



When Forums Collide: Labour Office vs Industrial Court

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The Court of Appeal has drawn a firm jurisdictional line between the Labour Office and the Industrial Court, ruling that once an unfair dismissal claim is before the Industrial Court, the Labour Office is effectively stripped of authority to adjudicate related wage disputes.

In *Philip Phang Kin Ming & Anor v M Jets International Sdn Bhd* (Civil Appeal No: B-04(A)-422-09/2024), the Court unanimously held that Section 69A of the Employment Act 1955 (EA) operates as a statutory bar. Where a dispute is pending under the Industrial Relations Act 1967 (IRA), the Director General of Labour is precluded from hearing any connected claim, even one framed as a straightforward recovery of unpaid salary.

The decision reinforces the Industrial Court's primacy in employment termination disputes but it also raises questions about how far that exclusivity extends.

Parallel Claims, Single Forum

The appellants, Philip Phang Kin Ming and Gunasekar A/L Mariappan, were senior executives of M Jets International Sdn Bhd, appointed in 2020 as chief finance officer and managing director respectively. Suspended in February 2023 over alleged misconduct, the executives were told they would continue to receive full pay. No salary was paid from that point. In March, while still under suspension, they filed a complaint with the Bangi Labour Office under Section 69 of the EA for unpaid wages. A month later, they were dismissed and lodged representations under Section 20 of the IRA, alleging dismissal without just cause or excuse.

The Labour Office awarded RM 264,000 in unpaid salaries covering February to April 2023. On appeal, the High Court set aside that decision, holding that Section 69A barred the Labour Office from exercising jurisdiction once the unfair dismissal claim was before the Industrial Court.

The Court of Appeal agreed.

Section 69A provides that the Director General “*shall not inquire into, hear, decide or make any order*” in respect of any claim or dispute that is pending, decided upon, or referred to proceedings under the IRA. The language, the Court held, is mandatory and unambiguous. It was undisputed that the appellants had filed representations under Section 20. That fact alone was sufficient to trigger the statutory bar.

Not A “Pure” Wage Claim

Central to the appellants’ argument was the contention that their claim concerned accrued salary i.e. a debt and therefore fell squarely within the Labour Office’s statutory remit. The Court rejected that characterisation.

The unpaid salary claim was, in its view, “inextricably linked” to issues properly within the Industrial Court’s jurisdiction, including:

- the validity of the salary increments;
- the alleged misconduct;
- whether the dismissal was with just cause or excuse; and
- the computation of back wages.

Any ruling by the Labour Office on unpaid salary would inevitably bear upon questions the Industrial Court was already seized of. Allowing both bodies to proceed in parallel would risk inconsistent findings and undermine the coherence of the statutory framework.

Section 69A, the Court emphasised, serves a legislative purpose: preventing duplicative proceedings and conflicting decisions.

Efficiency Versus Access

The ruling reflects a preference for procedural economy and forum consolidation. Once an employee elects to pursue an unfair dismissal claim before the Industrial Court, related disputes must follow. Yet the decision leaves open a more delicate question: are all wage claims necessarily subsumed within dismissal proceedings?

Accrued salary and back wages serve different functions. The former concerns payment promised during subsisting employment i.e. a contractual entitlement. The latter is compensatory, running from the date of dismissal to the Industrial Court's award if the termination is found unjust.

In the present case, the factual matrix, namely disputed increments, alleged misconduct and the circumstances of suspension, rendered the wage claim tightly bound to the dismissal dispute. The Court's conclusion is understandable on those facts.

But more marginal cases may test the breadth of the principle.

Consider constructive dismissal scenarios in which an employee continues working for months without pay before resigning and alleging that non-payment forced the departure. The Industrial Court would determine whether the resignation amounted to constructive dismissal and, if so, award back wages from the date employment ended. Pre-resignation unpaid salary, however, may constitute a distinct contractual debt arising during ongoing employment.

If such an employee were to pursue both a Section 20 claim in the Industrial Court and a Section 69 wage recovery before the Labour Office, it is not immediately clear whether Section 69A would be applied with equal rigidity. The remedies differ in temporal scope and juridical basis.

A blanket prohibition on parallel recourse could, in some circumstances, narrow employees' practical avenues for recovering accrued contractual entitlements, a protection the EA was designed to afford.

A Unified Jurisdiction For Now

For the time being, the message from the Court of Appeal is clear: once an unfair dismissal claim is lodged, the Industrial Court becomes the exclusive forum for resolving interconnected employment disputes.

Whether future courts will refine that exclusivity particularly where unpaid wages arise independently of the dismissal question remains to be seen.

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