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No Triable Issues in Retrenchment Exercise

Anis Syafiqah Mazlan & Ors v Menteri Sumber Manusia & Johawaki Construction Sdn Bhd
(Kuala Lumpur High Court Application for Judicial Review No WA-25-581-12/2019)

The High Court recently affirmed the decision of the Minister of Human Resources (**Minister**) not to refer four retrenched employees' representations for unfair dismissal under **s 20** of the Industrial Relations Act 1967 (**Representations**) to the Industrial Court.

Following a rationalisation exercise to manage the Johawaki Group's operational costs, the employees in question were identified as surplus to the company's operations and after determining that there were no other suitable roles for them within the Group, the employees were subsequently retrenched.

Dissatisfied with the Minister's decision, the employees filed a judicial review application to quash the non-referral, claiming, among others, that the Minister had failed to give his reasons for the decision and failed to consider all relevant matters before deciding the representations were not fit to be referred to the Industrial Court.

In dismissing the employees' judicial review application, the learned High Court judge held, among others, as follows:

- (a) The Minister, upon taking into consideration the detailed supporting documents presented by the company, rightly found that there were no serious issues fit to be tried pertaining to the employees' retrenchment;
- (b) It is trite that a Minister is not obliged to give reasons for his decision not to refer the Representations to the Industrial Court; and

(c) The Minister's decision not to refer the Representations was not tainted with illegality to warrant an order of *certiorari* to quash the same.

The company was represented by partner Shariffullah Majeed, and associate Nurul Aisyah Hassan, of [Lee Hishammuddin Allen & Gledhill](#).

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