



However, on January 16, 2015, the appellee declared his position redundant on account of economic reasons, citing Regulation No.8 of the Labour Practices Law, which gives an employer, as in this case, the power to declare redundant a position but shall pay the employee one month salary for each year of completed service.

The record shows that pursuant to Regulation N0.8 of the Labour Practices Law, appellant Kevin was informed about his redundancy package, i.e. salary for the month of January 2015, one month in lieu of notice, one month salary for each year of completed service and accrued leave, which the appellee claimed were available.

The appellee claimed that rather than receiving his redundant payment, he undertook a spate of lobbying exercise that included an email dated 21 January, 2015 for the appellee Lone Cell MTN to reconsider its redundancy action, and obviously succeeded, as the record showed that appellee through a letter of January 30, 2015, informed the appellant that his redundancy had been revisited and reversed, and that the redundancy letter of January 16, 2015 had been withdrawn, but the appellant refused to honor his reinstatement, and did not report to work.

The appellant on February 9, 2015, wrote the appellee and acknowledged receipt of the appellant's letter of January 16, 2015, and consistent with the content thereof, offered to turn over all company assets, and requested that his exit package with Human Resources Senior Manager be processed consistent with the redundancy letter of January 16, 2015.

The records further shows that the appellee in a February 13, 2015, described Appellant's letter of February 9, 2015 as disappointing and disconcerting and indicated that there was no longer an exit package to be processed on account that the redundancy letter of January 16, 2015 had been revisited and reversed and subsequently withdrawn by its letter of January 30, 2015 and that the redundancy payment contained in the

January 16, 2015 letter had obviously become moot because the appellant had been reinstated to the position of Regulatory Relations Senior Manager.

Predicated on these exchanges of letters and the controversy thereof, the appellant on March 13, 2015, by and through his legal counsel filed an action of Unfair Labour Practice with the Ministry of Labor, contending strenuously that he had been declared redundant, but the appellee had refused to pay his redundancy remuneration. Efforts to amicably resolve the controversy having failed the matter was ruled to formal investigation.

At the completion of the production of oral and documentary evidence by the appellant at the Ministry of Labor, a motion for judgment during trial was filed by the appellee, assigned, argued and the Hearing Officer ruled in favor of the appellee releasing it from all payments of redundancy/severance benefits on grounds that the appellant was reinstated. The National Labor Court affirmed and confirmed the ruling of the Hearing Officer in favor of the appellee and the matter is now before us on appeal. This Court says there is only one issue which is dispositive of this matter, that is:

***Whether or not the appellant is rightfully entitled to redundancy benefits as required by law?***

The Court answers in the affirmative.

The Court says the appellant as an employee of the appellee had his position redundant. Redundancy in this jurisdiction is considered when an employer's business is experiencing difficulties or a downward trend in which case the employer has the right to restructure the business, which restructuring may affect some of its employees.

Our law provides that an *employer may terminate an employment for redundancy by reducing the number of employees as a result of a reorganization or transfer of the business or a discontinuance or reduction of the business for economic, technological or structural*

*reasons, including for reasons of bankruptcy, dissolution, closure, or cessation of the business. Decent Work Act, 2015, Section 14.5.*

The law contemplates that when an employee or a group of employees' positions are redundant their employment contracts with their employer terminates effective upon receipt of the letter of redundancy from their employer.

In the instant case, the appellant Nathaniel Kevin on January 16, 2015, received a communication from his employer, Lone Star Cell MTN, in which his position was declared redundant for economic reasons citing Regulation No. 8 of the Labor Practice Law, though appellee's management alleges that the appellant after receipt of the letter of redundancy engaged in lobbying with members of senior management of the company to have him reconsidered and that based on said lobby, he was reconsidered. But the certified records before us failed to show that the appellant responded to the letter allegedly written to him in which the decision to redundant him was revisited and reversed. The records also failed to show that, the appellant ever complied; in other words, he never returned to job.

In the mind of the Court the failure or neglect of the appellant to reply to the appellee's letter reversing the decision of the redundancy and his failure to return to job is an indication of his rejection of the attempted re-employment. The Court says further that immediately upon receipt of the letter of redundancy by the appellant, he was no longer an employee of the appellee. This is evident by the fact that he did not report to job from the date and time he received the letter up to and including the time of filing of his complaint.

The Court says that the letter of February 13, 2015, in which the management allegedly reversed its decision on appellant's redundancy and called him to return to job, was an offer for a new employment which under the general law of contract requires an acceptance. There being no

showing that there was an acceptance on the part of the appellant, he could not by any parity of reasoning be considered as an employee of the appellee and therefore, he could not be logically dismissed by the appellee. Consequently, the dismissal of appellant by the appellee for not showing up for job was wrong and illegal, because he was no longer an employee of the appellee as of January 16, 2015.

The appellant having been earlier redundant by a letter of January 16, 2015, and having not accepted to return to job, he is rightfully entitled to a redundant benefit as required by Regulation No. 8 of the Labor Practice Law.

WHEREFORE AND IN VIEW OF THE FOREGOING, the ruling of the National Labor Court denying the appellant's claim of wrongful dismissal/unfair labor practice is hereby reversed. The appellee is hereby ordered to pay to the appellant all his redundancy pay and all benefits appertaining thereto. The Clerk of this Court is ordered to send a mandate to the court below, commanding the judge presiding therein to resume jurisdiction over this case and give effect to this Judgment. Costs are ruled against the appellee. AND IT IS HEREBY SO ORDERED.

WHEN THIS CASE WAS CALLED FOR HEARING, COUNSELLOR G. WEIFUEH ALFRED SAYEH APPEARED FOR THE APPELLANT. NO COUNSELLOR APPEARED FOR APPELLEE. THEREAFTER, THE COURT INVOKED RULE # IV PART 6 OF THE RULES OF COURT AND OPENED THE RECORD.