

**IN THE INDUSTRIAL RELATIONS COURT OF MALAWI**

**CHIKWAWA REGISTRY**

**MATTER NO. IRC PR 42 OF 2007**

**BETWEEN**

**CHILEMBA .....APPLICANT**

**-and-**

**ILLOVO SUGAR ..... RESPONDENT**

**CORAM: R. ZIBELU BANDA (MS): CHAIRPERSON**

Malijani;	Employers' Member Panellist
Kajombo;	Employees' Member Panellist
Chikwama;	Assistant Human Resources Manager
Applicant;	Present
Gowa;	Official Interpreter

**Facts**

The Respondent employed the applicant on 20 July 1998 as Clerk. He was dismissed at the position of Assistant Human Resources Officer on 16 May 2006. Reason of dismissal is that he was accused of processing loans to employees without the concerned employees' authority and getting the money out of the processed loans for his own personal benefit. Applicant claims termination was unfair in both substance and procedure. Substance because the allegations could not be substantiated by documentary evidence linking him to the alleged impropriety. Procedure because the officer who wrote him the termination letter was the one who complained against him, sat on the disciplinary hearing committee and consequently wrote the letter terminating his services. He alleged that one person played complainant, jury and judge in the same case. Respondent called two witnesses who were victims of the alleged unauthorized processed loans. The witnesses gave evidence on how they were deducted loans that they had not applied for, and narrated their attempts to have their loan situations cleared by the Applicant. Each time they complained the Applicant promised to look into their issues, and sometimes promising to pay them from his (Applicant's) own pocket. Applicant accepted that the complaints took some three months without being addressed and without the informing his bosses.

**Assessment of facts and the Law**

Applicant was unconvincing in his assertions why it took him three months to investigate the complaints of unauthorized loan deductions. There was no proper explanation from the Applicant why he did not bother informing management of the complaints. The Applicant was responsible for loan processes and therefore was responsible for the loan scam. The court found as a fact that the loan deductions were unlawful and were meant to

benefit the Applicant personally. The Applicant acted fraudulently and or dishonestly. This was valid reason for dismissal, see generally, *Asson v Securicor (Mw) Ltd* [Matter Number IRC 60 of 2001 (unreported)] IRC.

The hearing was fair. It was shown that there was no bias in the proceedings. In fact the hearing took several adjournments to accommodate the Applicant's demands for fairness. It complied with fair procedure under section 57(2) of the Employment Act.

**Finding**

The reason for termination was fair. The procedure leading to termination was also fair. The Applicant fails in his claims for unfair dismissal. The action is dismissed in its entirety.

**Pronounced this 28<sup>th</sup> day February 2008 at CHIKWAWA.**

Rachel Zibelu Banda  
**CHAIRPERSON**

Nick Chifundo Kajombo  
**EMPLOYEES' PANELLIST**

Aiman Malijani  
**EMPLOYERS' PANELLIST**