



THE REPUBLIC OF UGANDA
IN THE INDUSTRIAL COURT OF UGANDA AT LIRA
LABOUR DISPUTE REFERENCE NO. 012 OF 2021
(Arising from Labour Dispute Ref No. 20/LCC/LD/01 of 2021)

CONG NELSON & 15 OTHERS:.....CLAIMANTS

VERSUS

**THE CHAIRPERSON GOVERNING COUNCIL OF ALL SAINTS
UNIVERSITY LANGO (ASUL):.....RESPONDENT**

BEFORE:

THE HON. MR. JUSTICE ANTHONY WABWIRE MUSANA,

PANELISTS:

1. MR. JIMMY MUSIMBI,
2. MS. ROBINA KAGOYE &
3. MR. CAN AMOS LAPENGA.

AWARD

- [1] When this matter came up for hearing on the 20th of February 2023, Mr. Samuel Odyek holding brief for Mr. Kafureeka for the Respondent informed the Court that they wished to explore a settlement. The Court granted time until this morning to attempt a reconciliation.
- [2] When the Court resumed this morning, Mr. Darius Ruta, Counsel for the Respondent, requested a little more time to further the discussions. At 12:09 pm, Mr. Ruta informed the Court that the parties had reached a settlement. Counsel stated the terms as follows:

- (i) That the Respondent admits the figures in the Claimants' summary of claim contained in a summary filed in Court on 22nd February 2023 in the total sum of UGX 718,288,329/.
 - (ii) That the claim shall be paid in three equal yearly installments beginning on 1st July 2023.
 - (iii) Each party would bear its costs.
- [3] Mr. Okello confirmed that the sum of UGX 718,288,329/ had been agreed upon but expressed surprise at the question of installments. He also asked for general damages and costs of the claim.
- [4] Mr. Ruta, reiterated his prayers and submitted that as a private university, the Respondent intended to raise the sum of UGX 718,288,329/ from tuition fees. To demand full and immediate payment would in Counsel's view, cause the Respondent to collapse. He prayed that the sums be staggered in the spirit of reconciliation.

Award:

- [5] Under Order 13 rule 6 of the Civil Procedure Rules S.I 71-1 any party may at any stage of the suit, where an admission of facts has been made, either on the pleadings or otherwise, apply to the court for such judgment or order as upon the admission he or she may be entitled to, without waiting for the determination of any other question between the parties: and the court may upon an application make such order, or give such judgment, as the court may think just. Admissions are further defined in Section 16 of the Evidence Act Cap. 6. They dispense with the need for proof of a fact and mean that a party has conceded to the truth of an alleged fact. *See the case Matovu Luke & ORS vs. Attorney General, HC Misc. Appl. No. 143 of 2003.* The position of the law appears to be, that private memoranda, though not communicated to the opposite side or third person are as evidence against a party as are admissions made to himself or herself in soliloquy.¹
- [6] In the matter before us, Mr. Ruta, appearing for the Respondent informed court in clear an uncertain terms, that the Respondent admitted the sum of UGX 718,288,329/ as due to the Claimants. Mr. Okello confirmed this

¹ Cited in Mwebeiha Amatos vs A.G [2015] UGHCLD 49 Per Bashaija J. "It would appear clearly that where the admission of facts is clear and unambiguous, the court ceases to have the discretion whether to enter a judgment or not. It must do so"

position. Accordingly and in all circumstances, an award is entered on admission in favour of the Claimants in the sum of UGX 718,288,329/=.

- [7] There was the matter of time of payment. We note that in the adjudication of disputes, Article 126(2) (d) of the Constitution of the Republic of Uganda requires the courts to promote the reconciliation of parties. In this regard alternative non-adversarial dispute resolution is encouraged. This matter has been resolved out of a spirit of reconciliation. This principle of reconciliation is also extended in the discretion granted to the Courts to make just decisions. Order 13 Rule 6 CPR permits the Court discretion to make such order as the court may think just. Under **Section 8(2a)(d) of the Labour disputes(Arbitration and Settlement) (Amendment) Act 2021**, this court shall have powers to make such orders as to costs and other reliefs as the Industrial Court may deem fit. The Respondent made a plea to settle the sum in equal installments beginning with the academic year 2023/2024 on 1st July 2023. We understand this to mean yearly installments. This court appreciates that there are economic realities that may make a single installment difficult or put the Respondent under severe economic pressure. The Respondent has made a case for sustainable settlement of the outstanding claim and we are inclined to accept this view. In the result, the award of UGX 718,288,329/= shall be paid to the Claimants in 3 equal annual installments commencing on the 1st day of July 2023 and continued on the 1st day of July of each calendar year until payment in full. In the event of default on any of the installments, the claimants shall be entitled to interest on the outstanding sum at the rate of 24% p.a until payment in full. Under **Section 8(2a)(d) of the Labour disputes(Arbitration and Settlement) (Amendment) Act 2021**, this
- [8] Mr. Okello asked for general damages and costs. The prayer for general damages was not pleaded. It is not contained in the memorandum of claim and has not been substantiated. The law as it stands does is that parties are bound by their pleadings and it is well established that a party cannot be granted a relief which it has not claimed in the pleadings.² In the result, we are not inclined to grant the same.
- [9] On the matter of costs, we have held in **LDR 109/2021 JOSEPH KALULE VS GIZ** that in employment disputes *"the grant of costs appears to be the exception rather than the rule and the bar is set at some form of misconduct, in some jurisdictions, the bar is quite high, at frivolous, vexatious, abusive, improper or unreasonable conduct."* We note that the Respondent sought to quickly resolve this matter. At the first session before this Court, both the University Academic Registrar Dr. Andrew Anthony Cula and the University

² Per Kawesa J in H.C.Civil Appeal No. 020 of 2021 Kitaka Peter & 12 Others v Mohamood Thobani

Secretary Mr. Tom Ogwang made it clear that this matter could be resolved and only required time. We think therefore that there is no misconduct on the part of the Respondent that might invite the grant of costs and we decline to grant the Claimants costs of the claim. Each party shall bear its costs.

It is so ordered.

Delivered at Lira this 27th day of February 2023

DELIVERED AND SIGNED BY:
THE HON. JUSTICE ANTHONY WABWIRE MUSANA,

THE PANELISTS AGREE:

1. Mr. CAN AMOS LAPENGA,
2. Ms. ROBINA KAGOYE &
3. Mr. JIMMY MUSIMBI.

Delivered in open Court in the presence of:

Mr. Ponsiano Okello and Mr. Gabriel Obua for the Claimants. 12 Claimants are in Court.

Mr. Darius Ruta for the Respondent.

Court Clerk - Mr. Samuel Mukiza.

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[2] When the Court resumed this morning, Mr. Darius Ruta, Counsel for the Respondent, requested a little more time to further the discussions. At 12:00 pm, Mr. Ruta informed the Court that the parties had reached a settlement. Counsel stated the terms as follows: