

DISCIPLINARY ACTIONS AGAINST PUBLIC
SERVANTS AND EMPLOYEES OF PRIVATE
SECTOR . A COMPARATIVE STUDY .

BY

KU ABDUL RAHMAN BIN KU ISMAIL

DISCIPLINARY ACTIONS AGAINST PUBLIC
SERVANTS AND EMPLOYEES OF PRIVATE
SECTOR. A COMPARATIVE STUDY.

BY

KU ABDUL RAHMAN BIN KU ISMAIL

Submitted in Partial fulfilment of the
requirement for the Diploma In Law at the
Mara Institute of Technology, April 1984.

PERPUSTAKAAN TUN ABDUL RAZAK UITM SHAH ALAM	
No. Pesanan	
Control Number	938994
Tarikh	27/3/2019
No. Aksesori	1028978
Lokasi / Fakulti	PI / HSE

CONTENTS

	pages
Preface	i
Table of cases	iv
Table of statutes	ix

CHAPTER I

INTRODUCTION

A.Scope Of Study	1
B.Definitions	5
C.Objective	8

CHAPTER II

DISCIPLINARY POWERS

A.Nature	10
B.Types And Application	14
1. <u>Public Sector</u>	14
(a) Warning	14
(b) Reprimand	15
(c) Fines	15
(d) Forfeiture Of Salary	16
(e) withholding Of Increment Of Salary	18
(f) Stoppage Of Increment Of Salary	18
(g) Dererment In Increment Of Salary	20
(h) Reduction In Salary	21
(i) Reduction In Rank	22
(j) Dismissal	23
(k) Action Against Loss And Damages	26
2. <u>Private Sector</u>	27
(a) Warning	27
(b) Reprimand	30
(c) Demotion	30
(d) Fines And Deductions	31
(e) Transfer	34
(f) Suspension	35
(g) Dismissal And Discharge	40

CHAPTER III

PROCEDURES BEFORE DISMISSAL

A.Summary Dismissal	45
B.Procedure For Dismissal	48
C.Dismissal Procedures In The Private Sector	49
1. Internal Procedures	49
2. Essential Features Of Disciplinary Procedures ..	50
3. The Procedure In Operation	51
(a) The Employee's Length Of Service	55
(b) Management's Own Actions Or Omissions	58
4. External Procedures	63
5. Conciliation Machinery	65
6. The Use Of Arbitration As The Final Stage Procedure ..	67

PREFACE

At first I have no idea at all to write a project paper on disciplinary actions against the private employees and the public servants. My first selected topic which I had intended to do was turned down by the selection committee. Then again, I had prepared a topic which I thought the committee would approve but again my topic for the project was rejected by my Course Tutor, Mr Shad Salem Faruqui .

I was so desperate at times because all my fruitless effort really pinned me down. However, the dying effort then came to life when Mr Shad Salem Faruqui offered several topics for me to choose as my project paper. Then only the idea of Industrial Relation Law automatically struck my mind. This is the area where most of the people tend to neglect. I know at that time I will face a lot of problem because the Employment Law is very new to me. However, after realising that I have a good lecturer on the subject who will guide me to obtain a good credit on the subject; I chose the topic.

It would be ungracious of me if I omitted to mention the debt I owe to the full and frank discussions I had with Mr Shad Salem Faruqui and my lecturer and supervisor Mr Teh Hock Kee, a practising lawyer in Petaling Jaya. They had highlighted to me all the necessary matters that should be included in my project paper. If not for their help I do not know where I will start and end my project paper because my knowledge on the subject is very shallow.

TABLE OF CASES

CHAPTER I

1. Staedler (M) Bhd v 18 Employees & NUPCIW, I.C Awards No. 46/73
2. Allen v Flood, [1898] AC 1
3. Guinneess Malaysia Bhd v Kesatuan Kebangsaan Pekerja- Pekerja Perusahaan Membuat Minuman, IC Awards No. 30/68
4. Tractor Malaysia Bhd v Wong Kam Yoon, IC Awards No. 29/72
5. Malayan Thung Pau Bhd v Four Workmen, IC Award No. 37/74

CHAPTER II

1. Grieve v Imperial Tobacco Co. - The Guardian, April 30, 1963
2. Turner v Sawdon, [1901] 2 KB 653
3. Hanley v Pease, [1915] 1 KB 698
4. Gorse v Durham CC, [1971] 2 ALL E R 666
5. Munusamy v PSC, [1967] 1 MLJ 202
6. Gnanasundram v PSC, [1966] 1 MLJ 157
7. Gnanasundram v Govt. Of Malaysia, [1971] 1 MLJ 208
8. Francis v Municipal Councillors Of Kuala Lumpur, [1962] 1 MLJ 407
9. Thambipillai v The Govt. Of Malaysia.
10. Ratnavale v The Govt. Of The Federation Of Malaya, [1963] MLJ 393
11. CB Reilly v R
12. Raymond v Sir Lidsay Parkinson Ltd, [1974] IRLR 298
13. Gainie v Univac Division Sperry Rail Ltd 4332/73
14. Wood v Louis C Edwards Ltd, [1972] IRLR 18
15. Taylor v Southcott And Co Ltd, [1972] IRLR 78
16. James v Watham Holy Cross UDC, [1973] ICR 398
17. King v Motorway Tyres And Accessories Ltd, [1975] IRLR 51
18. Hall v Lodge, 1 BRR ((LIB) 76
19. Squire v Bayer & Co, [1901] 2 KB 299
20. Sagar v Ridehalgh, [1930] 1 Ch 310
21. Lethaby v Horsman Andrew And Knill Ltd, [1975] IRLR 119
22. Eng Giap Public Motor Bus Co Ltd v TWU, IAT Award No. 7 Case No 2/66
23. Pacific v Underwriters (M) Co Sdn Bhd, IC Award No 50/72
24. High v British Railways Board
25. Lakshmi Devi Sugar Mills Ltd v Ram Sarup, AIR [1957] SC 82
26. Sasa Musa Sugar Works (Pvt) Ltd v Shobratil Khan, AIR [1959] SC 923
27. Hotel Imperial; New Delhi v Hotel Workers Union, AIR [1959] SC 1342
28. Cajee; T v Jormanik Slem, AIR [1961] SC 276
29. Kesoram Cotton Mills Ltd v Gangadhar, 1963 2 LLJ 371
30. Bura & Co Ltd, Calcutta v Their Workmen, AIR [1959] SC 529
31. KL International Hotel Sdn Bhd v Sim Quee Loi, IC Award No. 164/82
32. Provincial Transport Service v State Industrial Court, AIR [1963] SC 114
33. Express Newspaper (Pvt) Ltd v Michael Mark, AIR [1963] SC 1141
34. Delhi Cloth And General Mills V Kushal Bhan, AIR [1960] SC 506
35. Tata Oil Mills Co Ltd v Its Workmen, 1964- 2 LLJ 113

CHAPTER III

1. Ridgway v Hungerford Market Company, (1835) 3 A and E 171
2. Laws v London Chronicle Ltd, [1959] 1 WLR 698
3. Jupiter General Insurance Co Ltd v Shroff, [1937] 3 MER 57
4. Pearce v Foster, [1886] 17 QBD 536