

IN THE INDUSTRIAL COURT OF SWAZILAND

CASE No. 40/85

In the matter between:

GLADYS DOLLY MASEKO Applicant

vs

STANDARD CHARTERED BANK Respondent

CORAM

PRESIDENT J. A. HASSANALI

FOR APPLICANT MR. MOTSA

FOR RESPONDENT MR. DODDS

ASSESSORS MESSRS B. STEPHEN AND A.N. MATSEBULA

ISSUE IN DESPUTE UNFAIR DISMISSAL

AWARD

(Delivered on 06-03-86)

Hassanali,J.

In this matter the Applicant is claiming compensation together with terminal benefits for her unfair termination.

The Applicant joined the Respondent Bank on 8/8/73. In 1978 she was promoted as a Check Clerk and posted to the Waste Department of the Mbabane Branch. In the course of her duties she used to receive from the Bank's Head Office, cheques tendered in South Africa by its Branch customers. These cheques were received in batches and were attended to immediately by the clerks, under the supervision of the Applicant.

During a routine check carried out by the Management it was discovered that a particular batch which had been received by

2

the applicant on 26/11/84 remained unattended to, until 18/12/84. Then it was Found that this batch contained two cheques of hers, one for E845.52 and the other for E100. At the time the cheques were issued, her bank account showed an overdrawn amount of E15.38. Thus she had no money at all in her account to meet these two cheques. Nevertheless on 17/12/84, her account was credited with a sum of E1,571.72 which represented her salary, bonus and salary review. This in Fact helped her to clear her cheques on 18/12/84.

It is apparant from the above that the Applicant's delay in attending to this particular batch until 18/12/84 was deliberate so as to gain time, so that by the 17/12/84, she would have sufficient funds in her account to meet these cheques. She herself admitted this in her letter to the Manager (Ex.2) Therefore her action constituted a dishonest act as contemplated under Sec.36 (b) of the Employment Act No.5 of 1980.

The Applicant had worked for nearly 13 years with the Bank. Inevitably the length of time for which an employee has been employed by the employer will almost always be a relevant factor to weigh up in deciding whether a dismissal has been fair.

The length of service is also of importance when considering the penalty that should be imposed. But the very fact that she had been in service for so long, should have made her realise that a single act of dishonesty could endanger her reputation and thus earn her dismissal.

It is indeed that after a long and clean service that she should have succumbed to temptation.

3

Consequently I have no other alternative but to hold that the Applicant's dismissal has been fair and I therefore dismiss the application.

Although under the circumstances the Applicant should forfeit the severance pay as contemplated under Sec. 34 (2) of the Employment Act No.5 of 1980; considering the relevant facts in this matter as a whole. I feel that the act she committed is not of such a grave nature so as to warrant such a forfeiture. Had I any choice in this matter. I would have used it in her favour and made an order for the payment of this allowance. Unfortunately my discretion is fettered. In the circumstances I can only recommend that the Respondent Bank should consider the payment of the severance allowance to the Applicant.

My Assessors agree with my decision.

J. A. HASSANALI

PRESIDENT