LexisNexis

Date and Time: Saturday, 4 September, 2021 2:42:00 PM MYT

Job Number: 152169215

Document (1)

1. *Status of Contract Workers in Public and Private Sectors: A Comparison [2021] 3 MLJ cccxlvii*

   Client/Matter: -None-

LexisNexis| About LexisNexis | Privacy Policy | Terms & Conditions | Copyright © 2021 LexisNexis

Status of Contract Workers in Public and Private Sectors: A Comparison [2021] 3 MLJ cccxlvii

Malayan Law Journal Articles

STATUS OF CONTRACT WORKERS IN PUBLIC AND PRIVATE SECTORS: A COMPARISON

Professor Dato' Sir Dr Ashgar Ali Ali Mohamed

International Islamic University Malaysia

Email: ashgar@iium.edu.my

INTRODUCTION

A person's employment contract whether in the public or private sector may either be a regular full-time permanent contract or a fixed term contract with a specified duration of time or the performance of a specified piece of work. The need for labour to carry out the day-to-day management of the company is the employer's prerogative who may decide to engage workers in the abovementioned categories and a worker's rights and obligations in employment are determined with reference to his or her employment status. The public sector employees as spelled out in art 132 of the Federal Constitution enjoy special protection as conferred by art 135. While employees in the private sector enjoy employment protection since 1980's *vide* the Industrial Relations Act 1967.[1] Before that, the employment relationship was contractual where either party may terminate the contract by serving appropriate notice, expressed in the contract or implied reasonable notice. Having said the above, this article discusses the status of fixed term contract workers in the public and private sectors particularly in relation to their job security.

CONTRACT WORKERS IN PUBLIC SECTOR

As stated earlier, a permanent employee in the public sector enjoys considerable security of tenure. Stability of employment up to the normal age of retirement, subject to satisfactory performance with no disciplinary records, and substantial health benefits and retirement packages are among the primary benefits of being employed in this sector.[2] Article 135 of the Federal Constitution provides that a holder of such office cannot be dismissed or reduced in rank without being given a reasonable opportunity of being heard nor shall he be so dismissed or reduced in rank by any authority subordinate to that other authority which has the power to appoint him. The dismissal of a public officer which is not justifiable substantively or procedurally unfair, will entitle the aggrieved person to apply for a declaratory order from the civil High Court and if the order is granted, he will be reinstated into his former post and will be paid the arrears of salary and other benefits which he would have had but for the dismissal.[3]

Aside from permanent employment, the federal and state governments, as well as the statutory bodies and local authorities, have been engaging workers on a contractual fixed duration or fixed term basis. There is nothing in the Constitution that restricts such engagement and hence, the medical officers at public hospitals, for example, are hired on fixed-term contract.[4] These contract officers are subject to the written terms and conditions of employment which include the provision on a lawful determination of the contract either upon its natural term or during the subsistence of the contract, upon serving on the other the stipulated notice of termination. They are also subject to the same rules in relation to discipline as a permanent employee. In *Government of Malaysia v Lionel*,[5] Viscount Dilhorne stated:

> Under English law a servant may be summarily dismissed for disobedience to orders or misconduct or may have his employment terminated by notice or the payment of wages in lieu of notice. Under the laws of Malaysia, a similar distinction between dismissal and termination of services appears to exist and in their Lordships' opinion there is nothing in the Constitution which affects the right of the Government to terminate temporary employment in accordance with the terms of the engagement.

In *Lembaga Kemajuan Wilayah Kedah (KEDA) v Puan Nur Dini binti Mohd Noh*,[6] the Court of Appeal held, inter alia, that by virtue of condition 4(f) of the Letter of Offer, the appellant had every right to terminate the respondent's contract of employment without assigning any reason for the termination by paying her one month's salary in lieu of notice.[7] Again, in *Sitti Badriyah Shaik Abu Bakar v Dr Hamzah Darus & Anor*,[8] the plaintiff/appellant, a deputy registrar of the second respondent, a college, was terminated from service pursuant to clause 11 of the contract of employment which empowered either party the right to terminate the contract by giving the other three months' notice. Accordingly, the appellant was given three months' notice of termination of her services. Dissatisfied with the termination, the appellant applied for a declaratory order to set aside the termination by arguing, inter alia, that the notice of termination was null and void. The appellant contended that as the respondents had issued her the show cause letter, the termination of her contract of employment could not, therefore, be carried out without first instituting the disciplinary proceedings.

The second respondent however argued that the relationship between the parties was contractual where either party has the right to terminate the contract by giving the other the three months' notice and as in this case, the notice of termination was duly issued. The trial judge held that the appellant's employment was validly terminated in accordance with the contract. Against the said decision, the appellant appealed to the Court of Appeal. The issue before the court was whether the respondents had waived their contractual right under clause 11 of the contract of employment when they issued the appellant the show cause letter. In dismissing the appeal, the court held that pursuant to clause 11 of the contract of employment, the respondents had the contractual right to terminate the appellant's services by giving her three months' notice, regardless of whether she had misconducted herself or not. In delivering the judgment of the court, Zaleha Zahari JCA stated:

> On the facts of this case under cl 11 of the contract of employment, the respondents, are clearly conferred with the contractual right to terminate the appellant's services by giving three months' notice, whether or not she had misconducted herself. Applying the principle in Lionel's case, the fact that there were earlier allegations of misconduct and or indiscipline made against the appellant did not preclude the respondents from exercising their contractual right to terminate her employment. The decision to terminate the appellant's services was, as in Lionel's case, probably taken to save the appellant from the ignominy of a dismissal and in accordance with the conditions of her appointment which she had agreed to on accepting such appointment. The learned trial judge did not err in dismissing the appellant's claim. He was right in finding that the appellant's employment was validly terminated in accordance with her terms of appointment.

Similarly, in *Shaffarizan bin Mohamad v Government of Malaysia c/o Attorney Generals Chambers & Anor*,[9] the applicant was hired as Pegawai Perkhidmatan Pendidikan Siswazah and he was placed on probation. However, on 7 May 2013, the second respondent had issued a letter to the applicant to terminate his service according to Public Officers (Appointment, Promotion and Termination of Service) Regulations 2012 as he had not fulfilled the conditions for confirmation in the service. His application to set aside the termination was dismissed by the court. It was held that the applicant's termination was based on the letter of appointment namely, that the applicant was given one month's notice in accordance with the contract.

As from the above, the contract officers are deprived of job security. Further, certain perk or benefits commonly made available to a permanent employee in his category such as the pension and gratuity upon compulsory retirement are also not accorded to contract officers. Such exclusion would be unfair to contract officers as many may have been loyal and committed workers besides having had several extensions of their fixed term contract. The termination of employment contract *vide* the terms of their engagement is a reinforcement of the archaic common law doctrine of hire and fire. Under this doctrine, once the appropriate notice of termination as per the employment contract is communicated, the employer is free to end the employment relationship on any ground with

no obligation to reveal the reason for the termination. This common law principle is also contained in s 12 of the *Employment Act 1955*[10] where it provides that either party to a contract of service may at any time terminate such contract of service by giving the other party the notice of termination. The length of notice shall be the same for both employer and employee and shall be determined by a provision made in writing for such notice in the terms of the contract of service. Any failure to give the appropriate notice of termination may give rise to a claim for compensation representing the period of notice agreed but not served on the other party. It is noteworthy that the above section 12 which is applicable to private sector employees is a redundant provision since job security of these workers is recognised in this country. As will be seen in later part of this article, a private sector worker who is aggrieved with his termination or dismissal is entitled to invoke section 20 of the *Industrial Relations Act 1967* ('IRA') which makes it incumbent on the employer to demonstrate that the dismissal was based on just cause and excuse.

It is worthwhile adding that according to s 52(1) of the *IRA* the provisions of Part IV which deals with the representation of unfair dismissal shall not apply to any Government service or any service of any statutory authority or to any workman employed by Government or by any statutory authority. The term 'statutory authority' is defined in s 2 of the *IRA* as an authority or body established, appointed or constituted by any written law, and includes any local authority. Meanwhile, the words 'Government' and 'local authority' are defined in s 3 of the *Interpretation Act 1948 and 1967*.[11] In relation to the former, it mean the Government of Malaysia or federal government, while the latter refers to any municipal council, town council, town board, local council, rural board, sanitary board or similar local authority established by written law. It may be further added that pursuant to s 30 of the *Industrial Relations (Amendment) Act 2020*,[12] s 52 of the *IRA* has been amended with the inclusion of subsection 3 which provides: '[n]otwithstanding subsection (1), Part IV shall apply to any service of or to any workman employed by, a statutory authority in which the Minister, after consultation with such statutory authority, by order published in the *Gazette* prescribe the name of the statutory authority'. What is apparent from the above, is that the Industrial Court's jurisdiction does not extend to government servants or employees of the statutory authority except where the name of the statutory authority has been published in the *Gazette* by an order of the Minister.

Hence, disputes involving contract officers in the government or the statutory authority fall within the jurisdiction of the civil courts. The courts are accustomed to the common law master and servant where the task of the court is to interpret and give effect to the agreed terms and conditions, irrespective of the parties' unequal bargaining power. Under the *laissez-faire* doctrine, a contract entered into freely and voluntarily is held sacred and would be enforced by the courts if it is broken subject to the limitations such as undue influence, fraud, duress, misrepresentation or contracts designed to violate criminal law. In short, contract workers in the public sector does not enjoy job security let alone hoping for legitimate expectation to have an extension of their fixed term contract beyond its agreed duration.

CONTRACT WORKERS IN PRIVATE SECTOR

The status of contract workers in the private sector is however strikingly different from the public sector. In fact, the Federal Court in *Dr A Dutt v Assunta Hospital*,[13] stated, inter alia, that there is no material distinction between termination and dismissal as in either case it must be grounded on just cause or excuse. Again, in *Goon Kwee Phoy v J & P Coats (M) Bhd*,[14] the Federal Court stated, inter alia, that where an unfair dismissal claim is referred to the Industrial Court for inquiry, the court is duty-bound to determine whether the termination or dismissal was with or without just cause or excuse. If the employer chooses to give reasons for their action, the Industrial Court will enquire whether the reason or excuse has or has not been established. If the Industrial Court finds that it has not been established, the inevitable conclusion then would be that the termination or dismissal was without just cause or excuse.

The Court of Appeal in *Omar bin Othman v Kulim Advanced Technologies Sdn Bhd (previously known as KTPC Technologies Sdn Bhd)*,[15] stated, inter alia, that the termination simpliciter, the absolute common law right of an employer to terminate the employee in accordance with the provisions of the contract violates s 20 of the *IRA*. As stated earlier, this section makes it incumbent on the employer to demonstrate that the dismissal was based on just

cause and excuse. Hence, the common law principle on the determination of contract by serving the appropriate notice as reinforced in *s 12* of the *Employment Act 1955* would be inapplicable when the termination is contested pursuant to *s 20* of the *IRA* which requires that a dismissal must be with just cause or excuse.

In the context of contract workers in the private section, while the employer's prerogative to engage workers on a temporary fixed term basis is recognised, such arrangement however has to be based on genuine commercial reasons such as seasonal work, to fill gaps caused by the temporary absence of permanent staff on long-term leave and for the performance of a specific task such as in the construction industry on a project-based or of a particular job, among others. The above is also reiterated by the International Labour Organisation in their Convention No. 158 of 1982, where art 2(3) provides that 'adequate safeguards shall be provided against recourse to contracts of employment for a specified period of time the aim of which is to avoid the protection resulting from this Convention'. 'Adequate safeguards' are therefore required to prevent the employer from hiring workers on a fixed-term contract for other than genuine commercial reasons such as to circumvent or bypass the statutory protection and benefits accorded by law to workers like the retrenchment benefits and the unfair dismissal claims. In other words, the fixed term engagement should not be done with motives of victimisation or unfair labour practice.

The Federal Court in *Ahmad Zahri Mirza Abdul Hamid v Aims Cyberjaya Sdn Bhd*,[16] reiterated the above when the court stated, inter alia, that while the use of fixed term contract has become common in Malaysia, particularly the employment of expatriates and in the construction industry, this however, is subject to the rule that it must be based on genuine commercial reasons related to the operational requirement of the employer's undertaking or establishment. Whether a fixed term contract is genuine or otherwise has to be determined with reference to the intention of parties,[17] employers' subsequent conduct during the course of employment which also include the total duration or length of service with an employer,[18] and the nature of the employer's business and the nature of work which an employee is engaged to perform.[19]

A genuine fixed term contract would terminate lawfully at the end of the stipulated time-frame and under such circumstances, the company is under no obligation to state any reason for the non-renewal of the contract. For example, in *Captain Robert H Haywood v Malaysian Airlines System Bhd*,[20] the Industrial Court held that the claimant's contract of employment was in fact a genuine fixed term contract and it would expire by effluxion of time. The company does not need to give any reasons for its non-renewal.

But where the temporary fixed term contract was held not genuinely related to the employer's operational requirement, undertaking or establishment, the court will hold that the fixed term engagement was in fact permanent employment but was guise or dressed as fixed term contract.

In *Innoprise Corporation Sdn Bhd, Sabah v Sukumaran Vanugopal Sabah*,[21] the claimant, a senior group investment officer, was hired on a three-year contract basis and his contract was renewed on similar terms twice thereafter. At the end of the nine years of service, his contract was not renewed and the reason given was that a 'Sabahan was capable of carrying out the task'. In an application for dismissal without just cause or excuse under the IRA, the Industrial Court, in affirming the claimant to be a permanent employee of the company, stated:

> Industrial jurisprudence leans in favour of permanency to ensure security of tenure of employment but fixed term contract go against this philosophy and this is because the absence of a good reason for fixed term contract deprives a man for such security as the claimant successive contract was being kept in a state of suspended animation with a 'sword of Damocles' hanging over his head.

Again, in *Han Chian High School Penang Han Chiang Associated Chinese School Association v National Union of Teachers in Independent School West Malaysia and Industrial Court of Malaysia*,[22] 35 teachers of the school claimed that they had been dismissed without just cause and excuse. They contended that their fixed term contract was not renewed upon expiry mainly because they were members of the union of teachers. But the other 12 teachers had their contract renewed when they had renounced their union membership. In holding that the claimants were dismissal without just cause and excuse, the Industrial Court made a finding that the system of fixed term contracts in the school was employed not out of genuine necessity but as means of controlling the teachers

concerned. The intention of the school was to get rid of the union, which was why the school relied on the fixed term contracts to flush out the teachers who were members of the union. The Court also noted that it would be an obvious loophole if any employer could evade the statutory protection such as the reinstatement claim by making a series of contracts of finite duration with his workmen. In this case, the Court concluded that there was in fact an ordinary contract of ongoing 'permanent' between the claimants and the school as opposed to a 'temporary' one-off employment.

Likewise, in *Malaysia Airlines Bhd v Michael Ng Liang Kok*,[23] the claimant was offered employment with the appellant as the second officer in the Rural Air Service for a period of two years. He accepted the offer and was confirmed as the second officer in April 1988. After serving a probationary period of six months, the claimant was promoted as the commander in the DHC6 Fleet based in Miri and was confirmed in that position in April 1989. In January 1990, the company extended his employment on a three-year contract to March 1993. His employment was further extended on similar terms for a period of three years to March 1996. Thereafter, the claimant was only given a three months' contract by the company ie, from 18 March 1996 to 17 June 1996 and at the end of the said period, the company issued a letter to the claimant of the non-renewal of the contract.

The claimant contended that his contract had been continuously and automatically renewed over a period of eight years. He therefore alleged that his employment with the company, in substance and in fact, was permanent employment. The company however, contended that the claimant was employed on a genuine fixed-term contract of employment which in normal circumstances automatically comes to an end of itself. The company had simply not renewed a fixed-term contract which had expired and there was neither resignation nor a termination. The company further contended in the alternative that they had just cause or excuse for not renewing the employment of the claimant because the claimant's service was surplus to the company's requirements. The issue before the Industrial Court, inter alia, was whether the claimant was hired on a genuine fixed-term contract of employment.

The Industrial Court stated that the mere description of a contract as a fixed-term or a similar label attached to it was not determinative of the matter. The duty of the Court is to inquiry whether an employer genuinely had a need for the services of an employee for a fixed duration and thereby employed the employee for the said term stipulated in the contract. In rejecting the company's contention that the claimant was hired on a genuine fixed-term contract, the Industrial Court upon reviewing the circumstances of the case concluded that the claimant's contract of employment was not one for a fixed term but an ordinary contract subject to the statutory protection of the security of tenure.

What is apparent from the above is that the mere description of a contract as a fixed-term or a similar label attached to it was not determinative of the matter. When the Industrial Court makes a finding that the fixed term contract was employed not out of genuine necessity, the Court is empowered to declare it as an ordinary ongoing permanent contract. At this juncture, it is noteworthy that the Industrial Court is a court of equity and good conscience, and in determining a case the court is obliged to inquire into the substance of the case and not merely the form. Hence, the court will enquire not only into the contractual rights and obligations between the parties but also what is fair and just on the grounds of equity and good conscience and having regard to workers' right to security of tenure.[24]

Having seen the status of private sector contract workers, it is worthwhile adding that the employer is empowered to terminate a genuine fixed term contract before the end of its terms on grounds of gross misconduct which may be related to duty, discipline or immorality.[25] However, where the fixed term contract is terminated for an improper reason, the compensation recoverable would be equivalent to the wages or the salary the employee would have earned if the contract had run to the end of its term. In *Malaysian Airline System Bhd v Karthigesu V Chinnasamy*,[26] it was held that the proper remedy involving a genuine fixed term contract of employment determined for no good cause would be to award a fixed compensation based on the remuneration that a claimant would have received for the estranged period, that is the period from the date of actual termination of employment to the date of determination of the fixed term contract. Such a computation would enable the claimant to be put in the original position that he would have had but for the dismissal.

Again, in *United Engineers (M) Sdn Bhd v Jurgen H.H. Dorbecker*,[27] the respondent an Australian citizen was employed as a technical advisor to the appellant for a fixed term of three years. At the end of two years, his contract was terminated on the grounds that the local engineers were competent to handle such a task. The Industrial Court

found in favour of the claimant and awarded compensation for the loss of employment from the date of termination to the expiry date of the fixed term contract. Likewise, in *Malaysian Wetlands Foundation v Devendiran St Mani*,[28] the claimant was employed on a fixed term contract for the duration of twelve months commencing from 1 October 1998 to 30 September 1999. However, by a letter dated 9 April 1999, the company terminated the contract by giving the claimant one month's contractual notice of termination. The Industrial Court held, inter alia, that a workman on a fixed term contract enjoys the security of tenure for the duration of the contract and such a contract may only be terminated by the employer for good cause or excuse. The Industrial Court held that the remuneration that the claimant would have received for the estranged period, that is the period from the date of actual termination of employment to the date of termination of the fixed term contract, would be appropriate compensation.

CONCLUSION

The government-engaged contract workers may be terminated in accordance with their terms of the engagement irrespective of the number of years in service and such arrangement is utterly unfair against these workers. Not only are they deprived of job security but are also not entitled to the perks and benefits enjoyed by those engaged on a permanent basis. Hence, the issue of whether the government has a genuine need to engage workers on a temporary fixed duration and whether the contract workers have legitimate expectations for further extension of their contract subject to satisfactory performance does not arise nor would be entertained if contested in the courts. In fact, under the common law *laissez-faire* doctrine, a contract which was freely and voluntarily entered into, if broken, would be enforced strictly irrespective of the inequality of bargaining power between the parties, subject however to the limitations such as undue influence, fraud, duress, misrepresentation or contracts designed to violate criminal law.

The position however is different in the private sector in that while the company is allowed to engage workers on a fixed term basis, such engagement, however, must be genuinely related to the operational requirement of the undertaking or establishment of the employer. This is so because workers have legitimate expectations to continue in employment and to earn livelihood unless the company has just cause or excuse to terminate their services. If the fixed term engagement was not bona fide or genuine, the court would rule that the contract was permanent but guise or dressed as a fixed term contract. Further, when a genuine fixed term contract was prematurely terminated for an improper reason, the compensation recoverable would be equivalent to the wages or the salary the employee would have earned had the contract run to the end of its term. Based on the foregoing discussion it is submitted that the same rule as discussed above in relation to the private sector workers should be extended to contract workers engaged by the Government or any statutory authority. It is further submitted that since the contract workers hired by the Government or any statutory authority do not come within the statutory protection of art 135 of the Constitution, such workers' rights should be determined in the same way as private sector workers and thus, being within the jurisdiction of the Industrial Court.

[1] (Act 177).

[2] Public offices are spelled out or set out in the Federal Constitution art 132. They are public offices in the armed forces; the judicial and legal service; the general public service of Malaysia, the police force, the joint Federal and State public services, the education service, and the public service of each State.

[3] See *Ng Hock Cheng v Pengarah Am Penjara & Ors* [1998] 1 MLJ 153 (FC) 158–159 and *Mohd bin Ahmad v Yang Di Pertua Majlis Daerah Jempol, Negeri Sembilan & Anor* [1997] 2 MLJ 361 (FC) 368.

[4] See *Government of Malaysia v Lionel* [1974] 1 MLJ 3 (PC) 5.

[5] *Government of Malaysia v Lionel Ibid*.

[6] *Lembaga Kemajuan Wilayah Kedah (KEDA) v Puan Nur Dini binti Mohd Noh* [2018] MLJU 75.

[7] Condition 4(f) of the Letter of Offer provides: 'Tuan/puan boleh diberhentikan daripada jawatan bila-bila masa selepas diberi sebulan notis atau sebagai ganti notis dibayar sebulan gaji bersih, dengan tidak diberi sebarang sebab. Tuan/puan juga berhak beletak jawatan dengan memberi sebulan notis ataupun sebagai ganti notis membayar balik sebulan gaji bersih. Setelah tuan/puan disahkan dalam jawatan, notis yang dikehendaki bagi kedua-dua pihak ialah 3 bulan atau sebagai ganti notis membayar sebulan gaji bersih.'

[8] *Sitti Badriyah Shaik Abu Bakar v Dr Hamzah Darus & Anor* [2009] 2 MLJ 233.

[9] *Shaffarizan bin Mohamad v Government of Malaysia c/o Attorney Generals Chambers & Anor* [2015] 7 MLJ 504.

[10] (Act 265).

[11] (Act 388).

[12] (Act A1615).

[13] *Dr A Dutt v Assunta Hospital* [1981] 1 MLJ 304.

[14] *Goon Kwee Phoy v J & P Coats (M) Bhd* [1981] 2 MLJ 129.

[15] *Omar bin Othman v Kulim Advanced Technologies Sdn Bhd (previously known as KTPC Technologies Sdn Bhd)* [2019] 1 MLJ 625 (CA).

[16] *Ahmad Zahri Mirza Abdul Hamid v Aims Cyberjaya Sdn Bhd* [2020] 3 MLJ 58; , [2020] 1 LNS 494 (FC).

[17] See *Han Chiang High School/Penang Han Chiang Associated Chinese School Association v National Union of Teachers in Independent Schools, West Malaysia & Industrial Court of Malaysia* (1990) 1 ILR 473; *Hasni Hassan & Ors v Menteri Sumber Manusia & Anor* [2013] 6 CLJ 74.

[18] See *Innoprise Corporation Sdn Bhd, Sabah v Sukumaran Vanugopal* [1993] 1 ILR 373B; *Sime UEP Development Sdn Bhd v Chuah Poi* [1996] 1 ILR 256; *Malaysia Airlines Bhd v Michael Ng Liang Kok* [2000] 3 ILR 179; *Holiday Villages of Malaysia Sdn Bhd v Mohd Zaizam Mustafa* [2006] 2 LNS 0812.

[19] See *Audrey Yeoh Peng Hoon v Financial Mediation Bureau* [2015] 3 ILR 371; *Charles Aseervatham Abdullah v The Zenith Hotel Sdn Bhd* [2018] 2 LNS 2349.

[20] *Captain Robert H Haywood v Malaysian Airlines System Bhd* [2007] 1 ILR 577.

[21] *Innoprise Corporation Sdn Bhd, Sabah v Sukumaran Vanugopal Sabah* [1993] 1 ILR 373.

[22] *Han Chian High School Penang Han Chiang Associated Chinese School Association v National Union of Teachers in Independent School West Malaysia and Industrial Court of Malaysia* [1990] 1 ILR 473. See also *Malayan Racing Association v Ong Huat Leng* [1995] 2 ILR 72; *Sime UEP Development Sdn Bhd v Chu Ah Poh* [1996] 1 ILR 256; *Bandar Penggaram Associates Chinese Schools, Johor v Gan Chin Piaw & Anor* [1997] 1 ILR 906; *United Seino Transportation (M) Sdn Bhd v Abdul Halim Endon & Ors* [1997] 1 ILR 781.

[23] *Malaysia Airlines Bhd v Michael Ng Liang Kok* [2000] 3 ILR 179.

[24] See *Han Chian High School Penang and Han Chian Associated Chinese School Association v National Union of Teachers in Independent School (West Malaysia) and Industrial Court of Malaysia* [1990] 1 ILR 473; *Innoprise Corporation Sdn Bhd, Sabah v*

Sukumaran Vanugopal Sabah [1993] 1 ILR 373; *United Engineers (M) Bhd v Jurgen HH Dorbecker* [1993] 2 ILR 48, 53.

[25] See *Capping Corporation Sdn Bhd v Duncan De Berry* [2008] 2 ILR 513; *Intraline Resources Sdn Bhd v Mohamad Shah Gubah Ahmad* [2007] 1 ILR 393

[26] *Malaysian Airline System Bhd v Karthigesu V Chinnasamy* [2006] 3 ILR 1478. See also *Lilly Industries (M) Sdn Bhd v Billy Wayne Selsor* [2006] 3 ILR 1507

[27] *United Engineers (M) Sdn Bhd v Jurgen H.H. Dorbecker* [1993] 2 ILR 48.

[28] *Malaysian Wetlands Foundation v Devendiran St Mani* [2005] 2 ILR 565.

End of Document