

THE UNITED REPUBLIC OF TANZANIA

JUDICIARY

IN THE HIGH COURT OF TANZANIA

(DISTRICT REGISTRY OF MTWARA)

AT MTWARA

CIVIL CASE NO. 01 OF 2022

THE BOARD OF TRUSTEES OF THE PUBLIC SERVICE

SOCIAL SECURITY FUND PLAINTIFF

VERSUS

NAF BEACH HOTEL DEFENDANT

DEED OF SETTLEMENT

Muruke, J.

The Plaintiff on the 14th day of January, 2021, filed this case against the Defendant praying for the following orders:

- (i) The Defendant pays the sum **TZS.388,308,469.68** (Three Hundred Eighty Eight Million, Three Hundred Eight thousand, Four Hundred Sixty Nine and Sixty Eighty Cents) being un-remitted members' contributions plus accumulated penalties thereon due and payable to the Plaintiff by the Defendant.
- (ii) The Defendant to make payment to the Plaintiff of un-remitted Social Security contributions plus accumulated penalties thereon that would accrue from the date of filing the suit up to and including the date of judgment and/or final settlement;

- (iii) Interest on Judgment debt at the prescribed Court rate from the date of delivery of Judgment until the same shall be fully satisfied;
- (iv) Cost of and incidental to the filing of the suit; and
- (v) Any other the further relief as this Honorable Court shall deem fit and just to grant.

While the case was pending in this court, the parties jointly, after considering their positions and the need to end their differences amicably and timely, the Plaintiff and Defendant have decided to resolve the dispute amicably on the following terms detailed in the filed DEED OF SETTLEMENT which they prayed to be adopted by this court as the decree of the court.

The Deed of Settlement which the parties have agreed and which I adopt as part of the judgment of this court is as follows:-

A. WHEREAS on 14th January, 2022; the **PLAINTIFF** instituted a Summary suit, say, Civil Case No.1 of 2022 in the High Court of the United Republic of Tanzania (Mtwara District Registry), at Mtwara, praying for judgment and decree against the Defendant for, inter alia, payment of **TZS.388,308,469.68** being unremitted statutory contribution amount and accrued penalty whereby **TZS.35,124,000.00** is principal amount and **TZS.348,184,469.68** is accrued penalty.

B. AND WHEREAS upon negotiation on setting the outstanding amount claimed to the Defendant; the Defendant requested for penalty waiver from the Plaintiff. The Plaintiff agreed to the Defendant's request and granted **81.4%** penalty waiver, which makes penalty outstanding to be **TZS.64,740,365.81** instead of **TZS.345,184,469.68**.

C. AND WHEREAS the Defendant has already paid principal amount of **TZS.5,000,000.00** and in amicable settlement entered with the Plaintiff; the Defendant agrees to pay **TZS.91,664,365.81** i.e. **TZS.26,924,000.00** being remaining principal contributions and **TZS.64,740,356.81** as outstanding penalty in (31) thirty-one installments from September 2022 to March 2025.

D. AND WHEREAS the parties herein have mutually agreed to settle their dispute on terms and conditions set out herein below and are desirous of recording the settlement in the Court and wish the recorded settlement be deemed a Decree of the Court.

F. NOW THEREFORE, in consideration of the promises and the mutual covenants, obligations, undertakings and agreements contained in this Deed of Settlement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto as set forth hereinafter, hereby **AGREE** and **DECLARE** as follows:-

ARTICLE I

1.0 SETTLEMENT:

1.1 That the Defendants shall pay the Plaintiff a total sum **TZS.91,664,365.81** (Tanzania Shillings Ninety-One Million Six Hundred Sixty Four Thousand Three Hundred Sixty Five Eighty One Cents Only) being the total outstanding contribution and accrued penalty.

ARTICLE II

2.0 MODE OF PAYMENT:

2.1 That, the amount of **TZS.91,664,365.81** referred at paragraph 1.1 of Article I herein above shall be paid in (31) thirty-one installments commencing from **September 2022 to March 2025** and as clearly provided in the repayment schedule herein below:-

Installment	Months	Principal Contribution	Penalty	Total
1 st	September,2022	TZS.2,000,000.00	TZS.1,000,000.00	TZS.3,000,000.00
2 nd	October,2022	TZS.2,000,000.00	TZS.1,000,000.00	TZS.3,000,000.00
3 rd	November,2022	TZS.2,000,000.00	TZS.1,000,000.00	TZS.3,000,000.00
4 th	December,2022	TZS.2,000,000.00	TZS.1,000,000.00	TZS.3,000,000.00
5 th	January,2023	TZS.2,000,000.00	TZS.1,000,000.00	TZS.3,000,000.00
6 th	February,2023	TZS.2,000,000.00	TZS.1,000,000.00	TZS.3,000,000.00
7 th	March,2023	TZS.2,000,000.00	TZS.1,000,000.00	TZS.3,000,000.00
8 th	April,2023	TZS.2,000,000.00	TZS.1,000,000.00	TZS.3,000,000.00
9 th	May,2023	TZS.2,000,000.00	TZS.1,000,000.00	TZS.3,000,000.00
10 th	June,2023	TZS.2,000,000.00	TZS.1,000,000.00	TZS.3,000,000.00
11 th	July, 2023	TZS.2,000,000.00	TZS.1,000,000.00	TZS.3,000,000.00
12 th	August, 2023	TZS.2,000,000.00	TZS.1,000,000.00	TZS.3,000,000.00
13 th	September, 2023	TZS.2,000,000.00	TZS.1,000,000.00	TZS.3,000,000.00
14 th	October, 2023	TZS.924,000.00	TZS.2,076,000.00	TZS.3,000,000.00
15 th	November, 2023		TZS.3,000,000.00	TZS.3,000,000.00
16 th	December, 2023		TZS.3,000,000.00	TZS.3,000,000.00
17 th	January, 2024		TZS.3,000,000.00	TZS.3,000,000.00
18 th	February, 2024		TZS.3,000,000.00	TZS.3,000,000.00
19 th	March, 2024		TZS.3,000,000.00	TZS.3,000,000.00
20 th	April, 2024		TZS.3,000,000.00	TZS.3,000,000.00
21 st	May, 2024		TZS.3,000,000.00	TZS.3,000,000.00
22 nd	June, 2024		TZS.3,000,000.00	TZS.3,000,000.00
23 rd	July, 2024		TZS.3,000,000.00	TZS.3,000,000.00
24 th	August, 2024		TZS.3,000,000.00	TZS.3,000,000.00

25 th	September, 2024		TZS.3,000,000.00	TZS.3,000,000.00
26 th	October, 2024		TZS.3,000,000.00	TZS.3,000,000.00
27 th	November, 2024		TZS.3,000,000.00	TZS.3,000,000.00
29 th	December, 2024		TZS.3,000,000.00	TZS.3,000,000.00
30 th	January, 2025		TZS.3,000,000.00	TZS.3,000,000.00
31 st	February, 2025		TZS.3,000,000.00	TZS.3,000,000.00
	March, 2025		TZS.1,664,365.81	TZS.1,664,365.81
	TOTAL	TZS.26,924,000.00	TZS.64,740,365.81	TZS.91,664,365.81

ARTICLE III

3.0 THE SETTLEMENT TO SERVE AS A DECREE OF THE COURT:

3.1 That, this Deed of Settlement shall, upon being filed in Court, have the same effect as a Decree duly made by the Court capable of being executed in the same manner as any other decree of the court: that in the event of default of any and/or the terms of this Deed of Settlement, then this Deed shall become enforceable as a Decree of the Court and the usual default clause shall apply.

3.2 That, this Deed of Settlement shall, upon being filed in Court, and upon payment of settlements sum stipulated in clauses 1.1 and 2.1 herein as well as the fact that the Defendants remain current in remittance of members' contributions, finally satisfies the Decree and shall have the same effect as an otherwise fully and finally satisfied Decree.

ARTICLE IV

4.0 THE DEFAULT:

That, the Consent Judgment carries the usual default clause.

ARTICLE V

5.0 COSTS:

That, all costs and expenses incurred in connection with the suit and/or this Deed of Settlement including, but without limitation to attorneys, accountants, financial advisors and Court fees and any other costs incurred by any of the parties herein shall be paid by the party incurring such expenses.

ARTICLE VI

6.0 GOVERNING LAW AND JURISDICTION:

That, this Deed of Settlement shall be governed by, and construed in accordance with, the law of Tanzania. Any dispute arising out of or in connection with, or concerning the carrying into effect of, this Deed shall be subject to the exclusive jurisdiction of the courts of Tanzania, and the parties hereby submit to the exclusive jurisdiction of those courts for these purposes.

ARTICLE VII

7.0 UNDERTAKINGS, REPRESENTATIONS AND WARRANTIES BY THE PARTIES:

The parties undertake, represent and warrant to the each other and acknowledges that they are relying on such undertakings, representations and warranties in entering into this Deed of Settlement inter alia as follows:-

7.1 That, the Defendants **undertakes to be current** in remittance of members' contributions in respect of the Defendant employees (if any) who are the Plaintiff's members without default at any time.

7.2 That, the Defendants have the authority and capacity to enter into this Deed of Settlement on its own behalf;

7.3 That, the Plaintiff has the authority and capacity to enter into this Deed of Settlement;

7.4 That, the execution and performance of this Deed of Settlement does not and shall not result into a breach of any provision of the Plaintiff or the Defendants applicable laws, regulations or agreements or obligations to which they are parties or by which they are bound.

ARTICLE VIII

8.0 MISCELLANEOUS PROVISIONS:

8.1 That, the parties agree that the terms of this Deed of Settlement shall be binding upon and inure solely to the benefit of the parties hereto and their respective successors in title and representatives and shall not be enforceable by or inure to the benefit of any third party apart from the Defendants employees who are the Plaintiff members.

8.2 That, no waiver of the breach of the terms of or any default under this Deed of Settlement shall be deemed a waiver of any subsequent breach or default or in any way affect the other terms of this Deed of Settlement.

8.3 That, this Deed of Settlement shall be effective on the date it shall be signed by both parties.

8.4 That, this Deed of Settlement has been executed by the parties duly authorized to negotiate and execute the same.

Order: Upon filing Deed of Settlement today 14th September 2022 and signed by both parties, Civil Case Number 01 of 2022 is marked settled. Decree of this court to be issued in terms of deed of settlement.

Each party to bear own costs.



A handwritten signature in blue ink, appearing to read "Z.G. Muruke".

Z.G. Muruke

Judge

14/09/2022

IN THE HIGH COURT OF TANZANIA AT MTWARA