

**THE REPUBLIC OF UGANDA**  
**IN THE HIGH COURT OF UGANDA**  
**CIVIL SUIT NO. 321 OF 2000**

SAGYIRI PROTASE TUMUSHABE ::::::::::::::::::::::::::: PLAINTIFF

**VERSUS**

SUGAR CORPORATION OF UGANDA LTD ::::::::::::::::::: DEFENDANT

**BEFORE: THE HON. MR. JUSTICE R.O. OKUMU WENGI**

**JUDGMENT:**

The plaintiff, a former employee of the defendant, brought this suit to recover shs 12,164,580 as unpaid wages. He also wants general damages for what he calls wrongful suspension and costs of the suit. The defendant denied liability, pleaded a counterclaim for shs 876,719/=-, but later withdrew it. At the trial the following were agreed as facts, namely:-

1. The plaintiff was an employee of the defendant as a Purchase Clerk as from 22/3/1989.
2. He was dismissed on 15/4/1993.
3. He was reinstated on 12/4/1994
4. He was suspended on 5/5/1994 on allegations of threatening the life of one of defendants the Managers.
5. In 1996 he was paid some money by the defendant.

A number of exhibits totaling to 16 (P1 – P16) were admitted to support the plaintiffs case while the defendant presented two D1 – D2. The trial proceeded with each side calling one witness on the four issues framed as follows:-

1. Whether the plaintiffs suspension was lawful.
2. Whether the plaintiff suffered loss and damage and if so how much
3. Remedies.

On the first issue the plaintiffs evidence is that he was wrongly suspended as he never committed the offence and further still the terms of his suspension were indefinite and in fact led to a termination of his service without an investigation. He denied receiving a letter inviting him to attend an investigation committee. In answer the defendants witness Twesigye Nixon (DW1) told court that he joined the defendants employ in October 2001 namely long after the plaintiff had ceased to work for the defendant. He testified from knowledge of the contents of the plaintiffs file.

Having examined the evidence on the whole and the submissions of counsel I am unable to say that the suspension of the plaintiff by the defendant was unlawful. I think it was by all means lawful whether or not there was no person designated as the materials Manager whose life was allegedly threatened by the plaintiff. It could be described as a cooked up reason for or an unreasonable ground for suspension but the suspension being also an agreed fact was lawful. The first issue is therefore answered in favour of the defendant.

On the second issue there is evidence that the plaintiff was eventually eased out of the defendants employment. He may have been otherwise seen as a menace but the fact is that he lost his job. The investigation leading to the plaintiffs being deserted aborted, and, typical of a difficult worker, the plaintiff kept out of sight and denied ever being at his last known address. After evaluating the evidence and submissions of both counsel I can say that the plaintiff lost his employment, the charge of threatening violence, having not been proved against him. No issue of unlawful dismissal was framed but in all fairness the plaintiff should be allowed to recover some benefit as he was not entitled to an outright dismissal leave alone the technical desertion. I would allow him to recover salary for the period of January 1993 to May 1994 which according to his own evidence is shs 1,113,598. He can also be paid transport claim of shs 385,509. The total award is shs 1,499,107/=. I do not award him any general damages as he opted by inaction to hide himself from his own address or from any effort to resolve his suspension. He later used this stubborn streak of hide and seek to claim all round arrears that in my view he is not entitled to. The above sum will attract 10% interest from the date of this Judgment as prayed for. The plaintiff can also recover costs of this suit which can be taxed.

R.O. Okumu Wengi

**JUDGE**

21/5/2004.

**30/6/2004**

Mulira for Defendant  
Himbaza for Plaintiff

**Court:** Judgment read.

**Sgd by:** Namundi Godfrey  
**D/REGISTRAR.**