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Morality Beyond the Workplace: Reputation of the Employer

Mohd Bukhari bin Abu Hassan v Hicom Automotive Manufacturers (Malaysia) Sdn Bhd (Industrial Court Award No 387 of 2019)

The claimant, an Assistant Foreman, commenced his employment with the company on 6 May 1990. The company is a National Automotive Assembly Hub in Pekan, a small town where the majority of the population profess the religion of Islam.

In July, the claimant was arrested and charged for the offence of *khalwat* under section 145 of the “Enakmen Pentadbiran Ugama Islam & Adat Resam Melayu Pahang 1982”. The company became aware of this through its employees and this was verified with the Jabatan Agama Islam Pahang.

The claimant admitted that one of the values instilled within the company was morality. He had also not disputed that one of the express terms and conditions of his employment with the company was: “Not to bring disrepute to the image or good name of the company by any means whether oral, written or by conduct”. The claimant further agreed that the company’s good name was affected when, as an employee, he was arrested and then charged at the Pekan Lower Syariah Court.

The company had also taken into account the claimant’s previous disciplinary record. He had been given two counselling sessions, two warnings and a stern warning in the past.

The Industrial Court dismissed his claim for unlawful dismissal and held that:

- (a) As a long-serving employee, the claimant was impliedly expected to uphold the company’s values at all times;
- (b) The claimant by his conduct had undoubtedly tarnished the company’s reputation, especially in a small town like Pekan, where the majority population are Muslims.
- (c) It is obvious that the claimant throughout his employment with the company had mistaken the company’s tolerance of his ways

as a weakness and had not appreciated the company's tolerance in giving him opportunities to improve himself.

(d) In these circumstances, a meaningful employer-employee relationship between the claimant and the company could no longer be sustained.

(e) The dismissal of the claimant was warranted based on the doctrine of proportionality of punishment and it was with just cause or excuse.

The company was represented by partner Shariffullah Abdul Majeed of [Lee Hishammuddin Allen & Gledhill](#).

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

Shariffullah Abdul Majeed and Rahul Thomas Dennis (Pupil-in-Chambers)

If you have any queries, please contact team partner [Shariffullah Abdul Majeed](#) (sha@lh-ag.com).

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