Lai Swee Lin Linda v Attorney-General
[2005] SGHC 182

Case Number : OSB 38/2005

Decision Date : 27 September 2005

Tribunal/Court : High Court

Coram : Tan Lee Meng J

Counsel Name(s) : The applicant in person; Leong Kwang Ian (Attorney-General's Chambers) for the respondent

Parties : Lai Swee Lin Linda — Attorney-General

Insolvency Law – Bankruptcy – Stay of bankruptcy proceedings – Applicant being served with statutory demand to pay costs of previous action – Applicant pursuing new action with intention to recover costs ordered against her in previous action – Applicant alleging that Attorney-General using costs owed by her as weapon to prevent her from pursuing matter – Whether good reasons furnished to justify why appeal should be allowed – Section 64 Bankruptcy Act (Cap 20, 2000 Rev Ed)

27 September 2005

Tan Lee Meng J:

1   The applicant, Ms Linda Lai Swee Lin ("Ms Lai"), applied for a stay of the bankruptcy proceedings initiated against her by the Attorney-General. Her application was dismissed by the assistant registrar, Ms Joyce Low. I affirmed the assistant registrar's decision and now give the reasons for dismissing Ms Lai's appeal.

2   Ms Lai, a former Senior Officer Grade III at the Land Office, Ministry of Law, assumed duty on 28 November 1996. She was put on probation for one year. In the normal course of events, she should have been informed in writing by 27 November 1997 that she was a confirmed employee or that her probation period had been extended or that her services were no longer required. However, she received no such notification by that date.

3   On 19 August 1998, Ms Lai was informed that adverse reports about her work had been received and that her appointment could not be confirmed. Her period of probation was retrospectively extended for one year, from 28 November 1997 to 27 November 1998. On 17 December 1998, her services were terminated. She appealed to the Appeals Board and to the Singapore Public Service Commission ("PSC") but her appeals were unsuccessful.

4   Ms Lai then made an application under O 53 r 1 of the Rules of Court (Cap 322, R 5, 1997 Rev Ed) for leave to apply for an order of *certiorari* to quash the following:

(a)   the decision of the Commissioner for Lands/Permanent Secretary (Law) conveyed to her on 19 August 1998, which extended her probationary period as a Senior Officer Grade III (Law) for one year retrospectively from 28 November 1997;

(b)   the decision conveyed to her on 17 December 1998 terminating her appointment; and

(c)   the dismissal by the PSC of her appeal against the retrospective extension of her probationary period and the termination of her appointment.

5   Ms Lai also applied for an order of *mandamus* for her reinstatement as a confirmed Senior

Officer Grade III with effect from 28 November 1997.

6   The High Court granted her leave to apply for an order of *certiorari* but not for an order of *mandamus*. However, the Court of Appeal allowed the PSC's appeal against the decision to grant her leave to apply for an order of *certiorari*: see *Public Service Commission v Lai Swee Lin Linda* [2001] 1 SLR 644. L P Thean JA, who delivered the judgment of the court, explained that the relationship between Ms Lai and the Government was one of employer and employee and her complaints, if well founded, amounted to breaches of contract, for which the remedy was provided by private law. As such, the question of judicial review did not arise and leave to apply for an order of *certiorari* should not have been given.

7   After hearing submissions on costs, the Court of Appeal ordered Ms Lai to pay 50% of the costs of the appeal and the hearing below. The Senior Assistant Registrar, who taxed the Bill of Costs on 8 March 2005, allowed party and party costs at $37,060.00 and court fees at $2,276.00. A statutory demand was served on Ms Lai in April to pay the sum due from her, which amounted to $19,668.00. Ms Lai applied for a stay of the bankruptcy proceedings. Her application was dismissed by Assistant Registrar Joyce Low.

The appeal

8   Under s 64 of the Bankruptcy Act (Cap 20, 2000 Rev Ed), the court may, for sufficient reason, make an order staying the proceedings on a bankruptcy petition, either altogether or for a limited time, on such terms as the court may think just. In view of this, the issue before the court is whether there is sufficient reason for a stay of the bankruptcy proceedings. Regrettably, at the hearing of the appeal, Ms Lai did not furnish any good reason as to why her appeal against the assistant registrar's decision should be allowed.

9   During the hearing of the appeal, Ms Lai, who commenced Suit No 995 of 2004 against the Attorney-General for breach of her employment contract after her action against the PSC was dismissed by the Court of Appeal in 2001, focused her attention on this new suit, which had nothing to do with the statutory demand in question. She informed the court that in her new action against the Attorney-General, she was seeking to recover the costs that she had been ordered by the Court of Appeal to pay the PSC in 2001. She could not accept that the question of reversing the Court of Appeal's order of 29 January 2001 on the costs in her previous suit against the PSC did not arise. In para 7 of her written submissions, she stated:

> Using medical analogy, it was the Defendant which caused the sickness, should not the perpetrator of the sickness be liable for costs? If there was no sickness in the first place, there would be no need for any panacea. Using another analogy, should not the perpetrator of a crime be liable for his actions?

10   Ms Lai alleged that the Attorney-General was using the costs owed by her as "a weapon to prevent her from pursuing the matter" so that the "failure to comply with rules and procedures and the abuse of power would be swept under the carpet". She did not substantiate this allegation.

11   After taking all the circumstances into account, I dismissed her appeal against the assistant registrar's decision to refuse to order a stay of the bankruptcy proceedings against her.