

Challenging the targets set in a Performance Improvement Plan (“PIP”)

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By Employment Law & Administrative Law Practice Group

In the recent case of **Helena Mary a/p Dominic v Ambank (M) Berhad** (Award No. 2533 of 2019), we successfully defended the Bank in an unfair dismissal claim brought by its former employee.

The Claimant was dismissed due to her poor performance. Prior to her dismissal in March of 2017, the Claimant had been warned of her poor performance. In fact, the Claimant was warned of her unsatisfactory performance since October 2015. She was placed on a Performance Improvement Programs (“PIP”) and had several performance review sessions with her superior. Despite the opportunities afforded by the Bank, the Claimant had not shown much improvement to meet the standard of performance expected of her. During the management of the Claimant’s performance, she had simply refused to accept her superior’s evaluation of her performance and had challenged the KPI’s imposed on her in the PIP.

The Industrial Court upheld the Company’s decision to dismiss the Claimant and ruled the dismissal was with just cause and excuse. This is because the Bank had complied with the necessary requirements in managing a poor performance scenario. Further, the Industrial Court found that because the PIP was mutually agreed between the Bank and the Claimant, the Claimant cannot challenge or undermine the targets stipulated in the PIP.

The Bank was represented by N. Sivabalah N and Wong Kian Jun from our Employment and Administrative Law Practice Group.

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