

**IN THE HIGH COURT OF TANZANIA**

**(DAR ES SALAAM REGISTRY)**

**AT DAR ES SALAAM**

**CIVIL CASE NO. 29 OF 2017**

**PC SUNDAY SIMON MWAIKWILA.....PLAINTIFF**

**VERSUS**

**1. INSPECTOR GENERAL OF POLICE.....1<sup>ST</sup> DEFENDANT**

**2. THE ATTORNEY GENERAL.....2<sup>ND</sup> DEFENDANT**

**RULING**

28 Dec. 2017 & 13 Apr. 2018

**DYANSOBERA, J:**

The defendants have raised a preliminary objection in respect of the suit filed by the plaintiff on the following grounds:

1. The court has no jurisdiction to entertain this matter.
2. The suit is bad in law for failure to exhaust the available local remedy.

On these preliminary objections, the defendants pray the suit to be struck out with costs.

In his suit, the plaintiff is claiming for a declaration that the dismissal from the Police Force was unlawful, reinstatement with full benefits from the date of the release to the date of the reinstatement, payment of all allowances and other benefits accruing to the plaintiff by virtue of this employment from the date of dismissal to the date of reinstatement, costs for criminal trial, general damages, interests and costs of the suit.

I will begin with the issue of jurisdiction as this will determine whether this court should proceed with the matter or not.

The defendants' preliminary objection was argued by way of written submission.

Learned State Attorney for the defendants submitted that this court has no powers to reinstate the plaintiff as the only person empowered to reinstate the plaintiff is the Inspector General after entertaining the appeal. It was further submitted on part of the defendants that there is a statutory dispute resolution machinery

governing the parties and which is the Inspector General of Police and not the court. That the plaintiff failed to exhaust local remedies and the suit has been brought in a wrong forum.

The plaintiff failed to file his written submission in reply.

I think the first limb of preliminary objection has substance. Apart from the fact the preliminary objection has not been controverted by the plaintiff, Regulation C 18 (3) of the Police Force Service Regulations, 1995 is clear that Any non-commissioned officer or constable aggrieved by any finding of an appropriate tribunal or any award of an appropriate tribunal or a commanding officer, may within seven days of the notification to him thereof, appeal to the Inspector General in writing. Further, the Police Force and Prisons Service Commission Act [Cap. 241 R.E.2002] which govern the procedures to be followed where one is dissatisfied with the punishment, provides in section 7 (5) in particular that:


The final disciplinary authority in respect of the police and prison officers below the rank of the Assistant Inspector is vested in the Inspector General of Police and the Principal Commissioner of Prisons respectively.

This means that since there exists a statutory dispute resolution machinery vesting jurisdiction in different body governing the parties, resorting to court prior to exhausting the said statutory machineries was improper and therefore, this court lacks jurisdiction to entertain the present matter.

I am inclined to agree with learned State Attorney representing the defendants that this court lacks jurisdiction. The preliminary objection is upheld and the suit is struck out without costs.

DATED, SIGNED AND DELIVERED at Dar es Salaam this 13<sup>th</sup> day of April, 2018.



  
W.P. DYANSOBERA  
JUDGE