



THE REDUNDANCY BOARD BACKS THE EMPLOYER'S RIGHT TO ORGANISE ITS BUSINESS

Can an employee prevent a restructuring of a department as a result of a global restructuring?

According to the Redundancy Board, no.

In a recent decision involving Apex Group Centralisation Services Ltd (the "Employer") and one of its long-serving employees, Mrs Roojee, the Redundancy Board sent a clear message: running the business is the employer's call and the Redundancy Board will not intervene if it is of the view that the restructuring is genuine.

The Employer forms part of a global financial services group and holds a Global Business Licence in Mauritius. It decided to shut down its local Treasury function and move it to India as part of a Group-wide restructuring. Mrs Roojee, who had worked for the company since 1994, was one of three employees caught up in the change. She was offered other roles and a compensation package. She turned down the roles as unsuitable, accepted the payout, then changed her mind and asked to be paid as though she would have worked all the way to retirement.

The Employer made an application to the Redundancy Board as required under the Workers' Rights Act to make the employee redundant and Mrs Roojee resisted the application claiming that the reason for making her redundant was not justified and there was no valid reason for the restructuring to happen. The decision to restructure, she said, was made before she was even consulted, the

consultation and redeployment exercise was a sham, the compromise agreement was invalid and the Employer had ignored the statutory notice period.

The Redundancy Board took the view that the decision to restructure vests solely in the hands of an employer and a court would not and should not intervene in the way the employer operates its business.

The Redundancy Board pushed this further still and confirmed that the same logic holds with full force for companies forming part of an international group. When a decision is taken at Group level, for example, centralising Treasury in a regional hub, the local subsidiary is entitled, if not required, to factor in that bigger picture and so is the Redundancy Board when weighing whether a redundancy is genuine. Turning a blind eye to how a global group actually operates would leave a dangerous blind spot in judging whether a restructuring truly makes business sense.

The Redundancy Board ruled that the Employer's reasons for terminating Mrs Roojee's employment were justified and authorised the termination, with Mrs Roojee entitled to 30 days' wages in lieu of notice.

WHY IT MATTERS?

This decision is a timely reminder, for employers and employees alike, of where the line sits in redundancy disputes. Businesses, even those steering decisions from thousands of miles away as part of a global group, remain free to reorganise for good structural and operational reasons. The Redundancy Board has given the reassurance that managerial freedom will be respected provided that the process is genuine and the statutory process as set out in Section 72 of the Workers' Rights Act are followed.

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