Hilary Term
[2022] UKPC 9
Privy Council Appeal No 0045 of 2020

JUDGMENT

Williams (Appellant) *v* Casepak Company (Grenada) Ltd (t/a Calabash Hotel) (Respondent)

From the Court of Appeal of the Eastern Caribbean Supreme Court (Grenada)

before

Lord Lloyd-Jones
Lady Arden
Lord Sales
Lord Hamblen
Lady Rose

JUDGMENT GIVEN ON
21 March 2022

Heard on 13 January 2022

Appellant
Ruggles Ferguson
Danyish Harford
(Instructed by Blake Morgan LLP (Oxford))

Respondent
The Respondent did not participate in the appeal.

LORD LLOYD-JONES:

Factual background

1. Between 1989 and 2014 the appellant, Ms Indra Williams, was employed by the respondent company which carries on business in the tourism industry in Grenada. From 1998 she was the senior reservationist of the respondent and she worked specified hours. In September 2013 she raised certain concerns regarding her employment with a senior agent of the respondent and thereafter the relationship between the appellant and the respondent deteriorated. In about November 2013 the respondent, without notice and without giving the appellant a hearing, rescheduled her to do shift work. The appellant was aggrieved by this decision. She joined the Grenada Technical and Allied Workers Union ("GTAWU") and requested the GTAWU to negotiate with the respondent on her behalf. The respondent, however, maintained its position and the appellant was put on shift work.

2. Shortly after the negotiations involving the GTAWU, the respondent delivered to the appellant a document entitled "Duty of confidentiality" with a request that she sign it by a certain deadline. She did not do so and sought the advice of GTAWU on the matter. Up to this point the appellant had enjoyed an unblemished disciplinary employment record with the respondent. As recently as 26 November 2013 the respondent had described the appellant in an open letter as "an honest, reliable and dependable worker who is always willing to assist beyond the call of her normal duties". However, the respondent then issued a series of disciplinary letters to the appellant complaining about her performance. This culminated in a letter dated 10 October 2014 in which the respondent informed the appellant that her employment was being terminated with immediate effect.

The proceedings

3. In Grenada, proceedings for unfair dismissal are governed by the Grenada Employment Act ("the Employment Act") and the Grenada Labour Relations Act ("the Labour Relations Act"). The appellant made a complaint to the Labour Commissioner in accordance with the provisions of the Employment Act. After hearing the parties to the dispute, the Commissioner in a report dated 28 April 2015 recommended that the respondent pay the appellant severance pay in accordance with article 12 of the memorandum of association between the respondent and the GTAWU. The

respondent rejected the recommendation of the Commissioner and did not pay the appellant.

4. The Commissioner then referred the dispute to the Minister of Labour who, in a letter dated 15 June 2016, made the same recommendation as the Commissioner. The respondent rejected the recommendation of the Minister. It maintained that it was entitled to disagree with the recommendations of both the Commissioner and the Minister.

5. The Minister then invited the parties to agree on the establishment of an arbitration tribunal, its terms and composition. The appellant accepted the Minister's invitation but the respondent rejected it. The claim for unfair dismissal could not proceed to arbitration as the Minister was unable to set up an arbitration tribunal in the absence of the respondent's agreement.

6. In these circumstances, on 9 November 2017 the appellant commenced proceedings in the High Court claiming relief for wrongful dismissal at common law and unfair dismissal under section 70 of the Employment Act. The respondent acknowledged service and filed an application under rule 9.7 of the Civil Procedure Rules 2000 ("CPR 2000") to strike out the claims. Dyer J (Ag) refused to strike out the claim for wrongful dismissal (subject to its being amended) pursuant to rule 26.3 of the CPR 2000, but struck out the claim for unfair dismissal on the ground that as a matter of construction of section 82, Employment Act read in the context of the other provisions of the Employment Act, in particular section 83, the High Court did not have jurisdiction to entertain any complaint brought in respect of unfair dismissal. The judge noted that unfair dismissal was created by statute, not by the common law, and that the statute did not provide for access to the High Court in circumstances where there was a stalemate in relation to the allegation of unfair dismissal in non-essential services.

7. The appellant appealed to the Court of Appeal (Blenman JA, Michel JA and Webster JA (Ag)) which dismissed the appeal and upheld the decision of the High Court.

<u>Grounds of appeal</u>

8. The appellant advances three grounds of appeal which may be summarised as follows:

(i) The Court of Appeal erred in holding that the failure of the legislature expressly to provide for the court to have jurisdiction to hear and determine a complaint of unfair dismissal where the industrial relations procedure fails to provide a binding and decisive outcome necessarily meant that the legislature intended to oust the jurisdiction of the court.

(ii) The Court of Appeal erred in failing to adopt a purposive interpretation of the Labour Relations Act which would have prevented the frustration by the respondent of the appellant's right not to be unfairly dismissed.

(iii) The Court of Appeal erred in holding that section 8(8) of the Constitution was irrelevant to the question whether the High Court had jurisdiction.

Statutory framework

9. The relevant statutory provisions are found in the Employment Act and the Labour Relations Act which must be read together and which provide a detailed scheme for the management of various disputes concerning labour relations.

The Employment Act

10. Section 74(1) of the Employment Act provides:

> "The employment of an employee shall not be terminated by an employer unless there is a valid reason for such termination connected with the capacity or conduct of the employee or based on the operational requirements of the enterprise, or breach of contract of employment or disciplinary rules."

Section 74(2) then sets out a series of reasons that are not valid reasons for dismissal or the taking of disciplinary action by an employer.

11. Section 76 provides that a dismissal is unfair if it is not in conformity with section 74 or is constructive dismissal pursuant to section 80.

12. Section 82 sets out an employee's rights to complain of unfair dismissal and the procedure that must be followed when making such a claim. It provides:

> *"*(1) Within three months of the date of dismissal, an employee shall have the right to complain to the Labour Commissioner that he or she has been unfairly dismissed, whether notice has been given or not.
>
> (2) No complaint under this section may be made by an employee who has been dismissed during the probationary period or has reached the normal retirement age for employees employed in his capacity.
>
> (3) The right of an employee to make a complaint under this section shall be without prejudice to any right an employee may enjoy under a collective agreement.
>
> (4) Where the Labour Commissioner fails to settle the matter it shall be referred to the Minister who shall hear the matter as soon as it is practicable.
>
> (5) Where the Minister fails to settle the matter it may be referred to an Arbitration Tribunal."

13. Section 83 of the Employment Act provides:

> "(1) If the Arbitration Tribunal determines that an employee's complaint of unfair dismissal is well founded it shall award the employee one or more of the following remedies:
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> > (a) if the employee requests, an order for reinstatement where the employee is to be treated in all respects as if he had never been dismissed;
> >
> > (b) an order for re-engagement whereby the employee is to be engaged in work comparable to that in which he was engaged prior to his dismissal, or

other reasonably suitable work, from such date and on such terms of employment as may be specified in the order agreed by the parties;

(c) an award of compensation as specified in subsection (4).

(2) The Arbitration Tribunal shall, in deciding which remedy to award, first consider the possibility of making an award or reinstatement or re-engagement, taking into account in particular the wishes of the employee and the circumstances in which the dismissal took place, including the extent, if any, to which the employee caused or contributed to the dismissal.

(3) Where the Arbitration Tribunal determines that the employee caused or contributed to the dismissal to any extent, it may include a disciplinary penalty as a term of the order for reinstatement or re-engagement.

(4) An award of compensation shall be such amount as the Arbitration Tribunal considers just and equitable in all the circumstances having regard to the loss sustained by the employee in consequence of the dismissal in so far as that loss is attributable to action taken by the employer, and the extent, if any, to which the employee caused or contributed to the dismissal.

(5) The amount awarded shall not be less than two week's pay for each year of service for workers with less than two years of service and one month's pay for each year of service for workers with more than two years of service an amount additional to such loss may be awarded where dismissal was based on any of the reasons set out in section 74(2).

(6) Where the Arbitration Tribunal has made an award of reinstatement or re-engagement and this is not complied with by the employer, the employee shall be entitled to a

special award of an amount equivalent to 26 weeks' wages, in addition to a compensatory award under subsection (4)."

The Labour Relations Act

14. Section 2 of the Labour Relations Act defines "trade dispute" as follows:

> "a dispute between -
>
> (a) an employer or an employers' organisation on his or her behalf, and one or more employees, or a trade union on his or her or their behalf; or
>
> (b) between groups of employees, or trade unions on their behalf,
>
> where the dispute is connected with the employment or non-employment, or the terms of employment, or with the conditions of labour, of any person".

15. Part VIII of the Labour Relations Act provides for disputes procedures. Section 45 establishes the procedure for settling a trade dispute:

> (i) A trade dispute as defined by this Act, whether existing or apprehended, may be reported to the Minister by or on behalf of either of the parties to the dispute, or by the Labour Commissioner in his or her own discretion and the Minister shall thereupon take the matter into his or her consideration and take such steps as seem to him or her expedient for promoting settlement of such dispute.
>
> (ii) Pursuant to subsection (1), a trade dispute shall be dealt with by the following manner -
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> (a) by referring the trade dispute to the Labour Commissioner at the
>
> conciliation meeting, and, if this fails to resolve the dispute;

(b) by referring the trade dispute to the Minister at a mediation meeting;

(c) The Labour Commissioner and the Minister shall endeavour as far as is reasonably practicable to do so, to hold the conciliation and mediation meetings respectively within thirty (30) days of referrals.

(iii) If there is a trade dispute in respect of an essential service and the parties fail to comply with subsection (2), or the steps undertaken under subsection (2) fail to resolve the dispute -

(a) the Minister shall first seek the consent of the parties to the dispute for referral of the dispute, within a time specified by him, to an Arbitration Tribunal and for its composition and terms of reference; but,

(b) if the consent of the parties cannot be obtained within the time specified, the Minister may decide to establish an Arbitration Tribunal and determine its composition and terms of reference in his own discretion.

(iv) If there is a trade dispute in respect of a service other than an essential service and the parties to the dispute fail to comply with subsection (2) or the steps taken under subsection (2) fail to resolve the dispute, the Minister may invite both parties to reach mutual agreement on the establishment of an Arbitration Tribunal, its composition and terms of reference, but no party is compelled to agree on same.

(v) Once there has been mutual agreement on the establishment of an Arbitration Tribunal in respect of an industrial dispute or, failing such agreement, the Minister has decided to establish an Arbitration Tribunal as provided by this section, the provisions of section 50 of the principal Act apply as if the dispute had been referred to an Arbitration Tribunal.

16. "Essential services" are defined in section 2 and the Second Schedule.

17. Section 50, concerning reference to an arbitration tribunal, states:

(i) When a trade dispute has been referred to an Arbitration Tribunal under section 45 in an essential service, so long as the matter is before the Tribunal, and until the Tribunal makes its award and the award is published under section 52, no industrial action regarding the dispute before the Tribunal shall be continued or taken or ordered by the employees or employers who are parties to the dispute or by trade unions representing them or by other employees or employers or trade unions in solidarity with or support of the employees or employers who are parties to the dispute; unless no award of the Tribunal is published within 60 days of the matter being referred to an Arbitration Tribunal under section 45 or within such extended period being not more than 28 additional days as may be fixed by the Minister if special circumstances so necessitate in a particular manner.

(ii) In this section, "industrial action" refers to either a lock-out, a strike or an irregular industrial action.

(iii) Except as provided in subsection (1), no employer, employee or trade union shall take industrial action in respect of an essential service.

<u>The Board's analysis of the statutory scheme</u>

18. It was common ground between the parties in the proceedings below that their dispute in respect of unfair dismissal is governed by the provisions of the Employment Act and the Labour Relations Act, which must be applied in conjunction, and that the service provided by the appellant under her contract of employment was not an "essential service" for the purposes of section 45 of the Labour Relations Act.

19. Whereas claims for wrongful dismissal are founded on breach of contract at common law, claims for unfair dismissal are founded on statutory rights and, where such rights exist, remedies for unfair dismissal are usually an important extension of those available for wrongful dismissal at common law. In Grenada the Employment Act and the Labour Relations Act make detailed provision for cases of unfair dismissal and the procedures and remedies applicable in such cases.

20. Section 82(1) of the Employment Act provides that within three months of the date of dismissal, an employee shall have the right to complain to the Labour Commissioner that he or she has been unfairly dismissed. If the Commissioner fails to settle the dispute at this first stage, which is described in section 45(2)(a) of the Labour Relations Act as involving a conciliation meeting, the Commissioner is required to refer the matter to the Minister who must hear the matter as soon as it is practicable (section 82(4)). This second stage is described in section 45(2)(b) of the Labour Relations Act as involving a mediation meeting. Section 45(1) provides that the Minister is required to take the matter into his or her consideration and take such steps as seem to him or her expedient for promoting settlement of the dispute.

21. Section 82(5) of the Employment Act provides that where the Minister fails to settle the matter it may be referred to an arbitration tribunal. Further provision is made in respect of the arbitration tribunal by sections 45 and 46 of the Labour Relations Act. Where there is a trade dispute in respect of an essential service and the parties fail to comply with section 45(2) or steps taken under that subsection fail to resolve the dispute, the Minister is first required to seek the consent of the parties to the dispute for referral of the dispute to an arbitration tribunal and for its composition and terms of reference. If the consent of the parties cannot be obtained within the time specified, the Minister may decide to establish an arbitration tribunal and determine its composition and terms of reference in his own discretion (section 45(3)). The Minister is here exercising a discretionary power to establish an arbitration tribunal. Where, however, as in the present case, the trade dispute is in respect of a service other than an essential service, the Minister may invite both parties to agree on the establishment of an arbitration tribunal, its composition and terms of reference, but the statute expressly provides that no party is compelled to agree on these matters (section 45(4)). In the latter situation, there is no recourse to arbitration under the statutory scheme in the absence of the agreement of the parties to the dispute.

22. The Labour Relations Act (sections 45 and following) makes detailed provision for the composition of an arbitration tribunal and for procedure to be followed before it. If the arbitration tribunal determines that the complaint of unfair dismissal is well founded, section 83(1) of the Employment Act provides that the tribunal shall award the employee one or more of the following remedies: an order for reinstatement, an

order for re-engagement in work comparable to that in which he or she was engaged prior to dismissal or other reasonably suitable work, or an award of compensation.

23. The role of the courts under the statutory scheme is a limited one. Section 60 of the Labour Relations Act makes provision for the enforcement of a final and binding award of an arbitration tribunal by a civil suit in the courts (section 60(1)). If a party to a trade dispute fails to abide by a final and binding award of an arbitration tribunal, the other party in whose favour the award is made may bring a civil suit in the courts for damages for breach of the obligations imposed (section 60(6)). Express provision is made permitting a civil suit in the High Court for unfair dismissal where an employer dismisses an employee either in consequence of an award of an arbitration tribunal but when the dismissal is not in accordance with the award or because the employee has taken action to enforce the award (section 60(2), (3)). Similarly, express provision is made permitting an employer to bring a civil suit in the High Court against an employee who fails to comply with a final and binding award of an arbitration tribunal, which may result in an award of damages or termination of the employee's employment (section 60(4), (5)). Section 61 makes provision for appeals from decisions in proceedings under section 60. Section 62(1) establishes a right of appeal on questions of law but not on any questions of fact from an award of an arbitration tribunal. In addition, section 89 of the Employment Act makes provision for a complaints procedure, which is considered further below.

24. The Board agrees with Dyer J (Ag) and the Court of Appeal that the statutes provide a comprehensive and exclusive scheme for the vindication and enforcement of the employment rights which they confer in respect of unfair dismissal.

25. Although, taken in isolation, section 74 of the Employment Act might appear to confer a free-standing right not to be unfairly dismissed, it must be read in context which includes the subsequent provisions that set out the procedures available where a dismissal is not in accordance with section 74. Section 82(1) of the Employment Act provides that an employee shall have the right to complain to the Labour Commissioner that he or she has been unfairly dismissed. While the intention is clearly to confer rights on employees protecting them from unfair dismissal and its consequences, this subsection provides an early indication of the nature of the legislative scheme. The right not to be unfairly dismissed conferred by the legislation is one which is limited and circumscribed by the particular procedures laid down in the legislation, recourse to which is mandatory. As the Court of Appeal expressed it (at para 45), the right conferred is limited in that the legislation provides for "a special and particular remedy for enforcing it". The rights conferred by the legislation on employees in respect of unfair dismissal are not justiciable in legal proceedings in the High Court, save as expressly provided by the legislation.

26. Such an intention on the part of the legislature is apparent from the elaborate provisions for the different stages of conciliation, mediation and consensual arbitration and the wide powers conferred on the Minister, all of which are clearly a product of the extreme sensitivity of the subject matter. This carefully calibrated structure would be entirely subverted if it were open to a dissatisfied party to resort at any stage of the process to an alternative forum for the resolution of the dispute. Similarly, the distinction between unfair dismissal in the cases of essential services and non-essential services, which permits the Minister ultimately to refer the former but not the latter to arbitration in the absence of the parties' agreement, would be undermined if it were possible for an employee simply to resort to litigation in the High Court in preference to the structure of conciliation, mediation and arbitration provided for in the legislation. While it is true that, most regrettably, it may be open to a recalcitrant employer ultimately to frustrate the operation of the system by withholding its co-operation from the process, as appears to have occurred in the present case, this is simply a consequence of the nuanced scheme adopted by the legislature in this area of industrial relations. This conclusion is reinforced by the limited role in respect of disputes procedures accorded to civil courts by sections 60-62 and 89 Labour Relations Act.

27. The Court of Appeal correctly concluded that the present case falls within the principle stated by the House of Lords in *Barraclough v Brown* [1897] AC 615. There a statute conferred on an entity responsible for clearing a navigable river of obstructions a right to recover expenses, incurred in the raising of a sunken vessel, in a court of summary jurisdiction from a person who was not otherwise liable. The House of Lords held that the undertakers had no right to come to the High Court for declaratory relief but could only take proceedings in the court of summary jurisdiction. Lord Herschell observed (at p 620):

> "I do not think the appellant can claim to recover by virtue of the statute, and at the same time insist upon doing so by means other than those prescribed by the statute which alone confers the right."

and Lord Watson observed (at p 622):

> "The right and the remedy are given uno flatu, and the one cannot be dissociated from the other. By these words the Legislature has, in my opinion, committed to the summary court exclusive jurisdiction, not merely to assess the amount of expenses to be repaid to the undertaker, but to determine by whom the amount is payable, and has therefore, by plain

> implication, enacted that no other court has any authority to entertain or decide these matters."

28. On behalf of the appellant, Mr Ruggles Ferguson submits that *Barraclough v Brown* is distinguishable because, in that case, the statute provided an effective remedy, whereas in the present case there is none. In the present case, however, the statute makes express provision for a procedure applicable in cases of unfair dismissal which by clear implication necessarily excludes recourse to the High Court, notwithstanding that the conduct of the employer has frustrated the statutory procedure.

29. *Wilkinson v Barking Corpn* [1948] 1 KB 721 provides an example closer to the facts of the present appeal. The plaintiff brought an action in the High Court against his employer, a local authority, claiming that he had a statutory right to an annual superannuation allowance. The Court of Appeal held that, as Parliament had by section 35 of the Local Government Act 1937 provided that any such question should be decided in the first instance by the authority concerned and, if the employee was dissatisfied, by the Minister whose decision should be final, the High Court had no jurisdiction to hear the claim. Asquith LJ stated the principle as follows (at pp 724-725):

> "It is undoubtedly good law that where a statute creates a right and, in plain language, gives a specific remedy or appoints a specific tribunal for its enforcement, a party seeking to enforce the right must resort to that remedy or that tribunal, and not to others. As the House of Lords ruled in *Pasmore v Oswaldtwistle Urban District Council* [1898] AC 387, 394 (per Lord Halsbury): 'The principle that where a specific remedy is given by a statute, it thereby deprives the person who insists upon a remedy of any other form of remedy than that given by the statute, is one which is very familiar and which runs through the law'."

30. It must be emphasised that the present appeal is not concerned with a situation in which a party is denied an effective remedy because of an inadvertent omission in the scheme of the legislation. On the contrary, for the reasons stated above, the Board considers that it was clearly the intention of the legislature that the rights conferred on employees in respect of unfair dismissal must be vindicated only through the procedures set out in the legislation. The particular features of those procedures are intended to reflect policy considerations in an area of considerable sensitivity. As a result, the legislature has provided that in the case of a service other than an essential service there should be recourse to conciliation before the Commissioner and, if that

fails to resolve the dispute, to mediation before the Minister, but that there should be no recourse to an arbitration tribunal in the absence of agreement of the parties to the dispute. In these circumstances, there can be no question of the courts intervening to afford a remedy inconsistent with a carefully and deliberately fashioned statutory scheme.

31. It is necessary to refer at this point to one further statutory provision, section 89 of the Employment Act which makes provision for a "complaints procedure". It provides:

> "(1) Any person alleging a violation of a provision of this Act may report the matter to the Labour Commissioner, who may institute or cause to be instituted a prosecution in order to enforce the provisions of this Act.
>
> (2) Notwithstanding the provisions of subsection (1), where not otherwise specified, any person alleging a violation of this Act may present the complaint to the court for appropriate relief."

Contrary to the submission on behalf of the appellant, section 89(2) does not assist her. This provision establishes a complaints procedure where there has been a violation of a provision of the Employment Act. Even if conduct which amounts to unfair dismissal may be considered a violation of the Act for this purpose, section 89(2) grants access to the court only where a procedure is not otherwise specified. As the Court of Appeal pointed out in the present case (at para 53) a person seeking redress for unfair dismissal cannot avail himself or herself of section 89(2), as section 82 specifically provides for the procedure that must be followed for complaints of unfair dismissal.

32. On this appeal, the submissions on behalf of the appellant have focussed to a large extent on the common law and constitutional rights of access to the courts. In particular, it is submitted that the decisions of the courts below that the High Court lacks jurisdiction over her claims amounts to a denial of the appellant's common law and constitutional rights of access to the courts. The Board considers, however, that such fundamental rights are not in play here. The central issue in this case is concerned with a prior question: whether the statutes confer on the appellant a right which is enforceable by proceedings in court. If the nature of the right is such that it is not justiciable in court but is enforceable only by the particular machinery provided by the legislation, as the Board considers to be the case, no question of a denial of access to

the court arises. The question here is, rather, one of the nature and content of the right conferred by the legislation. In the Board's view, it is a right not to be unfairly dismissed, but it is circumscribed in such a way that the procedures permitted for its vindication and enforcement are those established in the legislation. That is the case even if, as we have described, the procedure provided in the legislation may not ultimately result in a binding determination as to whether the dismissal was unfair or not.

33. For the same reasons the appellant's reliance on section 8(8) of the Constitution is misplaced. Section 8(8) provides:

> "Any court or other authority prescribed by law for the determination of the existence or extent of any civil right or obligation shall be established by law and shall be independent and impartial; and where proceedings for such a determination are instituted by any person before such a court or other authority, the case shall be given a fair hearing within a reasonable time."

In the particular circumstances of this case, section 8(8) cannot confer a right of access to the courts in cases of unfair dismissal which is inconsistent with the mandatory scheme established by the Employment Act and the Labour Relations Act. While common law and constitutional rights of access to the courts must, in general, extend to the vindication of rights conferred by legislation, in the present case no such right of the appellant has been infringed.

34. The judgments below and the submissions of the appellant before the Board have addressed in some detail decisions of the Eastern Caribbean Court of Appeal concerning the legislation on unfair dismissal applicable in the British Virgin Islands: *Burrill v Schrader* (1991) 50 WIR 193; *Ray A George v British Virgin Islands Ports Authority*, British Virgin Islands Civil Appeal No 28 of 2006; *Bryon Smith v British Virgin Islands Electricity Corpn*, British Virgin Islands Civil Appeal No 10 of 2008. Although there are similarities between the scheme governing unfair dismissal under the British Virgin Islands Labour Code Cap 293 (in force in the British Virgin Islands until 2010) and the Grenada statutory scheme with which we are concerned, the Board considers that it is not appropriate to have regard to the British Virgin Islands scheme as an aid to interpretation of the Grenada scheme. Furthermore, the Board notes that those decisions were concerned with a statutory scheme which was replaced in the British Virgin Islands in 2010 by the British Virgin Islands, Labour Code (No 4 of 2010) which in the last resort permits the Minister to refer the dispute to an arbitration tribunal notwithstanding the withholding of the employer's consent (section 28(1)(c), (2)).

35. It is regrettable that, under the legislation in force in Grenada, it is open to an obstructive employer to frustrate any claim for unfair dismissal in a non-essential employment by simply refusing to accept a settlement proposed by the Commissioner or the Minister and refusing to agree on the establishment of an arbitration tribunal. This is what appears to have occurred in the present case. This, however, is a consequence of the limited remedies which the legislature has conferred on employees complaining of unfair dismissal. In such cases, employees are left to their common law rights for wrongful dismissal which are enforceable in proceedings in the High Court. It is for the legislature to determine whether different or more generous procedures should be made available to those complaining of unfair dismissal.

36. For these reasons the Board will humbly advise Her Majesty that the appeal should be dismissed.