LAW OF DISMISSAL IN MALAYSIA: A STUDY

BY

WONG AH NGEE

INTERNATIONAL ISLAMIC UNIVERSITY MALAYSIA

2007
LAW OF DISMISSAL IN MALAYSIA: A STUDY

BY

WONG AH NGEE

A thesis submitted in fulfilment of the requirement for the degree of Doctor of Philosophy

Ahmad Ibrahim Kulliyah of Laws
International Islamic University
Malaysia

JUNE 2007
ABSTRACT

With reference to Employment Law in Malaysia, an employee’s dismissal without just cause or excuse has created some problems in the area of Industrial Law. On most occasions, an employer would generally dismiss an employee on grounds of misconduct, where such an employee has been alleged with the commission of the misconduct, which is notionally a violation of an obligation on the part of the employee by the conditions of service spelt out in the contract of employment. Though there is no specific definition of the word “misconduct” in the statutory law of the country, it is for the courts to decide what misconduct mean, and this is generally based on a case-to-case. This dissertation attempts to assist in the interpretation of the word with explanations by studying relevant cases so as not to constrict the definition, for Employment Law should not be rigid as there should be allowable flexibility to the definition. The dissertation also attempts to enunciate the difference between a “contract of service” and “contract for service” by employing some of the acceptable tests recognised by the courts and law. More importantly, prior to a dismissal, a pre-dismissal inquiry is vital as a safeguard to protect innocent employees from being unfairly dismissed from their employment. The work also explores the question of whether a preliminary inquiry is deemed necessary now in the modern era. It also focuses on how an actual preliminary inquiry is held, taking the organisation of Tenaga Nasional Berhad (TNB) as a case study. Further, the dissertation also describes the manner in which an employee, through a process known as conciliation, attempts to settle employment disputes amicably with his employer. Other methods of conciliation are also enumerated in detail as beneficial assistance to a dismissed employee. The work also focuses on the differences between “compensatory benefits” and “industrial remedies”, and the factors which the Industrial Court would take into consideration when awarding industrial reliefs. It is also the focus of this writing to highlight some of the problems that are currently faced by the Industrial Court. The subject-matter of this research work maybe vast, and to deal with each and every aspect of it is a harrowing task. However, it is hoped that the dissertation will cover all the important aspects relevant to the issue of dismissal without just cause or excuse, misconduct, disciplinary proceedings, conciliation as a means of settling employment disputes, compensatory benefits and industrial law remedies. The Islamic principles on employment are also discussed from the Islamic perspectives. It looks at how Islam views work as a form of livelihood and brotherhood, and how the rights of a Muslim employee maybe protected under the Islamic principles.
البحث المفصل في القانون الإسلامي، من العديد من الأسباب أو المقبول عذراً، دون عمل من الوظائف. الاحتمال، في حالة وقوع أي من الأحداث فإنه يمكن أن يكون كهربائي، الطاقة الإسلامية المنظمة من العامل، خاصة بإمكانية الأداء غير المقبولة. لا يمكن أن يكون المحتوى الإجباري، إذاً، يمكن أن يكون المحتوى الحقوقي، على سبيل المثال، في حالة وقوع أي من الأحداث فإنه يمكن أن يكون كهربائي، الطاقة الإسلامية المنظمة من العامل، خاصة بإمكانية الأداء غير المقبولة. لا يمكن أن يكون المحتوى الإجباري، إذاً، يمكن أن يكون المحتوى الحقوقي، على سبيل المثال، في حالة وقوع أي من الأحداث فإنه يمكن أن يكون كهربائي، الطاقة الإسلامية المنظمة من العامل، خاصة بإمكانية الأداء غير المقبولة. لا يمكن أن يكون المحتوى الإجباري، إذاً، يمكن أن يكون المحتوى الحقوقي، على سبيل المثال، في حالة وقوع أي من الأحداث فإنه يمكن أن يكون كهربائي، الطاقة الإسلامية المنظمة من العامل، خاصة بإمكانية الأداء غير المقبولة. لا يمكن أن يكون المحتوى الإجباري، إذاً، يمكن أن يكون المحتوى الحقوقي، على سبيل المثال، في حالة وقوع أي من الأحداث فإنه يمكن أن يكون كهربائي، الطاقة الإسلامية المنظمة من العامل، خاصة بإمكانية الأداء غير المقبولة. لا يمكن أن يكون المحتوى الإجباري، إذاً، يمكن أن يكون المحتوى الحقوقي، على سبيل المثال، في حالة وقوع أي من الأحداث فإنه يمكن أن يكون كهربائي، الطاقة الإسلامية المنظمة من العامل، خاصة بإمكانية الأداء غير المقبولة. لا يمكن أن يكون المحتوى الإجباري، إذاً، يمكن أن يكون المحتوى الحقوقي، على سبيل المثال، في حالة وقوع أي من الأحداث فإنه يمكن أن يكون كهربائي، الطاقة الإسلامية المنظمة من العامل، خاصة بإمكانية الأداء غير المقبولة. لا يمكن أن يكون المحتوى الإجباري، إذاً، يمكن أن يكون المحتوى الحقوقي، على سبيل المثال، في حالة وقوع أي من الأحداث فإنه يمكن أن يكون كهربائي، الطاقة الإسلامية المنظمة من العامل، خاصة بإمكانية الأداء غير المقبولة.
The thesis of Wong Ah Ngee has been approved by the following:

Nik Ahmad Kamal Nik Mahmood
Supervisor

Anwarul Yaqin
Internal Examiner

Wu Min Aun
External Examiner

Ab. Rahim Hj. Ismail
Chairperson
DECLARATION

I, hereby, declare that this dissertation is the result of my own investigation, except where otherwise stated. I also declare that it has not been previously or concurrently submitted as a whole for any other degrees at IIUM or other institutions.

Wong Ah Ngee

Signature:………………………….                         Date:…………………………..
INTERNATIONAL ISLAMIC UNIVERSITY MALAYSIA

DECLARATION OF COPYRIGHT AND AFFIRMATION OF FAIR USE OF UNPUBLISHED RESEARCH

Copyright @ 2007 by Wong Ah Ngee. All rights reserved

LAW OF DISMISSAL IN MALAYSIA: A STUDY

No part of this unpublished research may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording or otherwise without the prior written permission of the copyright holder except as provided below.

1. Any material contained in or derived from this unpublished research may only be used by others in their writing with due acknowledgement

2. IIUM or its library will have the right to make and transmit copies (print or electronic) for institutional and academic purposes

3. The IIUM library will have the right to make, store in a retrieval system and supply copies of this unpublished research if requested by other universities and research libraries.

Affirmed by Wong Ah Ngee

.........................................                                   ........................
Signature                                                     Date
This thesis is dedicated to:

- my late mother, Tan Tik, and
  my father, Wong Kiong
  with love and respect;

- my wife, Goh Hoo Tiang, and my
  my four wonderful children for
  their patience and endurance;

- my Godmother, Kuah nee Tan Poh Choo
  for guiding me throughout my career life; and

- Dr. Sondra O. Kaufman of Dallas, Texas, USA for
  constantly advising me to strive to excel.
ACKNOWLEDGEMENTS

The writer indeed has many people to thank for in assisting him on the stony path of writing this thesis. I wish, first of all, to extend my warmest and sincere thanks to my Supervisor, Prof. Dr. Nik Ahmad Kamal Nik Mahmod of Ahmad Ibrahim Kulliyyah of Laws (AIKOL), International Islamic University Malaysia for his invaluable guidance and views on the subject-matter. This research work would have certainly been impossible without him. Exceedingly intelligent comments on the thesis were also provided by him. Special gratitude is owed to the management of Tenaga Nasional Berhad (TNB) which has generously granted me a scholarship to do this research. My sincere thanks to Kamaruzzaman bin Jusoh, Muhammad Razif bin Abdul Rahman, Rohana bte Abd. Rahman, Kuganeswari a/p Samy Nathan, and Tan Ah Yoke who ave helped me in making the writing of this thesis possible. I am also indebted to Dr. Ashgar Ali Ali Mohamad and Dr. Farheen Baig Sardar Baig, lecturers at the university, who have kindly provided me with important materials and statistics relevant to my work. Likewise, my sincere gratitude goes to my office colleagues, Hj. Wan Razak bin Wan Ismail, Noriza Ibak, and Mohd Nasir bin Mamat Kia, as well as Internal Affairs Department, TNB for providing me with very detailed information with regard to Chapter 9. Special thanks to my good friends, Aznir Abd. Malek, Thanapalan Kasipillai and Robert Anthonymsamy, for their advice, care and concern. I also wish to convey my sincere thanks and appreciation to S. Kunaseelan, Assistant Director-General of Industrial Relations, Industrial Relations Department, Ministry of Human Resources, Putrajaya for his kind assistance in providing me with valuable information on conciliatory proceedings, and also to Cheng Ee Ping, Assistant Registrar, Industrial Court Kuala Lumpur for giving me access to current information and statistics on the Industrial Court. Sincere gratitude is extended, too, to Juhanis Mahmud of AIKOL and Noor Sharipah bte. Kamaruddin of Centre for Postgraduates Study for helping me with the formatting of the manuscript. Last but not the least, it would not proven to be a rewarding experience for me in doing this programme at the university if not for Sri Yogamalar and Cheryl Ann Nicholson who constantly kept my sanity going. They have given me fond memories and lasting friendships during my tenure of study at the university. In writing this dissertation, I was assisted at every turn of the road by Sri Yogamalar who diligently proofread the entire manuscript.
# TABLE OF CONTENTS

Abstract ............................................................................................................... ii  
Abstract in Arabic .................................................................................................... iii  
Approval Page .......................................................................................................... iv  
Declaration ............................................................................................................... v  
Copyright Page ......................................................................................................... vi  
Dedication ............................................................................................................... vii  
Acknowledgements .................................................................................................. viii  
List of Cases ............................................................................................................. xii  
List of Statutes ......................................................................................................... xxi  
List of Abbreviations ............................................................................................... xxiii  

**CHAPTER 1 : PROBLEM STATEMENT, HYPOTHESES, SCOPE AND LIMITATION, METHODOLOGY, CASE STUDY ANALYSIS AND LITERATURE REVIEW** ...... 1  
1.1 Introduction ........................................................................................... 1  
1.2 Problem Statement ................................................................................ 5  
1.3 Hypotheses ............................................................................................ 7  
1.4 Scope and Limitation ............................................................................ 9  
1.5 Methodology ......................................................................................... 9  
1.6 Outline of Chapters ............................................................................... 11  
1.7 Literature Review .................................................................................. 14  
1.8 Objectives of the Study ......................................................................... 21  

2.1 Introduction ........................................................................................... 23  
2.2 Law of Dismissal and Termination – A Historical Overview .............. 29  
2.3 The Industrial Relations Act 1967 ........................................................ 40  
2.4 The Employment Act 1955 ................................................................... 48  
2.5 The Sabah Labour Ordinance and The Sarawak Land Ordinance........ 53  
2.6 Conclusion ............................................................................................ 54  

**CHAPTER 3 : EMPLOYER – EMPLOYEE CONTRACTUAL RELATIONS** ................................................................. 57  
3.1 Introduction ........................................................................................... 57  
3.2 Terms of Contract ................................................................................. 61  
3.3 Meaning of “employer” and “employee” .............................................. 65  
3.4 Difference between “contract of service” and “contract for service” ... 68  
3.5 Probationary Employees ...................................................................... 83  
3.6 Part-time Employees .......................................................................... 87  
3.7 Domestic Servants ............................................................................. 87  
3.8 Foreign Workers .................................................................................. 90
7.5 Current Problems Faced by the Industrial Court ........................................285
7.6 Conclusion ..................................................................................................290
7.7 Statistics of some Industrial Court Proceeding ........................................292

CHAPTER 8 : DISCIPLINARY PROCEDURES FOR CONDUCTING
A DOMESTIC INQUIRY FOR TENAGA NASIONAL
BHD. (TNB) ..................................................................................................294
8.1 Introduction .............................................................................................294
8.2 Road to Privatisation ..............................................................................295
8.3 Disciplinary Issues – An Overview .........................................................298
8.4 Disciplinary Processes and Procedures ....................................................308
8.5 Drawbacks and Recommendations .........................................................323
8.6 Benchmarking as Comparative Study .....................................................328
8.7 Disciplinary Cases Filed at the Industrial Court ......................................332
8.8 Conclusion .............................................................................................334

CHAPTER 9 : EMPLOYMENT: SHAR’IAH PERSPECTIVE ........339
9.1 Introduction ............................................................................................339
9.2 Contractual Relationship in Shar’iah Law ..............................................342
9.3 Shar’iah Law and Employment ...............................................................346
9.4 Towards Work as a Livelihood and Brotherhood ....................................349
9.5 Rights of a Worker ................................................................................356
9.6 Conclusion ............................................................................................361

CHAPTER 10 : CONCLUSION AND RECOMMENDATIONS
10.1 Introduction ..........................................................................................366
10.2 Proposal for Change in the Existing Law ..............................................368
10.3 Proposed Amendments to the Respective Acts ......................................374
10.4 Conclusion ............................................................................................381

BIBLIOGRAPHY ............................................................................................383

APPENDIX I ..................................................................................................391
APPENDIX II ...............................................................................................392
APPENDIX III ..............................................................................................393
APPENDIX IV ..............................................................................................400
APPENDIX V ...............................................................................................401
APPENDIX VI ..............................................................................................402
LIST OF CASES

A P Tiwari v Allahabad Bank [1954] 1 LLJ 659
Adam v Charles Zub Associates Ltd. [1978] IRLR 551
Addis v Gramophone Co. [1909] AC 488
Aetna Universal Insurance Sdn. Bhd. v Ooi Meng Sua [2001] 3 CLJ 1
Aliah bte Mohd Yassin v The Chartered Bank [1981] 1 ILR 288
Amalgamated Engineering Union v Minister of Pensions and National Insurance [1963] 1 WLR 441
Amanah Butler Sdn. Bhd. v Yike Chee Wah [1997] 2 CLJ 80
American International Assurance Co. Ltd. v Dato Lam Peng Chong & Ors. [1999] 2 MLJ 547
Amulya Ratan Mukherjee Eastern Railways AIR 1961 Cal 40
Ang Beng Teik v Pan Global Textile Bhd., Penang [1996] 3 MLJ 137
Angeherm & Piel v Federal Cold Storage Transvall LR [1908] TS 761
Associated Cement Company v Abdul Gafoor [1980] Lab IC 683
Associated Cement Companies Ltd. v Their Workmen [1963] II LLJ 396
BP (Malaysia) Sdn. Bhd. v Chua Among @ Chai See Mong (Award 88 of 1995)
Bank Bumiputra (M) Bhld. v George Thomas (Award 282 of 1987)
Bank Voor Handel En Scheepvaart NV v Slatford [1953] 1 QB 248
Bata Shoe Company (Malaya) Ltd. v Employees Provident Fund Board [1967] 1 MLJ 120
Bayer (M) Sdn. Bhd. v Ng Hong Pau [1994] 4 MLJ 261
Beattie v Parmenter (1889) 5 TLR 396
Beloff v Pressdam Ltd. [1973] 1 All ER 241
Bharat Bank Ltd. v Employees of the Bharat Bank Ltd., Delhi AIR 1950 AC 188
Billposting Co. Ltd. v Atkinson [1908] 1 Ch 537
Board of Education v Rice [1911] AC 179
Boston Deep Sea Fishing & Ice Co. v Ansell (1888) 39 Ch D 339
Bradken Malaysia Bhd., Ipoh v Kesatuan Pekerja-Pekerja Perusahaan Membuat Jentera [1983] ILR 1
British Aircraft Corp. v Austin [1978] IRLR 332
British Labour Pump Co. Ltd. v Byrne (EAT) [1979] IRLR 94
Byrne v Kinematograph Renters Society Ltd. [1958] 1 WLR 762
Carmichael v National Power Plc. [1998] IRLR 301
Casuarina Beach Hotel v National Union of Hotel, Bar & Restaurant Workers (Award 74 of 1981)
Cathay Organisation (M) Sdn. Bhd. v Kesatuan Kebangsaan Pekerja-Pekerja Wayang Gambar (Award 199 of 1985)
Cassidy v Ministry of Health [1915] 2 KB 343
Central Pahang Omnibus Co. Bhd. v Transport Worker Union (Award 61 of 1984)
Ceylon University v Fernando [1960] 1 WLR 223
Champion Motors Sdn. Bhd. v Kamaruazman bin Khamis (Award 7 of 1974)
Chaudry A. R. S. v Union of India 1957 I LLR 494
Chin Kim Chiang v Mariadass & Anor. [1978] 1 MLJ 138
Chong Kim Chiang v Mariadass & Anor. [1978] 1 MLJ 138
Council of Civil Service Union & Ors. v Minister for Civil Service [1985] AC 374
D’Cruz v Seafield Amalgamated Rubber Co. Ltd. [1963] MLJ 154
Dr. A Dutt v Assunta Hospital [1981] 1 MLJ 309
Dr. Chandra Muzaffar v Universiti Malaya [2002] 5 MLJ 369
Dalgleish v Kew House Farm [1982] IRLR 251
Davis v New England College of Arundel [1977] ICR 6
Davis v Presbyterian Church of Wales [1986] 1 All ER 705
Devi Sugar Mills Ltd v Ram Sarup [1957] I LLJ 17
Dharmaraja @ Abd Malik a/l Abd Wahab [2000] 2 MLJ 282
District Council v Vithal Vinayak AIR 1941 Nag 125
Dr. Chandra Muzaffar v University of Malaya [2002] 5 MLJ 369
EPF v M S Ally & Co. Ltd. [1975] 2 MLJ 89
East Sussex Country Council v Walker [1972] 7 ITR 280
Ekspres National Bhd. v Transport Workers’ Union [1990] 2 ILR 253
Employer Provident Fund Board v M S Ally & Co. Ltd. [1975] 2 MLJ 89
Eng Giap Public Motor Bus Co. Ltd. [1967] 2 MLJ xliii
Esso Products (M) Inc. v Maimunah bte Ahmad & Anor. [2002] 2 MLJ 458
Facenda Chicken Ltd. v Fowler [1987] CH 117
Federal Hotels International Sdn. Bhd. v Tong Khai Chan & Mak Chee Tong [1989] 2 ILR 112
Fiamma Sdn. Bhd. v Lim Seng Huat (Award 270 of 1993)
Food & Beverage (Pte) Ltd. v Yap Keong (Award 352 of 1993)
Fraser & Neave (M) Sdn. Bhd. v Chua Boon Su (Award 340 of 1992)
Ganesan a/l Marimuthu v Public Service Commission [1998] 4 MLJ 280
Ghazi bin Mohd Sawi v Mohd Hanif bin Omar, Ketua Polis Negara [1951] 2 TLR 114
Gibson v G F W Agri-Products Ltd. [1994] 2 ERNZ 309 (EC)
Glasgow Corporation v Muir [1943] AC 448
Goodyear Malaysia Bhd. v National Union of Employees in Companies Manufacturing Rubber Products [1986] ILR 522
Goold v Evans [1951] 2 TLR 1189
Government of Malaysia v Lionel [1974] 1 MLJ 3
Government of Malaysia v Mahan Singh [1978] 2 MLJ 133
Great Eastern Mills Bhd. v Ng Yuen Ching [1986] 6 MLJ 214
Great Wall Shopping Centre (Melaka) v Sdn. Bhd. v Tok Beng Seang, Melaka [1990] ILR 21
Gunston v London Borough of Richmond [1980] 2 All ER 577
H & C Latex v All Malayan Estate Staff Union (Award 153 of 1984)
Haji Ariffin v Government of Pahang [1969] 1 MLJ 6
Haji Sarip bin Hamid v Patco Malaysia Bhd. [1991] 1 MLJ 354
Hall v Lorimer [1994] All ER 250
Hamid bin Dolmad v Sy. Kerjasama Kenderaan dan Pengangkutan Melayu Selangor Tanggungan Bhd. (Award 97 of 1979)
Han Chiang School v National Union of Teachers in Independent Schools [1998] 2 ILR 611
Harris’ Patent [1985] RPC 19
Harrison Plantations Bhd. v Yaw Koh Keong (Award 18 of 1987)
Harvik Rubber Industries (formerly known as Viking Aiskim Sdn. Bhd.) v Razman Chandran Abdullah [2002] 1 ILR 762
Heman Kumar Bhattarcharjee v S N Mukerjee AIR 1954 Cal 340
Hillyer v Governor’s of St. Bartholomew Hospital [1909] 2 KB 820
Hoh Kiang Ngan v Mahkamah Perindustian Malaysia [1995] 3 MLJ 369
Holiday Inn Hotel, Penang v National Union of Hotel, Bar, Restaurant and Worker [1987] ILR 265
Holiday Inn, Johor Bharu v Siti Aishah bte Md. Sidek [1993] 2 ILR 67
Holiday Inn, Kuching v Lee Chai Siok, Elizabeth [1992] 1 MLJ 236
Hong Leong Equipment Sdn. Bhd. v Liew Fook Chuan & Anor. [1997] 1 CLJ 665
Hong Voon Holding Sdn. Bhd. v Rosnani bte Sidin (Award 378 of 1986)
Hooper v British Railways Board [1998] IRLR 517
Hotel Istanan v Nor Azam Baharin [2005] 4 CLJ 241
Hotel Jaya Puri Bhd., Petaling Jaya v National Union of Hotel, Bar & Restaurant Workers [1983] 2 ILR 132
Hotel Malaya Sdn. Bhd. v Goh Hock Fong [1994] 2 ILR 810
Howard v Department of National Savings [1979] IRLR 230
Inchcape Malaysia Holdings Bhd. v R B Gray & Anors. [1985] 2 MLJ 297
Industrial Rubber Products v Gillion [1977] IRLR 389
Innoprise Corporation Sdn. Bhd. v Sukumaran Vanugopal, Sabah (Award 162 of
1993)
Inti College Sarawak v Hardeep Singh Sandhu [2000] 3 ILR 112
Johnstone v Bloomsbury Area Health Authority [1991] ICR 269
Jusco Florist v Pn Tan Mooi Hun [1987] IRLR 176
KJJ Cleetus v Unipamol (Malaysia) Sdn. Bhd. (Award 66 of 1975)
KL Hilton v National Union of Hotel, Bar & Restaurant Workers (Award 13 of 1983)
Kamari bin Kasan v Malaysian Maritime Academy Sdn. Bhd. [2002] 5 MLJ 84
Kannan v National Land Finance Co-op Society Ltd [Award 95 of 1977]
(Award 200 of 1981)
Kesatuan Pekerja-Pekerja Perusahaan Alat-Alat Pengangkutan v Kelang Pembinaan
Kesatuan Pekerja-Pekerja Perusahaan Membuat Tekstil & Pakaian, Selangor v Fusan
Ketua Pengarah Kastam v Ho Kwan Seng [1977] 2 MLJ 154
Khardah & Co. Ltd. v Its Workmen [1963] II LLJ 452
Kilang Beras Ban Eng Thye Sdn. Bhd. v Yacob bin Noor Mohamed [1998] 7 MLJ
341
King v Motorway Tyres & Accessories Ltd. [1975] IRLR 51
Kodeeswaran v Attorney General of Ceylon (PC) [1997] AC 1111
Ko-operasi Serbaguna Sany a Bhd., Sabah v Dr. James Alfred, Sabah & Anor. [2000]
3 CLJ 758, [2000] 4 MLJ 87
Ko-operasi Telekom Malaysia Bhd. v Sengam @ Nadeson s/o Marina [1984] 2 ILR
599
155
Manufacturing Employee Union [1994] 1 ILR 69
MLJ 789
Lane v Shire Roofing [1995] IRLR 493
Lee v Lee Air’s Farming [1961] AC 12
Lee Fatt Seng v Harper Gilfillian [1988] 1 MLJ 245
Lee Kim v Tai Lee Chan Plywood Agency (Award 119 of 1980)
Lembaga Tatatertib Awam, Hospital Besar, Pulau Pinang v Utra Badi a/l K Perumal
(2001) 2 MLJ 417
Lewis v The Great Western Railway [1977-78] 3 QBD 195
Len Omnibus Co. Ltd. v Transport Workers’ Union [1991] 1 ILR 484
Lian Yit Engineering Work Sdn. Bhd. v Loh Ah Foon & Ors. [1974] 2 MLJ 41
Lim Kim v Tai Lee Chan Plywood Agency (Award 119 of 1980)
Lister v Ramford Ice & Cold Storage Co. Ltd. [1957] AC 555
Local Government Board v Alridge [1915] HC 120
Lori Malaysia Bhd. v TWU (Award 331 of 1986)
Lotteries Corp. (Sabah) Sdn. Bhd. v Vincent Lee, Sabah (Award 159 of 1991)
Maclean v Workers’ Union [1929] 2 Ch 902
Malacca Renaissance Hotel, Melaka & Anor. v Anselm De Costa [1998] 2 IRLR 1089
Malayan Tobacco Co. Bhd. v Chow Yong Peng (Award 87 of 1986)
Malayan Tobacco Co. Ltd. v National Union of Tobacco Workers (Award 8 of 1973)
Malayawata Steel Bhd. v Mohd. Yusoff bin Abu Bakar (Award 404 of 1995)
Malaysian Airline System v Mohd Salem Abd Majid [1997] 3 ILR 783
Malaysian Airline System v Ramli Daud [2000] 2 ILR 319
Malaysian Airline System v Ritzerayan Rashid & Or. [1998] 3 ILR 971
Market Investigations Ltd. v Minister of Social Security [1968] 3 All ER 732
Marshall v English Electric Ltd. [1945] All ER 653
Maybank Johor v Mohd Najib Salim [1997] 3 ILR 435
McArdle v Andmac Roofing Co. & Ors. [1967] All ER 583
McClelland v Northern Ireland General Health Service Board [1957] 2 All ER 129
McMeechan v Secretary of State of Employment [1997] IRLR 353
Melewar Corp. Bhd. v Abu Osman [1994] 2 ILR 807
Menon v Brooklands (Selangor) Rubber Co. Ltd. [1968] 2 MLJ 186
Metal Box Malaysia Bhd. v Metal Industry Employees Union [1982] 1 ILR 205
Metal Industry Employees Union v George Kent (M) Bhd. (Award 65 of 1976)
Report, 144
Mohd Zamri bin Mohd Noor & Tan Kit Lim v Sy. Dunlop Malaysian Industries Bhd.
(Award 14 of 1976)
Moolji Ramji v Surat Bus Co. [1952] ICR 723
Morren v Swinton and Pendlebury Borough Council [1965] 1 WLR 576
Multipurpose Management Sdn. Bhd. v Malayan Estate Staff Union (Award 59 of 1988)
Munusamy v Public Services Commission [1967] 1 MLJ 199
Najar Singh v Government of Malaysia & Anor. [1976] 1 MLJ 203
National Union of Cinema and Amusement Workers v Majestic Theatre, Penang (Award 235 of 1976)
National Union of Hotel, Bar & Restaurant Worker v Holiday Inn, Kuala Lumpur (Award 115 of 1979)
National Union of Plantation Workers v Union of Employees in Trade Unions (Award 299 of 1992)
Nethermer (St Neots) Ltd. v Gardiner [1984] IRLR 240
Nikmat Maju Bhd. (Crystal Crown Hotel) v Rafeah Mohd Diah [1998] 3 ILR 479
Northern Telecom Components Sdn. Bhd. v S Vijayasundram (Award 196 of 1990)
O’Kelly v Trusthouse Forte Plc. [1983] 3 All ER 456
Pacific Railway Co. v Lockhart [1942] AC 591
Payzu v Hannaford (1918) 2 KB 348
Pearce v Forster (1886) 17 QBD 536
Pembinaan Jayabumi (S) Sdn. Bhd. v P Chandra Sekaran [2003] I ILR 30
Penang Port Commission v Kanawangi a/l Seperumaniam [1996] 3 MLJ 427
Pepper v Webb [1969] 2 All ER 216
Performing Rights Society v Mitchell and Booker [1924] 1 KB 762
Perwira Habib Bank (M) Bhd v Tan Tang Seng [1997] 2 ILR 839
Petaling Rubber Estate Ltd. & Anor. V Nadarajah & 164 Ors. [1988] 1 MLJ 22
Petroliam Nasional Bhd. v Mohd Radzuan Ramli [1993] 1 ILR 100
Phee Chung San v Lim Giok [1940] MLJ 34
Plantation Agencies Sdn. Bhd. v Venugopal a/l Krishnan Nair, Pahang (Award 229 of 1983)
Polkey v Dayton (AE) Services (1987) IRLR 530
Post Office v Mughal [1997] IRLR 178
Powell v Brent London Borough Council [1987] IRLR 446
Public Express Sdn. Bhd. (Sarawak) v Tiong Sii Tiew, Sarawak (Award 328 of 1992)
Quek Chek Yen v Majlis Daerah Kulai [1986] 2 MLJ 290
Queen v Senior [1899] 1 QB 283
R F Hills Ltd. v Mooney [1981] 1 IRLR 258
R Rama Chandran v The Industrial Court of Malaysia & Anor. [1997] 1 CLJ 147
Stevenson, Jordan & Harrison v MacDonald & Evans [1952] 1 TLR 101
Sunadana Rao v Govt. of Andra Pradesh (1971) 2 APLJ 476
Superintendent Northern Railways v Mukund Lal AIR 1957 Punj. 130
Sur Enamel and Stamping Works v Their Workmen AIR 1963, SC 1714
Surar Narayan v NWF Province AIR 1942 3
Sy. Eastern Smelting Bhd. v Kesatuan Kebangsaan Pekerja-Pekerja Perusahaan Pelaboran Logam Sa Malaya (Award 16 of 1968)
Surinder Singh Kanda v The Government of Malaysia (1962) MCJ 169
Tan Tek Seng v Suruhanjaya Perkhidmatan Pendidikan [1996] 1 MLJ 261
Tenaga Nasional Bhd. v Balakrishnan Sabapathy (Award 536 of 2000); [2000] 3 ILR 139
The Manager, Scudai, Johor Bharu v Narayan [1960] 26 MLJ 162
The Borneo Post Sdn. Bhd. v Margaret Wong Kee Sieng [2001] 8 CLJ 758
The Workmen of the Motipur Sugar Factory Pte. Ltd. v The Motipur Sugar Factory Ltd. AIR 1965 SC 1803
Thein Tam Seng v United States Army Medical Research Unit [1983] 1 MLJ 97
Tomlinson v L M S Railway [1994] 1 All ER 537
Transport Workers Union v Len Singh Omnibus Co Bhd. (Award 172 of 1978)
Transport Workers Union v Kartar Suhdar Singh Omnibus Co. Ltd. (Award 7 of 1970)
Tropical Inn Sdn. Bhd., Johor v National Union of Hotel, Bar and Restaurant Workers (Award 12 of 1991)
Tuan Syed Hashim bin Tuan Long v Esso Production Malaysia Inc. [1998] 5 MLJ 535
Tyne and Clarke Warehouses Ltd v Hamerton [1978] ICR 661
UDA v Yahya bin Hj Othman (Award 155 of 1984)
Union of Teddy Workers v Kanapathy [Award 163 of 1978]
V Subramaniam & Or. v Craigieola Estate [1982] 1 MLJ 317
W Devis & Son Ltd. v Atkins [1997] AC 931
WHPT Housing Association Ltd. v Secretary of State for Social Service [1981] ICR 737
Walker v Crystal Palace (1880) 6 QBD
Western Excavation (ECC) Ltd. v Sharp [1978] ILRL 27
Weston v University College, Swansea [1975] IRLR 102
Wishart v National Association of Citizens’ Advice [1990] IRLR 393
Wong Yuen Hock v Sy. Hong Leong Assurance & Anor [1995] 2 MLJ 753
Workman of Motipur Sugar Factor (P) Ltd. v Motipur Sugar Factory (P) Ltd. AIR [1965] 1803
Worthington Pumping Engine Co. v Moore (1903) 20 RPC 41
X v Y Ltd. and New Zealand Stock Exchange [1992] ERNZ 863
Yee Lee Corporation v Malika a/p Paul (Award 112 of 1995)
Yewens v Noakes (1880) 6 QBD 530
Young & Woods Ltd. v West [1980] IRLR 201
LIST OF STATUTES

Enactment No. 55 (Labour) (Kedah Enactment 1345)
The Civil Law Ordinance 1956
The Code of Conduct for Industrial Harmony 1975
The Colonial Development & Welfare Act 1940
The Combination Act 1800
The Companies Act 1965
The Contracts Act 1950
The Contracts Act of India 1872
The Employment Act 1900
The Employment Act 1955
The Employment Contracts Act 1996
The Employment Ordinance 1944
The Employment Ordinance 1955
The Employment Protection Act 1975
The Employment Protection (Consolidated) Act 1978
The Employment Relations Act 1999
The Employment Rights Act 1996
The Employment (Restriction) Act 1968
The Employment (Standing Orders) 1946
The Employment (Termination and Lay-Off Benefits) Regulations 1980
The Essential (Arbitration in the Essential Services) Regulations 1965
The Essential (Prohibition of Strikes & Prescribed Industrial Actions) Regulations 1965
The Essential (Trade Disputes in Essential Services) Regulations 1965
The Evidence Ordinance of the Straits Settlements
The Federal Constitution
The Federal Malay States Civil Law Enactment
The Hire Purchases Act 1956
The Immigration Act 1963
The Indian Industrial Employment (Standing Orders) Act 1946
The Indian Penal Code 1860
The Industrial Court and Court Enquiry Rules 1941
The Industrial Court Enactment, 1940
The Industrial Court Ordinance 1948
The Industrial Disputes Act 1947
The Industrial Disputes (Central) Rule 1957
The Industrial Relations Act 1967
The Interpretation Act 1967
The Labour Code 1912
The Labour Code (FMS 154)
The Labour Code (Johor Enactment No. 82)
The Labour Code 1936 (Kelantan Enactment 2 of 1936)
The Labour Code 1345 (Perlis Enactment 3 of 1345)
The Labour Code (Terengganu Enactment No. 60 of 1356)
# LIST OF ABBREVIATIONS

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>A.C.</td>
<td>Law reports, Appeal Cases</td>
</tr>
<tr>
<td>All E.R.</td>
<td>All England Law Reports</td>
</tr>
<tr>
<td>A.I.R.</td>
<td>All Indian Reports</td>
</tr>
<tr>
<td>A.L.R</td>
<td>Australian Law Reports</td>
</tr>
<tr>
<td>A. M.R.</td>
<td>All Malaysian Reports</td>
</tr>
<tr>
<td>Anor.</td>
<td>Another</td>
</tr>
<tr>
<td>CA</td>
<td>Court of Appeal</td>
</tr>
<tr>
<td>Ch.D</td>
<td>Law Reports, Chancery Division</td>
</tr>
<tr>
<td>C.L.J</td>
<td>Current Law Journal (Malaysia)</td>
</tr>
<tr>
<td>D.L.R.</td>
<td>Dominion Law Reports</td>
</tr>
<tr>
<td>E.R.</td>
<td>English Reports</td>
</tr>
<tr>
<td>E.R.N.Z.</td>
<td>Employment Reports New Zealand</td>
</tr>
<tr>
<td>Exch.</td>
<td>Law Reports, Exchequer</td>
</tr>
<tr>
<td>FC</td>
<td>Federal Court</td>
</tr>
<tr>
<td>Fn.; fn.</td>
<td>Footnote</td>
</tr>
<tr>
<td>HLR</td>
<td>House of Lords Reports</td>
</tr>
<tr>
<td>Ibid.</td>
<td><em>(ibidem)</em> in the same place</td>
</tr>
<tr>
<td>i.e.</td>
<td>Id est (Lat) that is</td>
</tr>
<tr>
<td>I.C.R</td>
<td>Industrial Cases Reports (England)</td>
</tr>
<tr>
<td>I.L.R.</td>
<td>Industrial Law Reports</td>
</tr>
<tr>
<td>I.T.R.</td>
<td>Industrial Tribunal Reports (England)</td>
</tr>
<tr>
<td>I.R.</td>
<td>Industrial Reports (New South Wales)</td>
</tr>
<tr>
<td>I.R.L.R.</td>
<td>Industrial Relations Law Reports</td>
</tr>
<tr>
<td>K.B.</td>
<td>Law Reports, Kings Bench</td>
</tr>
<tr>
<td>Ltd.</td>
<td>Limited</td>
</tr>
<tr>
<td>L.T. R.</td>
<td>Law Times Reports</td>
</tr>
<tr>
<td>M.L.J.</td>
<td>Malayan Law Journal</td>
</tr>
<tr>
<td>N.Z.L.R.</td>
<td>New Zealand Law Reports</td>
</tr>
<tr>
<td>Ors</td>
<td>Others</td>
</tr>
<tr>
<td>Q.B.</td>
<td>Law Reports, Queens Bench</td>
</tr>
<tr>
<td>Q.B.D.</td>
<td>Law Reports, Queens Bench Division</td>
</tr>
<tr>
<td>S.C.R.</td>
<td>Canadian Law Reports, Supreme Court</td>
</tr>
<tr>
<td>Sy.</td>
<td>Syarikat</td>
</tr>
<tr>
<td>T.L.R.</td>
<td>Times Law Reports</td>
</tr>
<tr>
<td>TNB.</td>
<td>Tenaga Nasional Bhd.</td>
</tr>
<tr>
<td>U.S.</td>
<td>United States Supreme Court Reports</td>
</tr>
<tr>
<td>W.L.R.</td>
<td>Weekly Law Reports</td>
</tr>
</tbody>
</table>