IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

IN THE DISTRICT REGISTRY OF SHINYANGA

AT SHINYANGA

MISCELLANEOUS CIVIL CAUSE NO. 31 OF 2018

MICHAEL MABULA NZENGULA ..... 1ST APPLICANT

JOSEPH STEPHEN MAZIKU ..... 2ND APPLICANT

VERSUS

KAHAMA TOWN COUNCIL ..... 1ST RESPONDENT
PUBLIC SERVICE COMMISSION ..... 2ND RESPONDENT
THE CHIEF SECRETARY,
PRESIDENT'S OFFICE .....3RD RESPONDENT
THE HON. ATTORNEY GENERAL ..... 4TH RESPONDENT

Date of last Order: *23/06/2020*
Date of Ruling: *20/11/2020*

RULING

C.P. MKEHA, J

The Applicants, Michael Mabula Nzengula and Joseph Stephen Maziku have moved the court for orders of certiorari and mandamus. The application is made under the provisions of section 17(1) and (2) of the Law Reform (Fatal Accidents and Miscellaneous Previsions) Act, Rules 4 and 8 of the Law Reform (Fatal Accidents and Miscellaneous Provisions) (Judicial Review Procedures and Fees) Rules, 2014, GN No. 324 of 5th September, 2014: Section 2(1) and (3) of the Judicature and Application of Laws Act.

According to the undisputed parts of the parties' affidavits, counter affidavits and submissions, the Applicants, Michael Mabula Nzengula and Joseph Stephen Maziku, were up to 21st March, 2016 employed in the Public Service, at Kahama Town Council in the capacities of Town Agriculture, Irrigation and Cooperative Development Officer and Head of Procurement Management Unit respectively.

Between August 2012 and 21st March, 2016 the first Applicant served as the Chairman for Kahama Town Council Tender Board. At the same time, the second Applicant served as the Secretary for Kahama Town Council Tender Board.

On 19th January, 2016, the first Applicant was served with a Notice of an intention by his employer, to take disciplinary action against him. Along with the said notice the first Applicant was also served with a charge sheet accusing him with, **Firstly**, awarding tenders to companies which had no requisite qualifications to be so awarded contrary to Code 1 of the First schedule to the Public Service Regulations of 2003, it being alleged that the first Applicant committed the said misconduct between February and June, 2015. **Secondly,** disrupting tender processes for construction projects by awarding tenders to unqualified companies contrary to the best interests of the employer and contrary to Code 10 of the First schedule to the Public Service Regulations of 2003. **Thirdly,** occasioning loss to Kahama Town Council which as a result had to incur unnecessary debts for 2014/2015

financial year contrary to Codes 12 and 13 of the First schedule to the Public Service Regulations of 2003. It is important to note that, the said notice, gave the first Applicant fourteen (14) days' time for him to present his written defence. The first Applicant did present his written defence dated 29/01/2016.

On 24/02/2016 the first Applicant appeared before the Disciplinary Inquiry Committee for hearing. Then on 22/03/2016 the first Applicant received a letter from the Town Council Director containing decision of the Disciplinary Authority which found him guilty of the first and third misconduct charged as indicated hereinabove.

On 5th April, 2016 the first Applicant appealed to the Public Service Commission. His appeal was unsuccessful. The Commission's decision dismissing the first Applicant's first appeal is dated 22/12/2016. Aggrieved with the Commission's decision, the first Applicant appealed to H.E. the President of the United Republic of Tanzania. That was on 10/02/2017. The second appellate authority confirmed the first Applicant's dismissal.

As it happened to the first Applicant, on 19th January, 2016, the second Applicant received a Notice of an intention by his employer to take disciplinary action against him. The said notice was accompanied with a charge sheet consisting of the following allegations:

Firstly, that, between February and June, 2015 the second Applicant awarded tenders against best interests of the employer beyond approved budget contrary to Regulation 42, Code 10 of the First Schedule to the Public Service Regulations of 2003; **Secondly**, that between February and June 2015, the second Applicant occasioned loss to Kahama Town Council for failure to perform due diligence as per Public Procurement Standards contrary to Regulations 42, Code 12 of the First Schedule to the Public Service Regulations of 2003;

Thirdly, that between February and June, 2015 the second Applicant occasioned loss to Kahama Town Council for procuring prescribed equipments for installation of gas systems and supply of clean water for Secondary Schools at Nyasubi, Kishimba, Ngogwa, Mpera and Nyashimbi without price quotations contrary to Regulation 42, Codes 1 and 8 of the First Schedule to the Public Service Regulations of 2003; **Fourthly**, that the second Applicant occasioned loss to Kahama Town Council for neglecting managing tendering process without obtaining the town engineer's estimates contrary to Regulation 42, Code 13 of the First Schedule to the Public Service Regulations of 2003 and **Fifthly**, that the second Applicant failed to advise the Accounting Officer properly in respect of impact of awarding tenders which do not meet criteria of the Public Procurement Act, 2011 and failure to submit procurement information to the Finance, Administration and Planning Committees contrary to

Regulation 42, Code 8 of the First Schedule to the Public Service Regulations of 2003.

The notice to the second Applicant required him to present his written defence to the Disciplinary Inquiry Committee within fourteen (14) days after receipt of the notice. The second Applicant presented his written defence dated 30/01/2016. The second Applicant attended hearing of his allegations before the Disciplinary Committee on 24/02/2016. Then on 21/03/2016 the Disciplinary Authority found the second Applicant guilty of four disciplinary offences out of the five offences he was charged with. That is, the first, second, third and fifth counts. The Disciplinary Authority dismissed the second Applicant from his employment with effect from 21/03/2016.

On 7th April, 2016 the second Applicant appealed against the Disciplinary Authority's decision to the Public Service Commission. The Commission dismissed the second Applicant's appeal thereby confirming his dismissal from employment. That was on 16/12/2016. Aggrieved with the Commission's decision, the second Applicant appealed to H.E. the President of the United Republic of Tanzania. It was on 20/02/2017. On 14th November 2017 the second Applicant received a letter from the Chief Secretary informing him that, his second appeal had been dismissed and that, his dismissal from employment had been confirmed. The said letter is dated 01/11/2017.

Against the foregoing background, the Applicants are now moving the court for **Certiorari**, to quash the proceedings leading to the decisions of (i) Kahama Town Council of 21st March, 2016 dismissing them (the Applicants) form employment in the Public Service (ii) the Public Service Commission of 22nd December 2016 and 16th December, 2016 respectively (iii) the President as communicated by the Chief Secretary on 5th July, 2017 and 1st November, 2017 respectively dismissing the Applicants from employment in Public Service and **Mandamus,** to compel the respondents to reinstate the Applicants in employment in the Public Service. **Alternatively**, the Applicants are asking the court to remit the matters involving the Applicants to the respondents with directions to reconsider them in accordance with the findings of this Honourable court.

Mr. Godwin Simba Ngwilimi learned advocate represented the Applicants. On the other hand, Mr. Solomon Lwenge learned Senior State Attorney represented the Respondents. It was submitted on behalf of the Applicants that the following are the grounds for the application: (1) That, the Applicants were not given a fair hearing, (ii) That, there were apparent errors of record and (iii) That, there were some jurisdictional errors.

With regard to **fair hearing** it was submitted on behalf of the Applicants that the extent of loss was not stated in the charges levelled against both Applicants hence they ended up misdirecting themselves in their respective defence.

Also that, there was no adequate time for the Applicants to prepare and attend hearing of their respective cases. According to the learned advocate for the Applicants, less than 24 hours' time was given to the Applicants for them to prepare themselves for hearing. In view of the learned advocate, in according short time to the Applicants the Committee contravened Code 8.8 of the Public Service Disciplinary Code of Good Practice, 2007, GN. No. 53 of 9th March, 2007.

The learned advocate went on to submit that, in contravention of Regulation 47 of the Public Service Regulations of 2003 and Code 19.1 (b) and 8 of GN No. 53 of 2007, the Applicants were denied opportunity of hearing the employer or his representative. And that, they were deprived of a chance of cross examining the complainant.

The learned advocate further submitted that, the Applicants were never supplied with the disciplinary proceedings by the Committee which was in view of the learned advocate contravention of Code 8 and 19. 1 of GN No. 53 of 2007. The learned advocate further submitted that, the Applicants were not given opportunity to appear and defend themselves before the disciplinary Committee.

The other aspect regarding fair hearing was that, before the first and final appellate bodies the Applicants requested attending hearing of their respective appeals but they were denied of the said opportunity.

Regarding **apparent errors of law on the face of record,** the learned advocate submitted in brief that, in any case, upon reading sections 31 to 46 of the Public Procurement Act, 2011, decisions of Tender Boards are not decisions of individual members of Tender Boards but mere recommendations to Accounting Officers. In his considered view therefore, it was wrong in law, to condemn the Applicants for mere recommendations made in the course of their respective employment.

As to **jurisdictional errors,** the learned advocate submitted that, the Public Service Commission invented a new count which the first Applicant was not charged with before the Disciplinary Committee which thereafter misled H.E the President of the United Republic of Tanzania in confirming conviction in respect of non-existent offence. The learned advocate submitted in respect of the 2nd Applicant that, whereas the said Applicant was found guilty of four counts out of five by the Committee, when he appealed before the Public Service Commission, the Commission created the 6th count and convicted him of six counts. In effect, his H.E. the President was misled to erroneously confirm the mistaken decision of the Commission.

Mr. Solomon Lwenge learned Senior State Attorney submitted in reply that, it is true that the extent of loss occasioned by the Applicants was not made clear in the charges levelled against the Applicants. However, in view of the learned Senior State Attorney, the Applicants stand not to suffer in respect

of the said error as the Commission upheld their respective appeals regarding the said complaint.

The learned Senior State Attorney went on to submit in reply that, the Applicants were given ample time to prepare for their defence which they submitted in writing on 29/1/2016 and 30/01/2016 respectively and that, apart from filing their written defence, they also appeared for oral hearing hence they cannot be correct in complaining that they were not accorded time to prepare and make defence.

As to appearance of the complainant to enable the Applicants cross examine him if they so wished, the learned Senior State Attorney submitted that, under Regulation 47 (11) of the Public Service Regulations of 2003, the Committee is free to regulate its own proceedings hence cross examination is not a mandatory procedure.

The learned Senior State Attorney submitted that nowhere is there evidence that the Applicants asked to be supplied with the Report of the Inquiry Committee but that the Applicants asked for:

1. Taarifa ya Uchunguzi ya Mkuu wa Wilaya.
2. Taarifa ya Uchunguzi ulioundwa na Katibu Tawala.
3. Taarifa ya Uchunguzi iliyopelekea wao washitakiwe.

The learned Senior State Attorney submitted further that even if they did ask for the purported report they had no such right under the Public Service Regulations of 2003 hence they could not insist on what is not made the legal duty of the Disciplinary Committee to perform.

The learned Senior State Attorney further submitted that, in terms of Regulation 62 (1) of the Public Service Regulations, 2003 it was within the discretion of the appellate bodies to allow the Applicants to attend hearing of their respective appeals.

The learned Senior State Attorney could not appreciate that there was a substance in the learned advocate's argument that, the Applicants were condemned for mere recommendations made to the Accounting Officer in due execution of their respective duties as members of the Tender Board. In view of the learned Senior State Attorney, Paragraph 42 Part "A" to the schedule of the Public Service Regulations, 2003 provides for offences which the Applicants were charged with.

The learned Senior State Attorney replied to the ground touching Jurisdictional Errors by referring to the operative portion of H.E. the President's decision thus:

"Rais amethibitisha uamuzi wa Tume ya Utumishi wa Umma na adhabu ya kufukuzwa kazi kuwa ni sahihi."

In view of the learned Senior State Attorney, the President's holding, neither indicates a new charge nor makes a new decision but only confirms the decision of the Commission of convicting in two counts and acquitting in the 3rd count.

The Applicants' rejoinder submissions were to a large extent reiteration of what they had earlier submitted in chief hence, I find no need of reproducing the same.

As hinted earlier in this ruling, the Applicants are primarily moving the court for writs of **certiorari** and **mandamus.** By asking the court to issue the writ of **certiorari** the Applicants are simply asking this court to correct errors of jurisdiction or of law apparent on record and ultimately decide whether the 1st, 2nd and 3rd Respondents had exceeded their jurisdiction or errors of law committed by them if any, had resulted in miscarriage of justice. On the other hand, by asking the court to issue the writ of **mandamus**, the Applicants are engaging the court to order the 1st, 2nd and 3rd respondents perform public duties imposed upon them by the Constitution or other laws as ably submitted by the learned advocate for the Applicants. Both writs, certiorari and mandamus are in principle discretionary remedies. Thus, the fact that the aggrieved party has another adequate remedy has a bearing on the end result in applications for those remedies. **Read: Lectures on Administrative Law by C. K. Takwani, Fifth Edition at pages 373 to 380 and 387 to 397.**

The determinative issue is **whether the Applicants have satisfied conditions for issuance of the writs of certiorari and mandamus.**

It was the Applicants' contention that rules of natural justice were breached by the 1st to 3rd Applicants by not according them fair hearing. That, the extent of loss occasioned by the Applicants to the first Respondent was not made clear in the charges levelled against the Applicants. In circumstances whereby the Applicants were afterwards acquitted of counts touching occasioning loss by the Public Service Commission on first appeal, that cannot remain to be a complaint by way of Judicial Review. That is irrespective of the apparent fact that the two appellate bodies might have for one reason or the other been made to miscomprehend some of the other issues involved in the appeals before them.

Through the Applicants' affidavits supporting the application, both Applicants admit that they were made to know their charges, more than 30 days before they appeared for oral hearing before the Disciplinary Committee, on 24/02/2016. The Applicants had ample time of filing their respective written defence on 29/01/2016 and 30/01/2016 respectively, having received the written charges on 19/01/2016. Although the Applicants filed their respective defence (in writing) within 9 and 10 days of receipt of notice to them, the notice extended to them, of the Employer's intention to commence disciplinary proceedings against them, notified

them that they had fourteen (14) days within which to reply in writing. They chose to reply earlier which was in conformity with the requirements of the notice. In the said circumstances, as correctly submitted by Mr. Salomon Lwenge learned Senior State Attorney, complaints regarding not being given time to prepare for defence or appearing before the Committee for making defence cannot arise. Not even on strength of Code 8.8 of the Public Service Disciplinary Code of Good Practice, 2007, GN No. 53 of 9th March, 2007 as respectively cited by Mr. Ngwilimi learned advocate for the Applicants.

It is accepted as rightly submitted by the learned advocate for the Applicants that cross examination is an important aspect in ensuring fair trial of whoever stands for answering charges before quasi-judicial bodies. However, such a right is not rigidly insisted before quasi-judicial tribunals as it would be in ordinary courts of law. That is why, Regulation 47 (11) of the Public Service Regulations of 2003 allows a Committee conducting an inquiry to regulate the procedure at the inquiry in the manner it thinks fit. Given the fact that the Applicants do not dispute having defended themselves in writing and orally through making appearances before the Committee, the idea that the complainant ought to appear for cross examination which did not arise in the Applicants' defence before the Committee, comes as an afterthought. The Applicants are not challenging the Respondents' decisions for a reason that the findings against them (the

Applicants) were based on an adverse witness's testimony. The procedure adopted by the Respondents in the Applicants' case appears to be consistent with more relaxed evidentiary procedures of administrative hearings as compared to those in ordinary civil and criminal trials. I do not find merit in the Applicants' complaint.

The other complaint of the Applicants was to the effect that they were denied of Report of Proceedings of the Inquiry Committee. The learned Senior State Attorney replied that, at no time did the Applicants ask for the said report and that even if they did, failure to be given the same did not breach any of the 2003 Regulations. In any case, the said proceedings were for enabling the Applicants to prefer their respective appeals to the Public Service Commission. In paragraph 10 of each Applicant's affidavit in support of the application it is averred that on 05/04/2016 and 07/04/2016 respectively, the Applicants preferred appeals against the decision of the Disciplinary Authority to the Public Service Commission. Neither of the Applicants appears to have been prejudiced by the Committee's conducts in preferring his appeal to the Commission which was of essence to the Applicants. I fail to see therefore, how the said complaint can now be advanced to fault decisions of the three Respondents that is, the first to third Respondents.

The Applicants' further complaint was to the effect that, they were denied of an opportunity to appear and defend/argue their respective appeals

before the two appellate bodies. As correctly submitted in reply by Mr. Lwenge learned Senior State Attorney, under Regulation 62 (1) of the Public Service Regulations of 2003, the Appellate Authority **may** allow both the appellant and the disciplinary authority whose decision is being appealed against or either of them an opportunity to be heard by presenting himself or in writing in support or against the appeal as the case may be. It is permissible under sub-regulation (2) of Regulation 62 for the Appellate Authority to proceed hearing the appeal in the absence of the appellant. Therefore, neither the 2nd nor the 3rd respondent was at fault in proceeding hearing the appeals before them in the absence of the Applicants. Presence of the Applicants at the hearing of their appeals, was at the discretion of the appellate bodies, the word used under the relevant Regulation being, **may.**

It was contended by the Applicants through Mr. Ngwilimi learned advocate that, since the Applicants are merely expected to make recommendations to the Accounting Officer, it was wrong to be afterwards held responsible for offences which they could not commit owing to the nature of their mandate in the Tender Board. While it may be true that the Applicants were merely empowered to make recommendations to the Accounting Officer, it cannot be disputed that they might have abused their positions thereby ending up committing the offences they later on faced before the Disciplinary Committee. This however is not a proper forum for holding that

they actually abused their respective positions or not. It suffices to merely observe as correctly submitted by Mr. Solomon Lwenge learned Senior State Attorney that, if at all there was contravention of any of the provisions under section 31 to 46 of the Public Procurement Act on part of the Applicants, nothing would have deterred the Disciplinary Authority from taking appropriate steps subject to the obtaining Regulations.

The Applicants have complained that the first and second appellate bodies acted in excess of their appellate jurisdiction by inventing other counts thereby convicting the Applicants of new charges. I earlier hinted that it may well, be true that the appellate bodies might have been made to miscomprehend the issues or facts. However, one thing is not disputed by the first Applicant, that, what made him to appeal to the second appellate body was his conviction in respect of the first count by the Disciplinary Authority and confirmation of the said conviction by the Commission. Reference to three counts in the second appellate body's decision, while confirming the Commission's decision which blessed the first Applicant's dismissal, no doubt included the first count for which he (the first Applicant), had appealed to the President. Whether that was correct or not, I fail to see how the first Applicant was prejudiced. Simply, his appeal in respect of his conviction in the first count was dismissed at both appellate levels and his dismissal from employment was confirmed at both levels. I

am not called upon to determine whether the said decision was correct or not, for I have no such jurisdiction.

The 2nd Applicant's position was not different from the 1st Applicant's. The complaint was that, the two appellate bodies invented new counts to make them six instead of four counts which remained after his acquittal by the Disciplinary Committee in the fourth count. I accept the 2nd Applicant's submission through Mr. Ngwilimi learned advocate that, after being acquitted in respect of one more count before the Commission he remained with three counts whose decision was challenged before H.E the President of the United Republic of Tanzania. The decision of H.E the President in an unambiguous terms upheld the findings of the Commission. I can find no jurisdictional errors committed by the two appellate bodies as earlier complained of by the Applicants.

For the foregoing reasons, I am unable to agree with the learned advocate for the Applicants that in the present case, the first, second or third Respondents acted in absence or excess of jurisdiction. I am also unable to agree with the learned advocate for the Applicants that they have managed to demonstrate breach of rules of natural justice in the circumstances of the present case. The Applicants did not succeed to bring into use the cited authorities of: **Eden Maeda Vs. Hotel & Lodges (T) Limited, Revision No. 171 of 2015, the High Court of Tanzania, Labour Division, at Arusha, Simeon Manyika Vs. IFM, (1984) TLR,**

304, Mohamed Jawad Mroach Vs. Minister for Home Affairs (1996) TLR 142, Jimmy David Ngonya Vs. National Housing Cooperation, (1994) TLR 28, I.S Msangi Vs. Jumuiya ya Wafanyakazi & Workers Development Cooperation (1992) TLR 256 and Mbeya – Rukwa Auto parts & Transport Limited Vs. Jestina John Mwakyoma (2003) TLR 251.

I have I think amply demonstrated, how the Applicants were sufficiently accorded with right to be heard, how cross examination rules cannot be rigidly insisted in a case like the instant one, how the two appellate bodies are legally allowed to regulate their procedures in hearing appeals, how the appellate bodies were not mandatorily required to summon the appellants at the hearing of their appeals and how the Applicants failed to show the prejudice suffered due to the purported failure of the 1st respondent to supply on request, report of the proceedings, in circumstances whereby the two Applicants succeeded to file their respective appeals timely before the Commission. All these lead me into concluding that the above listed authorities were cited out of context as they had no much bearing to the facts of the present case. The foregoing, explains in part, why this is not a fit case for issuance of a writ of certiorari.

It is true that the Applicants have a legal right to employment which they have attempted fighting for before the 1st, 2nd and 3rd Respondents. The legal duty imposed on part of the three Respondents of determining the

fate of the Applicants' employment was exercised in the manner discussed at length while discussing the role performed by each Respondent in dealing with the Applicants' charges. To order the Respondents to reinstate the Applicants in employment in the Public Service would amount to overruling the Respondents without there being proof of abuse of power, malafide or irrelevant considerations on their part, in dealing with the Applicants' charges. The principle has always been that if an administrative authority is acting within jurisdiction or intra vires and no appeal from it is provided by a statute, then it is immune from control by a court of law. **See: JUMA YUSUPH Vs. MINISTER FOR HOME AFFAIRS (1990) TLR, 80**

The remaining question to be answered is **whether there was an alternative remedy to the Applicants.** In the Applicants' Chamber Summons, an alternative remedy was asked for, in the following terms: remitting the matters involving the Applicants to the 1st, 2nd and 3rd Respondents with directions to reconsider them in accordance with the findings of this Honourable Court. In the course of arguments, the learned advocate for the Applicants cited no statutory authority or any case law on which I should base my decision of remitting back the matter to the first, second and third Respondents. I therefore decline to go in the learned advocate's path.

From the time when the written Laws (Miscellaneous Amendments) (No. 3) Act, 2016 came into operation, a person like the Applicants who exhausts all remedies as provided under the Public Service Act, has an alternative remedy apart from judicial review forum. Section 32A of the Public Service Act, Revised Edition of 2019 provides:

> **"A public servant shall, prior to seeking remedies provided for in labour laws, exhaust all remedies as provided for under this Act."**

To understand what the above quoted provision means, it may be useful to travel back to see the legislative history of the said provision. The relevant part of the Hansard is found at page 88 of what is titled as:

BUNGE LA TANZANIA

MAJADILIANO YA BUNGE

MKUTANO WA TANO

<u>Kikao cha Saba – Tarehe 8 Novemba, 2016:</u>

> **"Mheshimiwa Spika, Ibara ya 26 ya muswada kama ilivyorekebishwa kupitia jedwali la marekebisho inapendekeza kuongeza kifungu kipya cha 32A kinachoweka masharti yanayowataka Watumishi wa Umma kutumia kwanza nafuu remedies iliyoko katika Sheria hiyo kabla ya kutumia utaratibu ulioainishwa katika Sheria za kazi kwa**

masuala yanayohusiana na hatua za kinidhamu zilizo chukuliwa dhidi yao.

Mheshimiwa Spika, kwa mfano, kwa mujibu wa vifungu vya 10 (1) (e) na 25 vya Sheria ya Utumishi wa Umma, Tume ya Utumishi wa Umma ina mamlaka ya kusikiliza rufaa dhidi ya uamuzi uliotolewa na mamlaka ya Nidhamu ya Mtumishi wa Umma wakati ikitekeleza majukumu yake ya hatua za kinidhamu. Pia, kifungu hicho cha 25 cha Sheria ya Utumishi wa Umma kinaelekeza kuwa Mamlaka ya Nidhamu au Mtumishi wa Umma ambaye hataridhishwa na uamuzi wa Tume ya Utumishi wa Umma akate rufaa kwa Rais.

Mheshimiwa Spika, Sheria ilivyo kwa sasa haijaweka masharti yanayowataka Watumishi wa Umma kumaliza kwanza utaratibu huo ulioanishwa katika sheria hiyo kupata nafuu jambo linalosababisha baadhi ya Watumishi wa Umma hao na hasa waliokuwa kwenye operational service kutofahamu hatua stahili wanayotakiwa kuchukua kuhusiana na masuala yao ya kazi. Hivyo, marekebisho haya yanalenga kuweka mwongozo utakaowawezesha Watumishi wa Umma kutumia kwanza utaratibu ulioainishwa katika Sheria ya Utumishi wa Umma kabla ya kwenda katika vyombo vingine ikiwemo Baraza la usuluhishi na Mahakama ya Kazi kwa kutumia

Sheria za kazi ambako jambo hilo linaweza kuchukua muda mrefu."

From the legislative history, it is clearly indicated that once a public servant is done with the remedies provided under the Public Service Act as it happened to the Applicants, the Labour court's doors become wide open for him to pass through in seeking remedies provided for in labour laws. In this context, labour courts incudes, Councils for Mediation and Arbitration.

In addition to my earlier holding hereinabove, for a reason that the Applicants had other alternative remedy as I have amply demonstrated, the Application must fail. The same is entirely dismissed for the foregoing reasons. I make no order as to costs.

Dated at **SHINYANGA** this **20th day of November, 2020.**

C.P. MKEHA
JUDGE
20/11/2020

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
IN THE DISTRICT REGISTRY OF SHINYANGA

AT SHINYANGA

MISCELLANEOUS CIVIL CAUSE NO. 31 OF 2018

MICHAEL MABULA NZENGULA.....1ST APPELLANT

JOSEPH STEPHEN MAZIKU.....2ND APPELLANT

VERSUS

KAHAMA TOWN COUNCIL.....1ST RESPONDENT

PUBLIC SERVICE COMMISSION.....2ND RESPONDENT

THE CHIEF SECRETARY,

PRESIDENT'S OFFICE.....3RD RESPONDENT

THE HON. ATTORNEY GENERAL.....4TH RESPONDENT

Court:

Ruling hereby delivered in the presence of Mr. Mpogole Advocate holding brief Mr. Ngwilimi Advocate for the Applicants and Mr. Lwenge learned State Attorney for the respondents.

Rights of Appeal explained.

R. M. MBUYA

DEPUTY REGISTRAR

20/11/2020