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EMPLOYMENT & INDUSTRIAL RELATIONS

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CAN STAKEHOLDER COMPLAINTS JUSTIFY NON-CONFIRMATION?

by Amardeep Singh Toor & Intan Sabrina Nashuha

PANKAJ PUNJ A/L RAMESH KUMAR V PETRONAS DIGITAL SDN BHD (INDUSTRIAL COURT AWARD NO. 931 OF 2026)

How an employee works with others can matter as much as what they deliver. For a project manager, working effectively with internal and external stakeholders is part of the job.

The Employee was assigned to manage a project for the internal stakeholders from the holding company and to work closely with an external stakeholder i.e., the vendor. By the end of his initial probation, he had missed most of his objectives and stakeholders had raised concerns about his work. The Company extended his probation by three months. After further complaints, he was replaced as project manager. At the end of the extension, he was not confirmed in his employment.

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The Industrial Court found that the non-confirmation was with just cause or excuse. It recognised that probation allows an employer to assess an employee's character and capabilities to determine their suitability for the role. In reaching its decision, the Court considered that:

(a) Contemporaneous emails from internal and external stakeholders documented concerns about the Employee's attendance at meetings and his management of the project. His replacement as project manager followed a committee meeting at which his performance was discussed.

(b) The Employee achieved only two out of nine objectives. His superior's evidence on the missed objectives went unchallenged in cross-examination.

(c) The Employee had weekly check-ins with his superior and accepted in cross-examination that he had been given a fair opportunity to prove his suitability for confirmation.

(d) He did not protest the extension of his probation. The fact that the Employee's probationary period was extended should have put him on notice that the Company was not satisfied with his performance and the Employee knew and ought to have known that he needed to improve his performance during the extended probationary period.

Probation is often seen as a test of whether an employee meets their performance targets. It also allows employers to assess whether the employee's character and conduct reflect the organisation's values. For roles that depend on collaboration, this includes how effectively the employee works with key internal and external stakeholders.

Where a role depends on stakeholder relationships, assess how the employee communicates, responds to feedback and follows established procedures alongside what they deliver. Keep contemporaneous records of the objectives set, specific stakeholder concerns, feedback given and the reasons for any extension. Those records can show both why the employee fell short and what opportunity they had to improve.

The Company was represented by Partner, **Amardeep Singh Toor**, and Associate, **Intan Sabrina Nashuha**.

Scan the QR code below to see the Award.

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