



REINSTATEMENT AND RE-EMPLOYMENT ORDERS AND THEIR EFFECT ON DISMISSED EMPLOYEES' PENSIONS

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Reinstatement and Re-employment orders and Effect on reinstated employees Pension Benefits

AGENDA

- *Introduction – Unfair dismissal remedies*
- *Discussion – Effects on reinstated employees' retirement benefits*

UNFAIR DISMISSAL REMEDIES

Section 193 provides for three remedies a court or arbitrator may order after ruling that a dismissal is unfair.

They are:

- **reinstatement,**
- **re-employment or**
- **compensation.**

UNFAIR DISMISSAL REMEDIES

Re-employment order

A re-employment order implies that the employment contract ended and was not resumed – that a new employment contract is statutory established with different conditions from the previous one

UNFAIR DISMISSAL REMEDIES

Reinstatement order

A reinstatement order restores the contractual position between the employer and the employee as if it was never broken.

It implies complete continuity of the employment relationship notwithstanding the attempt by the employer to terminate it.

UNFAIR DISMISSAL REMEDIES

Reinstatement order

Differently put, if employees are reinstated they resume employment on the same terms and conditions that prevailed at the time of their dismissal. As the language of section 193(1)(a) indicates, the extent of retrospectivity is dependent upon the exercise of a discretion by the court or arbitrator.

EFFECT ON REINSTATED EMPLOYEES' RETIREMENT BENEFITS

DISCUSSION

What happens when a member of a retirement fund is dismissed?

- Reinstatement order
- Re-employment order

EFFECT ON REINSTATED EMPLOYEES' RETIREMENT BENEFITS

DISCUSSION

Defined Contribution Fund

EFFECT ON REINSTATED EMPLOYEES' RETIREMENT BENEFITS

DISCUSSION

Defined Benefits Fund

EFFECT ON REINSTATED EMPLOYEES' RETIREMENT BENEFITS

DISCUSSION

Connected to retirement benefits is

Home Loans

EFFECT ON REINSTATED EMPLOYEES' RETIREMENT BENEFITS

DISCUSSION

Family Funeral Benefits

EFFECT ON REINSTATED EMPLOYEES' RETIREMENT BENEFITS

DISCUSSION

Group Life Assurance

Member

Spouse

EFFECT ON REINSTATED EMPLOYEES' RETIREMENT BENEFITS

DISCUSSION

Disability Benefits:

Disability Income Benefits

Lump Sum Disability Benefits

Accident Benefits

EFFECT ON REINSTATED EMPLOYEES' RETIREMENT BENEFITS

DISCUSSION

Disability Benefits:

Part of retirement fund

*Separate contract taken out by employer for
benefit of employees*

- What is the contractual relationship of such cover given that insurance premiums cannot be retroactively be paid for cover?

EFFECT ON REINSTATED EMPLOYEES' RETIREMENT BENEFITS

DISCUSSION

With reinstatement the following question:

- *What is part of the employment contract?*

(a) Rules of the fund?

(b) Membership of the fund?

(c) Employer contribution to the fund?

**EFFECT ON REINSTATED EMPLOYEES'
RETIREMENT BENEFITS**

THANK YOU

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