

**IN THE LABOUR COURT OF ZIMBABWE      JUDGMENT NO LC/H/356/2023**

**HARARE, 16 OCTOBER, 2023**

**CASE NO LC/H/161/19**

**05 DECEMBER 2023**

**FASTON MANGEZI**

**APPELLANT**

**DELTA BEVERAGES (PRIVATE) LIMITED**

**RESPONDENT**

Before the Honourable Musariri Judge:

For Appellant                      Mr A. Nhidza, Unionist

For Respondent                      Mr K. Ncube, Attorney

**MUSARIRI, J:**

At the onset of oral argument in this Court, respondent object to the filing by appellant of the record of criminal proceedings in the Magistrates Court. After hearing argument by both sides, this Court proceeded to strike out the impugned record.

Appellant appealed to this Court against his dismissal from employment by Respondent. The appeal was made in terms of section 92D of the Labour Act [*Chapter 28:01*]. The grounds of appeal were initially quadruple. Appellant then abandoned the 1<sup>st</sup> and 3<sup>rd</sup> grounds leaving the following;

- “2. Both the hearing officer and the appeals committee failed to note or casted a blind eye on the contradictions between the charge sheet and the loss controllers report and the subsequent apologies by the loss controller thereof. In the circumstances the hearing officer and the appeals committee failed to note that the charges laid against the accused were based on falsehoods.

4. The hearing officer and the appeals committee failed to justify on a balance of probability that an offence was committed, thus arriving at their conclusion based on hearsay and malice.”

The 4<sup>th</sup> ground is couched in conclusory terms. It is not a substantive ground of appeal. That leaves the 2<sup>nd</sup> ground. The contents thereof show that the critical documents for consideration by this Court are the misconduct charge, loss control report and determinations & minutes of hearings by and before the Immediate Superior, Head of Department and Works Council. The only available document on record is the determination by the Works Council. For that reason the Court cannot proceed to determine the appeal on the basis of an incomplete record. Therefore the following directions shall issue.

**Wherefore it is directed that;**

1. **Appellant shall file the missing documents (as are in his possession) on or by the 15<sup>th</sup> November, 2023;**
2. **Respondent shall then file the remainder of the missing documents on or by the 30<sup>th</sup> November 2023; and**
3. **Thereafter the Registrar of this Court shall re-set the matter for further argument on the earliest available date.**

**G MUSARIRI**

**J-U-D-G-E**