

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA  
(TANGA DISTRICT REGISTRY)**

**AT TANGA**

**MISC. CIVIL CAUSE NO. 4 OF 2021**

**IN THE MATTER OF AN APPLICATION FOR LEAVE TO APPLY FOR  
PREROGATIVE ORDERS OF CERTIORARI AND MANDAMUS**

**AND**

**IN THE MATTER OF THE DECISION OF LUSHOTO DISTRICT COUNCIL ON  
UNLAWFUL TERMINATION OF THE APPLICATION FROM WORK A**

**HEALTH OFFICER**

**BETWEEN**

**HERBERT JAMES KIVUNGA.....APPLICANT**

***-VERSUS-***

**LUSHOTO DISTRICT COUNCIL.....1<sup>st</sup> RESPONDENT**

**PERMANENT SECRETARY PRESIDENT'S OFFICE REGIONAL  
ADMINISTRATIO AND LOCAL GOVERNMENT .....2<sup>nd</sup> RESPONDENT**

**CHIEF SECRETRARY.....3<sup>rd</sup> RESPONDENT**

**THE ATTORNEY GENERAL.....4<sup>th</sup> RESPONDENT**

**RULING**

*Date of last order: 10/08/2022*

*Date of ruling: 12/08/2022*

**AGATHO, J.:**

The Applicant is applying for prerogative orders of certiorari and mandamus. The application is made under provisions of Section 2(3) of the Judicature and Application of Laws Act [CAP 358 R.E. 2019] and

Section 18(1) of the Law Reform (Fatal Accidents and Miscellaneous Provisions) Act [CAP 310 R.E. 2019] and Rule 5(1)(2) and (3) of the Law Reform (Fatal Accidents and Miscellaneous Provisions) Judicial Review Procedures and Fees G.N. 324 of 2014. It is supported by the Applicant's affidavit which we pray to be part of the submissions. Furthermore, the Respondents are sued in their capacities as stated under paragraph 9 of the Applicant's affidavit.

During hearing of the application, it became apparent that there are no counter affidavits by the Respondents. Hence the application is unopposed, and the Respondents did not raise any legal issue. In the case of **Emma Bayo v the Minister for Labour and Youth Development and 2 Others, Civil Appeal No. 79 of 2012** CAT at Arusha at page 8, the CAT issued some directives to the High Court and how it should consider leave to apply for prerogative orders. That there should be an arguable case, and the Applicant should show that s/he has sufficient interest to be allowed to bring the main application.

Looking at the Applicant's affidavit it is clearly shown that he has sufficient reasons as summarized on paragraph 5, 7 and 8 of the affidavit. That the Applicant was not only denied the right to be heard before the inquiry committee, but also the basic procedures in determining disciplinary matters against public servants were not

complied with. These are averred on paragraphs 4-8 of the affidavit. Therefore, as per the CAT directives and considering the content of the affidavit this Court grants the Applicant leave to file an application for prerogative orders of certiorari and mandamus as prayed for in the chamber summons.

The Applicant is given 14 days from the date when she will be supplied with a copy of this ruling to file her application for judicial review. And given the premises of the application at hand each party shall bear its own costs.

It is so ordered.

**DATED at TANGA this 12<sup>th</sup> Day of August 2022.**



**U. J. AGATHO**

**JUDGE**

**12/08/2022**

**Date: 12/08/2022**

Coram: Hon. Agatho, J

Applicant: Absent


Respondent: Ms. Luciana Kikala (S/A)

B/C: Zayumba

**Court:** Ruling delivered on this 12<sup>th</sup> day of August, 2022 in the presence of Ms. Luciana Kikala (State Attorney) for the Respondent.

  
**U. J. AGATHO**  
**JUDGE**  
**12/08/2022**

**Court:** Right of Appeal fully explained.

  
**U. J. AGATHO**  
**JUDGE**  
**12/08/2022**