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## High Court Rules Inconvenient Transfer Not Ground for Walking Out

*Perodua Sales Sdn Bhd v Saharunzaman Barun & Ors*  
(Kuala Lumpur High Court Applications for Judicial Review Nos WA-25-376-08/2019, WA-25-377-08/2019 and WA-25-378-08/2019)

Yesterday (21 July), the Kuala Lumpur High Court allowed three judicial review applications brought by Perodua Sales Sdn Bhd and overturned the decisions of the Industrial Court, which had held that three employees had been constructively dismissed by the company when they were directed to transfer and relocate to another service centre.

Following the acquisition of the company's Sungai Choh Service Centre by Nagoya Automobile Malaysia (**NAM**) in 2017, NAM had offered fresh employment to the company's employees from the said service centre under the same terms and conditions of employment for two years. The three employees in question had declined the offer of employment, albeit it being only temporary with the option to return to work with the company. As the company no longer controlled the Sungai Choh Service Centre, it thus had no choice but to transfer the employees to other service centres where there was vacancy and job suitability, being in Kuching, Kota Kinabalu and Kuala Terengganu.

At the Industrial Court, the employees claimed that the transfer orders were done in bad faith to force them out of employment for refusing to take up the offer of employment by NAM. The Industrial Court chairman ruled that the company had breached the employees' contracts of employment by unreasonably ordering the employees to transfer out of their "natural environment" as they had to relocate to a different state. The chairman further speculated on possibility of the employees' re-employment with the company, which was irrelevant in finding whether there had been a breach of the terms and conditions of the employee's contracts of employment.

The company subsequently filed the judicial review applications to quash the Industrial Court awards, arguing that the transfer orders were done in line with the terms of the employees' contracts of service and therefore there was no breach on the part of the company. Moreover, it was highlighted that inconvenience as a normal consequence to any transfer is not a sufficient ground to claim constructive dismissal. Contrary to the finding of the Industrial Court, the company acted reasonably as the transfer orders were done out of necessity and in good faith to keep the employees in its employment in view of the all-important right to livelihood.

The High Court agreed with the company's submissions that it had done all that was necessary that any reasonable employer would have done in the circumstances, and allowed the judicial review applications.

The company was represented by partner Shariffullah Majeed, and associate Nurul Aisyah Hassan, of [Lee Hishammuddin Allen & Gledhill](#).

The Industrial Court awards can be found [here](#), [here](#) and [here](#).

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