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EMPLOYMENT & INDUSTRIAL RELATIONS

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STRICT TIMELINE FOR CHALLENGING INDUSTRIAL COURT AWARDS

by Shariffullah Majeed & Arissa Ahrom

NORAZMAN BIN ROMLI v KUARI TRENGGANU TENGAH (KTT) SDN BHD

(Kuala Lumpur High Court Originating Summons No.: WA-24-NCVC-3630-07/2025)

Prior to the amendments to the Industrial Relations Act 1967 (“IRA”) which came into force on 1 January 2021, the mode of challenging an Industrial Court award was by way of a judicial review application filed in the High Court. This meant that any party aggrieved by the Industrial Court award had **3 months** from the date of receipt of the award, to challenge the said award¹. Now, with the introduction of section **33C** of the IRA, any person dissatisfied with an Industrial Court award may file an appeal to the High Court within **14 days** from the date of receipt of the award². Further, section **33C (2)** of the IRA provides that the procedure in an appeal to the High Court shall be the procedure in the Rules of Court 2012 for an appeal from a Sessions Court³.

[1] Order 53 rule 3 (6) of the Rules of Court 2012

[2] Section 33C (1) of the Industrial Relations Act 1967

[3] Order 55 rule 2 of the Rules of Court 2012 states “All appeals to the High Court shall be by way of re-hearing and shall be brought by giving a notice of appeal within fourteen days from the date of the decision appealed from.”

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In the instant case, the Industrial Court dismissed the employee's unfair dismissal claim⁴ via Award No. 1169 of 2024 ("**Award**") handed down on 7 August 2024. Almost 1 year later, on 31 July 2025, the employee filed an application for leave to appeal against the said Award out of time. In support of his application, the employee argued that his appeal had strong merits and that his application was made *bona fide* and did not prejudice the Company. Further, the employee submitted that the High Court's discretion to extend time is wide and purposive to ensure that meritorious appeals are not defeated by technical lapses or procedural delays.

While the High Court is vested with wide discretionary powers in deciding whether an application for an extension of time should be granted, we argued on behalf of the Company that such discretionary powers must be exercised judicially and in accordance with established principles. The rationale behind this is simply that if the law were otherwise, a party in breach of the relevant rules would have an unqualified right to an extension of time, hence defeating the purpose of the rules, which is to provide a timetable for the conduct of litigation⁵. The principles governing the grant of leave to file a notice of appeal of time was summarised by the Court of Appeal in **BALA SUBRAMANIAM SENGODAN v AHAMED SIDIQUE ABDUL LATIFF & ANOTHER APPEAL [2015] 5 CLJ 623** as follows:

- (a) Rules of Court providing a time limit for the conduct of litigation must *prima facie* be obeyed;
- (b) Where there has been non-compliance with a time-limit, the Court has a discretion to extend time;
- (c) In exercising its discretion, the Court will consider:
 - i. the length of the delay;
 - ii. the reasons for the delay;
 - iii. the chances of the appeal succeeding if time for appealing is extended; and
 - iv. the degree of prejudice to the respondent if the application is granted.

The Court of Appeal went on to explain that regardless of the prospects of success of the appeal, a party seeking the Court to exercise its discretion must firstly provide a full and detailed account of the causes of the delay and secondly, show that the reasons for the delay are *bona fide* and not unfounded. In this case, it was not disputed that there had been an inordinate delay in the filing of the application for an extension of time. The employee himself conceded that pursuant to **section 33 (1)** of the IRA 1967, the appeal should have been filed on or before 21 August 2024, i.e., within 14 days from the date he received the Award on 7 August 2024.

[4] <https://lh-ag.com/wp-content/uploads/2025/12/AWARD-NO.-1169-OF-2024.pdf>

[5] **RATNAM v CUMARASAMY & ANOR [1965] MLJ 228**

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Further, a careful scrutiny of the affidavits filed by the employee reveals that he had failed to adduce any relevant evidence or even provide a cogent explanation for the inordinate delay in filing the appeal within the prescribed statutory time limit. On these grounds alone, the employee's application for an extension of time to file an appeal against the Award was dismissed by the High Court.

CONCLUSION

The High Court possesses broader jurisdiction and powers when hearing an appeal, as it is entitled to determine the matter on its merits by way of a rehearing, unlike in a judicial review application. In judicial review proceedings, the High Court performs a supervisory function only, with limited jurisdiction to examine the legality of the Industrial Court's decision. By contrast, when exercising appellate jurisdiction, the High Court may reassess the evidence and conduct its own independent analysis. Consequently, it may interfere with the Industrial Court's findings of fact, particularly where those findings are based on inferences drawn from established facts, or where the credibility or reliability of witnesses is not in issue.

Accordingly, the scope and grounds for challenging an Industrial Court award are significantly wider on appeal. In judicial review proceedings, the High Court may quash an award only if the Industrial Court has committed an error of law falling within one of the recognised grounds, namely illegality, irrationality, proportionality, or procedural impropriety. However, when sitting as an appellate court, the High Court is not confined to these limited grounds. It may set aside an Industrial Court award where the decision is plainly wrong due to a lack of, or insufficient, judicial appreciation of the evidence, resulting in errors of both law and fact.

The change in the mode of challenging an Industrial Court award, along with the significant reduction in timeline, means that parties ought to work hand in hand with their counsels to assess the merits of any potential appeal more urgently. This is because a failure to comply with the prerequisites of an appeal, such as the filing of a notice of appeal within the statutory time limit, may render the appeal incompetent.

The Company was represented in the High Court by partners Shariffullah Majeed, and Arissa Ahrom, of Lee Hishammuddin Allen & Gledhill.

*If you have any queries, please contact **Shariffullah Majeed** (sha@lh-ag.com) or **Arissa Ahrom** (aa@lh-ag.com).*