



Sharifullah Majeed
Partner

**Employment
& Industrial Relations**
E: sha@lh-ag.com



Nurul Aisyah Hassan
Senior Associate

**Employment
& Industrial Relations**
E: nah@lh-ag.com

5 September 2023

**Reiterating The High Standards In The Banking Industry:
Dismissal Of Senior Management Upheld For Breach Of
Financing Policy**

***Ahmad Khushairi Mohamed Nasser v Bank Kerjasama Rakyat
Malaysia Berhad***

(Industrial Court Award No.:1810 of 2023)

It is settled law that the banking industry belongs to a special kind of business and services rendered to the public. It is entrusted with other people's money, therefore, a high quality of discipline and conduct of the highest order is expected of its staff to win public confidence.

The Industrial Court recently dismissed an unfair dismissal claim by a Head of Auto Finance, upon finding that he had acted in breach of the Bank's vehicle financing policies, by instructing his subordinates to fabricate financing documents to conceal the breakdown of additional accessories and costs (which were not allowed to be financed), and subsequently approved the disbursements of loans based on the said fabricated documents.

The Bank submitted before the Industrial Court that:

- (a) Despite the employee's contention that there was no direct or written evidence demonstrating his illegal instructions, the corroborative evidence of his subordinates who testified being given the instructions to fabricate the financing documents, held more weightage and were indeed sufficient in the circumstances to prove that the employee committed the said misconducts;
- (b) With respect to the employee's grievance that there was disparity in punishment given his subordinates were not dismissed for their role in actually fabricating the financing documents, it is for the Bank to decide the appropriate punishment to be meted out. In any case, the Bank had already taken the necessary

Head Office

Level 6, Menara 1 Dutamas
Solaris Dutamas
No. 1, Jalan Dutamas 1
50480 Kuala Lumpur
Malaysia
Tel: +603 6208 5888
Fax: +603 6201 0122

Johor Office

Suite 21.01
21st Floor, Public Bank Tower
No.19, Jalan Wong Ah Fook
80000 Johor Bahru, Johor
Tel: +607 278 3833
Fax: +607 278 2833

Penang Office

51-12-E, Menara BHL Bank,
Jalan Sultan Ahmad Shah,
10050
Penang
Tel: +604 299 9668
Fax: +604 299 9628

Email

enquiry@lh-ag.com

Website

www.lh-ag.com

disciplinary action against his subordinates for their respective roles in the fabrication of the documents; and,

- (c) The employee is not at liberty to point fingers at his subordinates given his senior position as the Head of the Auto Finance Centre, where its ongoings were clearly within his purview and supervision.

The Court found in favour of the Bank given the gravity of the acts of misconduct in question and the senior position of trust which the employee held. Further, its decision in this case reiterates the high standard of accountability and integrity expected in the banking industry.

The Bank was represented by senior associate Nurul Aisyah Hassan of Lee Hishammuddin Allen & Gledhill. The Industrial Court award can be accessed [here](#).

If you have any queries, please contact Senior Associate, **Nurul Aisyah Hassan** (nah@lh-ag.com), or her team Partner, **Sharifullah Majeed** (sha@lh-ag.com).