

FDH Bank Ltd v Chengaikane Kahumbe Civil Appeal Number 7 of 2021 (Being IRC Matter Number 561 of 2016)

Summary

Court:	High Court of Malawi
Registry:	Civil Division
Bench:	Honourable Justice Allan Hans Muhome
Cause Number:	Civil Appeal Number 7 of 2021 (Being IRC Matter Number 561 of 2016)
Date of Judgment:	November 25, 2024
Bar:	Mr. Francisco Chikabvumbwa, Counsel for the Appellant Counsel for the Respondent: Mr. Gabriel Kambale

The Appellant, FDH Bank Limited, appealed to the High Court against a judgment by the Industrial Relations Court (IRC) that found the redundancy of the Respondent, a former employee, to be unfair and constituted an unfair labour practice. The IRC had awarded the Respondent compensation of K102,430,224.00, and a subsequent order by a Deputy Chairperson required the Appellant to pay K40,000,000.00 pending the outcome of the appeal. The

Appellant contested both the finding of liability and the compensation assessment.

The main legal issues before the Court were whether the IRC erred in finding the dismissal substantively unfair, whether the Appellant genuinely consulted the Respondent, and whether the IRC's assessment of compensation was erroneous. The Court considered the Appellant's eight grounds of appeal, addressing each one individually. The Court partially upheld the appeal, finding that the Respondent was employed as a Client Analyst, not an Account Relationship Manager, at the time of redundancy and that her position had genuinely become redundant based on a job evaluation exercise. However, the Court upheld the IRC's finding that the Appellant had failed to conduct a genuine consultation with the Respondent, thereby rendering the process procedurally unfair and constituting an unfair labour practice. The Court also affirmed the IRC's assessment of compensation, finding it to be just and equitable despite the Appellant's arguments against it. The Court noted that the initial IRC judgment on assessment did not grant a stay of execution and that the Deputy Chairperson's subsequent order for partial payment was not a variation but was consistent with the law.

The appeal was partially allowed. The Court found that the main findings of the IRC regarding procedural unfairness and the compensation amount were not at fault. The Court ordered that the balance of the compensation be paid to the Respondent within seven days. Each party was ordered to bear its own costs.