



Dato' Thavalingam Thavarajah
Partner

Employment

T: +603 6208 5857

E: tt@lh-ag.com



Rebecca Sonali Alfred
Associate

Employment

T: +603 6208 5892

E: rsa@lh-ag.com

9 JUNE 2020

Court Rules Mutual Severance Scheme Valid

Zainab binti Shaari & Ors v SIRIM Berhad
(Industrial Court Award No 734 of 2020)

The terms of a Mutual Severance Scheme (**MSS**) undertaken by a GLC were put to the test before the Industrial Court when 13 claimants challenged the same alleging, among others, as follows:

- There was an advertisement for positions held by some of the claimants after the exercise;
- The claimants were forced/unduly influenced by the company representatives during the town hall meeting; and
- The fear of retrenchment was instilled in the claimants.

After scrutinising the MSS, the Industrial Court dismissed the claimants' claims on the basis that there were no elements of force, duress and/or undue influence when they executed the MSS, and held that:

- The advertisement (inadvertently published without the company's authorisation) was irrelevant;
- The company need not prove surplus labour as the MSS was an agreement which ended the employment relationship mutually;
- The statements made by the company's representatives during the town hall meeting could not be deemed as undue influence; and
- The possibility of a retrenchment exercise in the future was not intended to intimidate or unduly influence the claimants.

Instead, it was merely advice to caution them on the possibility of a retrenchment exercise.

The company was represented by partner Dato' Thavalingam Thavarajah, and associate Rebecca Sonali Alfred, of [Lee Hishammuddin Allen & Gledhill](#).

The Industrial Court award may be viewed [here](#).

Rebecca Sonali Alfred (rsa@lh-ag.com)

If you have any queries, please contact the author or her team partner [Dato' Thavalingam Thavarajah](#) (tt@lh-ag.com).

Lee Hishammuddin Allen & Gledhill

Level 6, Menara 1 Dutamas

Solaris Dutamas

No. 1, Jalan Dutamas 1

50480 Kuala Lumpur

Malaysia

T +603 6208 5888

F +603 6201 0122/0136

E enquiry@lh-ag.com

W www.lh-ag.com

Published by the Employment Practice

© Lee Hishammuddin Allen & Gledhill. All rights reserved. The views and opinions attributable to the authors or editor of this publication are not to be imputed to the firm, Lee Hishammuddin Allen & Gledhill. The contents of this publication are intended for purposes of general information and academic discussion only. It should not be construed as legal advice or legal opinion on any fact or circumstance.

[Feedback](#)

[Unsubscribe](#)