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Copy-Paste Verdicts, the Cost of "shortcuts" in Arbitration

The Singapore courts have been regularly recognised for their pro-arbitration stance, rooted in the policy of minimal curial intervention and an attitude of refraining from undue interference with the arbitral process. A recent judgment of the Singapore Court of Appeal, in *DJP and Others v DJO*¹, confirms that despite the high threshold of set-aside applications, the courts, mindful of the finality and confidentiality in arbitration, remain prepared to take an active role in safeguarding the integrity of the arbitral process.

BACKGROUND

On 8 April 2025, the Singapore Court of Appeal handed down its decision to uphold the annulment of an ICC Award in a railway dispute issued in 2023 against an Indian public sector company, as most of the Award was found to be 'copied and pasted' from other cases.

At least 212 of the 451 paragraphs (47%) of the Award were found to be undisputedly copied from two other arbitral Awards, which were used as 'templates in drafting the Award to a very substantial degree'. These arbitrations involved the same respondent and were also presided over by the same arbitrator. As a result of the plagiarism, the Award relied on judgments and submissions which were not raised by either party, whilst it applied the wrong *lex arbitri* to the issues of interest of costs.

In the first instance decision², the respondent applied to set aside the Award on the following basis:

- + The tribunal failed to independently assess and apply its mind to the issues at hand, constituting a breach of the arbitral proceedings.
- + The tribunal acted in breach of natural justice.
- + The Award was contrary to Singapore public policy.

The appellants argued that the extent to which the tribunals had copied material from the related Awards was by way of "shortcut", and did not have any impact on the outcome of the arbitration.

¹ [2025] SGCA(I) 2

² [2024] SGHC(I) 24



THE APPEAL HOLDING

Whilst issues of judicial plagiarism have previously come before the court³, this marks the first time the Court of Appeal had the opportunity to address them.

Without delving into the correctness of the decision, the court set aside the Award, for being made in breach of the rules of natural justice: (i) adjudicators' duty to be disinterested and unbiased, and (ii) parties must be given an opportunity to be heard. The court also provided valuable judicial guidance on the factors which may constitute the appearance of bias:

- + **Failure to recognize distinctions between different proceedings:** Not properly appreciating or addressing the unique aspects of different sets of proceedings.
- + **Uniform resolution of common issues:** Consistently resolving similar issues in the same manner across different cases, which may suggest prejudgements.
- + **Structure and presentation:** The structure and presentation of the reasoning gives the impression that new arguments were not considered with openness or subjected to fresh analysis.
- + **Technical errors:** Presence of technical errors in the decision, which may indicate the approach taken in its preparation.

Together, it was held that these issues would have led a reasonable, fair-minded observer to conclude that the integrity of the process had been compromised.

The court also emphasised the expectation of equality in arbitration and the significance of the information asymmetries, which can further jeopardise its integrity. In the particular case, while the respondent and president of the tribunal were involved in the related arbitrations, the claimants and rest of tribunal were not, resulting in unequal access to information and knowledge between the two parties and members of the tribunal. Moreover, the Award was based on

such material without allowing the parties to address it in their submissions.

PRACTICAL TAKEAWAYS

The fine lines of plagiarism

Whilst reference and reliance on legal precedents is fundamental to the operation of common law, the Court of Appeal decision acts as a firm reminder to adjudicators to actively steer away from biases through considering cases afresh. The court also drew an important distinction from litigation since the confidential nature of arbitration makes it far more difficult to detect whether an Award has been copied.

The court clarified that the issue at hand was not merely the act of copying and pasting, but the fact that, in this case, it revealed the judges' apparent and anchoring biases, impeding the parties' right to a fair trial. The court also highlighted the significance of the source and nature of the material extracted, making a distinction between adjudicators who reproduce sections of the parties' submissions or related Awards and instances where content from academic sources or factual synopses is copied without proper citation. While the former may indicate a lack of engagement with the issues, the latter, although unprofessional, is unlikely to constitute a breach of natural justice.

Choosing the right arbitrator

Notably, the court's unusual decision to name the arbitrators raises the vexed issue of balancing the inherent confidentiality of arbitration with the practical value of transparency and accountability. Such transparency can assist arbitration users in making informed choices based on an arbitrator's competence and reputation. This is especially valuable in circumstances where parties must select their tribunal, often with limited information or insight. The judgment also urges parties involved in a series of similar disputes, particularly those with related parties, to be alive to information asymmetries between the parties and the tribunal when making their selection.

³ [2014] 3 SLR 180, [2019] SGHC 132



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