710.00 to the appellee said in keeping with Section 9 (a) (i) (ii) of the Labor Law of 1964. The sections of the Labor Law (1964) referred to by the Hearing Officer state:

Section 9. Wrongful Dismissal:

"Where wrongful dismissal is alleged, the [Labour Court] shall have power to order reinstatement, but may order payment of reasonable compensation to the aggrieved employee in lieu of reinstatement. The party against whom the order is made shall have the right of election to reinstate or pay such compensation. In assessing the amount of such compensation, the [Labour Court] shall have regard to:

(a) (i) reasonable expectation in the case of dismissal in a contract of indefinite duration;

(ii) *length of service;* but in no case shall the amount awarded be more than the aggregate of two years' salary or wages of the employee computed on the basis of the average rate of salary received 6 months immediately preceding the dismissal. However, if there are reasonable grounds to effect a determination that the dismissal is to avoid the payment of pension, then the [court] may award compensation of up to not exceeding the aggregate of 5 years' salary or wages computed on the basis of the average rate or salary received 6 months immediately preceding the dismissal

In accordance with the law cited supra, there has to be evidence to show that an employee was wrongfully dismissed solely to avoid the employer paying pension to the dismissed employee to warrant an award beyond twenty four months' salary. In this case, the records are devoid of any shred of evidence that the appellee's dismissal was meant solely to avoid the payment of pension to him by the appellant. None of the witnesses at the hearing testified to the appellee's age or the likelihood that the appellee was approaching the age of retirement prior to the accident, and the appellee himself does not raise that issue in his brief or during argument before this Court. Therefore, the calculation for the amount owed to the appellee for the wrongful dismissal could not have exceeded the twenty four months threshold provided by the law quoted above.

The facts and circumstances show that the appellant had an accident and damaged the appellant's vehicles in the tone of Forty-five Thousand Eight Hundred and Thirty-one United States Dollars (US$45,831); that there was no indept investigation other than the appellant being called in to explain the accident and after he reported that it was due to an oncoming UNMIL vehicle that flashed bright lights in his eyes he was advised to go back to work, but later written and dismissed for negligence and in line with the company's police which states:

The dismissal without the involvement of the proper authority, LNP, we have said is equated to the appellant being wrongfully dismissed. In this regard, the appellants is entitled as per the statute quoted above to be reinstated by the appellant or the appellee be paid no more than the aggregate of two years or wages computed on the basis of the average rate of salary the appellee received 6 months immediately preceding his dismissal.

In this case the appellant having been paid One Hundred & Fifty Seven Dollars and Thirty-five Cents monthly (US$157 .35), this calculated at US$157.37 x 24 months (2 years) is equivalent to United States Dollars Three Thousand Seven Hundred and Seventy-six United States Dollars and Forty Cents (US$ 3,776.40). The amounts awarded for One (1) month salary in lieu of notice and One (1) month salary for December 2003 has no basis under the section of the Labor Law that the Hearing Officer based his award and confirmed by the Judge of the National Labor Court. Therefore, this court has no legal basis for confirming these awards.

After considering the facts and relevant laws in regard to this case, it is our considered Opinion that the ruling of the National Labor Court is amended

and the appellant be made to pay to the appellee United States Dollars Three Thousand Seven Hundred and Seventy-six United States Dollars and Forty Cents (US$ 3,776.40) instead of United States Seven Thousand Seven Hundred and Ten Dollars and Fifteen Cents (US$7,710.15).

WHEREFORE AND IN VIEW OF THE FOREGOING, the ruling of the National Labor Court is amended. The Clerk of this Court is ordered to send a mandate to the National Labor Court to resume jurisdiction and enforce this ruling. Costs ruled against the appellant. AND IT IS SO ORDERED.

WHEN THIS CASE WAS CALLED FOR HEARING, COUNSELLOR LORPU ZAWU OF THE HERITAGE PARTNERS & ASSOCIATES, INC., APPEARED FOR THE APPELLANT. COUNSELLOR ARTHUR T. JOHNSON APPEARED FOR THE APPELLEE.