

**IN THE LABOUR COURT OF ZIMBABWE
HELD IN HARARE, 7 NOVEMBER, 2013 &
31ST JANUARY, 2014**

CASE NO. LC/349/13

In the Matter Between

L. JECHE	1ST Appellant
And	
T. MUJURU	2ND Appellant
And	
T. ZINGWINA	3RD Appellant
And	
ZIMBABWE UNITED PASSENGER COMPANY	Respondent

Before The Honourable E. Makamure, J.

For Appellants: Mr L. Chimutashu (T&GWU Organiser)

For Respondent: Advocate T. Magwaliba

MAKAMURE J,

This is an appeal against the decision of an arbitrator sitting at Harare. It is trite that an appeal on a point of law only lies to this court from a decision by an Arbitrator. This is provided for in section 98(10) of the Labour Act [Cap 28:01] (The Act).

This matter was referred to arbitration for the Arbitrator to make a determination on the following issues.

- (a) Whether or not the claimants were legally on forced leave
- (b) Whether or not the Respondent committed an unfair labour practice by not paying the claimed statutory obligation including wage shortfalls?
- (c) To determine any other appropriate remedy

The learned Arbitrator dismissed the claim regarding forced leave. The Arbitrator proceeded to award the appellants some statutory benefits. The appellants were aggrieved by that determination. They appealed to this Court on the following grounds:-

- “(1) The Arbitrator grossly erred in granting forced leave found in violation of S.I. 152 of 2001
- (2) Discarded industrial holiday worked and their S.I. benefits payable in terms of the same without any legally supported reason. Hence the award should be set aside.”

A submission was made on behalf of the respondent that the grounds of appeal are incomprehensible. I agree. When clarification was sought regarding the meaning of the grounds of appeal, Mr Chimtashu who appeared on behalf of the appellants sought to refer the Court to a section of Statutory Instrument 152/2001. This was objected to by the Counsel for the respondent. This was so because such a section was never placed before the Arbitrator. The objection was well made and it was therefore sustained (see *C. Kambuzuma & Twenty – Two Others v The Athol Evans Hospital Home Complex* SC 118/04).

It is trite that where grounds of appeal are not clear, there is no appeal before the court. It was held in *R v Jack* 1990 (2) ZLR 166 that a notice of appeal without meaningful grounds of appeal is not a notice of appeal.

Now turning to oral argument presented before the court, it is clear that the grounds of appeal in their incomprehensible fashion refer to factual issues. This makes the grounds to be improperly before the court. This is contrary to the provisions of the Act.

In view of the foregoing the appeal fails.

Accordingly it is ordered that the appeal be and is hereby dismissed with costs.

Transport and General Workers’ Union – for the Appellants
Messrs Magwaliba & Kwirira – for the Respondents