

**6th SURANA AND SURANA
&
SCHOOL OF LAW, RAFFLES UNIVERSITY
NATIONAL LABOUR LAW MOOT COURT
COMPETITION'2023**

Disclaimer:

The facts stated in the present case are fictitious and have been drafted solely for the purposes of the competition. The facts, names, locations and dates bear no resemblance to any person, event or happening, whether dead or alive. Any resemblance found, if any, is purely co-incidental.

The real names used in the problem are specifically for the purposes of the moot. No real incidents can be attached to them.

This problem is not intended to hurt the feelings of any section of society or to offend any person.

MOOT PROPOSITION

1. *Mojo Herald* is a ship recycling company registered in the Republic of *Kumonoland* located in the coastal province called *Nomaleo*. Mr. Matata, an employee of *Mojo Herald*, has been working in the ship breaking yard with 90 other employees for the past 10 years. Ship breaking is a process of dismantling the ship/vessel which is a very labour-intensive process and is considered one of the most dangerous industries in the world. During this process, a huge volume of hazardous substances, including paint, heavy-metals and fire-fighting chemicals are exposed to the environment. Long-term exposure to such hazardous substances can lead to liver damage, neurological damage, reproductive impairments, cancer etc.
2. Mr. Matata was diagnosed with a liver infection due to long term exposure of Polychlorinated biphenyls (PCB) according to the doctors, which led to his death within a month of diagnosis i.e on 20, January 2021.
3. Employees agitated against the company with the fear of such a sudden death of Mr. Matata and demanding proper occupational health, safety and working conditions to keep themselves away from such infections due to exposure to PCB and other hazardous substances.
4. Amidst the agitation, a negotiation took place on 30 January 2021, between the employer and the agitated employees of the *Mojo Herald* ship recycling company, where the employer made certain promises to fulfill the demands of the employees.
5. Even after 3 months of negotiation, the promise remained unfulfilled, which compelled the employees to launch agitation for fulfillment of the promise made by the employer, as a consequence of which the working of the company was affected. During the agitation on 1st May 2021, the Trade Union leader, Mrs. Yeoshin was attacked by the private escorts of the General Manager (Operations) which led to the miscarriage of her first child, which ultimately led to the strike.

6. On 2nd of May 2021, a notice for going on a strike was served to the employer that they would strike on 20th of May 2021, whereas the employees went on strike on 15th of May 2021 with the following demands-
 - i. Demand for proper occupational health, safety and working conditions to protect them from infections due to exposure of hazardous substances caused due to working in the ship recycling yard.
 - ii. Demand for keeping the working hours to be 8 hours and not more than 40 hours per week from the existing working conditions, which is 10 hours a day for 6 days a week i.e. 60 hours of work per week.
 - iii. Demand for compensation for Mr. Matata's unfortunate death as well as Mrs. Yeoshin's miscarriage.
7. The employer made an application to the Industrial Tribunal under Section 53 of the Industrial Relations Code, 2020 for adjudication of the dispute, when no settlement was arrived before the conciliation officer. It was held by the Tribunal that the ship-recycling company is not an "industry" under the definition of "industry" given under the Labour laws of Kumonoland. It also pointed out that the strike was an illegal strike, as it was commenced or declared in contravention of section 62 of the Industrial Relations Code, 2020.
8. The employees challenged the award passed by the Industrial Tribunal in the High Court of Nomaleo. The High Court was of the opinion that the Tribunal hurriedly came to the conclusion that ship-recycling company is not an "industry" in the present case. The High Court held that the ship-recycling company is an "industry" as it very much falls within the purview of the definition clause defining "industry" under the Labour laws of Kumonoland. The High Court called the strike to be legal as well as justified, since it was the employer's unjustified attitude in not fulfilling the demands as promised to the employees.
9. Mojo Heraldo ship recycling company filed an appeal to the Supreme Court stating that the High Court had no jurisdiction in the present case and had erred while deciding the case as the Court of appeal was the National Industrial Tribunal.
10. Besides the Appeal filed by the Mojo Heraldo ship recycling company, a PIL has already been filed by the employees of various ship recycling companies, including Mojo Heraldo ship

recycling company, concerning paid paternity leaves and menstrual leaves which is pending before the Supreme Court.

11. The hon'ble Supreme Court of Kumonoland, clubbing the Appeal with the PIL, has decided to hear the case on the following issues-
- i. Whether the High Court have Appellate jurisdiction in the present case?
 - ii. Whether the ship-recycling company is an "industry" to be considered under the Labour Codes?
 - iii. What are the safety measures which should be considered while working in the ship-recycling yard?
 - iv. Whether the minimum working hours under the Labour laws are in accordance with the rules laid down by the International Labour Organization?
 - v. Whether menstrual leaves fall under the purview of the Maternity Benefit Act, 1961?
 - vi. Is denial of paid paternity leaves a violation of the fundamental right?

NOTE-

1. The laws of "Republic of Kumonoland" are pari materia with the laws of INDIA and the decisions of INDIA are of significant value to the Republic of Kumonoland. The Apex Court of the Republic of Kumonoland also relies on the precedents of International Courts and Tribunals.
2. The participants are required to prepare their submissions from each side of the case.