

**THE REPUBLIC OF UGANDA**

**IN THE HIGH COURT OF UGANDA AT KAMPALA**

**CIVIL SUIT NO. 212 OF 2003**

**RUTH MOLLY O. LEMATIA :::::::::::::::::::::::::::::: PLAINTIFF**

**VERSUS**

**ATTORNEY GENERAL :::::::::::::::::::::::::::::: DEFENDANT**

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

**JUDGMENT:**

The plaintiff, a former commissioner for Business, Technical and Vocational Education (BTVET) in the Ministry of Education sued the Attorney General for wrongful dismissal from the Civil Service. She also claimed general and punitive damages. In her plaint she stated that her services were brought to an end when she was interdicted in 2001 and later dismissed by order of the President in 2002. She contends that in the process the due process was not followed, as a charge of failure to perform was unjustifiably labeled against her, she was denied legal representation and was

not told of the outcome of an unfair inquiry against her. The defendant denied the allegations and stated that the plaintiff was not entitled to the remedies sought. At the trial the following facts were agreed upon, namely:-

1. The plaintiff was a public servant in the capacity of commissioner for BTVET.
2. She had worked in the Public Service for 33 years.
3. She was interdicted and later dismissed from the public Service.
4. A Committee of Inquiry was set up to review her case.
5. As a result of dismissal she was not paid any benefits.

Thereafter six documents were admitted and exhibited marked as exhibits P1 to P6 as follows:-

1. Dismissal letter of 3/4/2001
2. Interdiction letter of 11/5/2001
3. Letter recommending retirement in public interest dated 17/5/2001
4. Letter from Committee of Inquiry dated 16/11/2001.
5. Terms of Reference of Committee of Inquiry.
6. Letter of PS dated 24/8/2001.

Two issues were then framed for the trial during which the plaintiff called two witnesses one of whom was the plaintiff herself. The issues as framed were:-

1. Whether the plaintiff interdiction and dismissal was lawful.
2. Remedies.

On the first issue, the plaintiff told court:-

“The reasons for interdiction were that I grossly abused office and had practiced conflict of interest. I was not investigated by the Police for the offences. Not even IGG. In between interdiction and dismissal from May I sat at home.”

The plaintiff was thus put on a very long period of interdiction. A new reason for the interdiction also cropped up in exhibit P.3 i.e Failure to perform. In this context the plaintiff complains that when a committee set up to inquire into her conduct sat as stated in exhibit P4 she was not allowed legal representation. She also complains that what took prominence at the inquiry was a charge of failure to perform. At the end of the inquiry, the plaintiff told this court, she was not given the results of the inquiry. She told court that, if any thing, her performance had been good and that she had not been reprimanded over it before. For instance, according to her, she had produced a strategic plan for the department. This issue seems to have caused undue concern in the ministry. The plaintiff had been tasked to head a new section

that had been set up and higher authorities demanded action in operationalising it. The Minister of State was in need of a plan for absorbing new UPE graduates and needed a strategic plan that would transform existing institutions into community polytechnics sooner than was the case. The plaintiffs case is that she had been in the new section for 6 months when the political head expressed dissatisfaction over the delay to come up with the much sought after strategic plan. It is her case that she was caught up in this stampede for the much needed strategic plan to meet a political ideal and that she did deliver it but not in time to stem off the building impatience if not the demand for its immediate production. According to the plaintiff, despite having been confirmed in her higher position the preceding impasse over the near magical strategic plan or delay with it soured her name altogether. She faced stiff executive rejection and isolation.

It is even possible that she had been unequal to the task then demanded of her but yet her seniors did not provide the much needed plan either. She did. This is her case. The subsequent rejection stand off then deteriorated into an interdiction and eventual dismissal. And she does not know why and how this all happened. Indeed the plaintiff had risen from a lowly rank of a nursing officer grade II after O-level. She had undertaken a health Tutors course and garnered a higher diploma in medical education and a certificate in Health Management. The “humble” plaintiff also held a diploma in family planning and a certificate in primary

Health Care. She eventually got what she called a double masters degree in Community Health and Management as well as oncology from Case Western Reserve University, Cleveland Ohio USA. It is this person who was positioned where an urgent strategic plan to absorb mass UPE graduates through transforming existing traditional vocational education institutions into community polytechnics was to emerge from. She then headed a motely group of other education bureaucrats that had been banded together to form the new creative BETVET section in the ministry of Education. She told court that she eventually submitted a plan even if was a tortured one. Any hiccup in the process of its evolution was, to be her waterloo. After a tense period of rejection, the plaintiff was faced with disciplinary proceedings. She was even misunderstood on the fact that her response to certain accusations were not on time whereas it was duly delivered on 29/5/2001 before the deadline of 31/5/2001. And at the end the plaintiff ends her sob story:-

“When dismissed I was given nothing. Not even transport money to take me back to my home area in Arua district. My job was permanent and pensionable since 1970. I was not given anything. No gratuity, no pension. I walked out. I handed over all things. I walked out after 5 p.m. after I had put things in order. I also brought in a handover report. They had even got the strategic plan... I worked for Uganda

Government for 33 years. I thought I would come out with a clean record.”

The plaintiff sounded misplaced and misjudged when she was promoted into a position that required a versatile and interdisciplinary professional. She reminisced on her glorious days at the ministry of Health where her jumble vocational courses accumulated. She went on:-

“In Ministry of Health I left a clean record and I was appreciated. I made great progress and I got opportunity to advance professionally. [Here] I lost all – I never got gratuity I lost pride to retire as a civil servant with a clean record...”

The plaintiff maintained that she was mandated to start a new section which became the largest in the Ministry, banding together almost 100 vocational institutions into one. The technical institutions were from business schools, technical schools. (Vocational education), ministry of Health Institutes and Schools in Lands and Survey, Labour and Agriculture ministries. She stated:

“Producing a strategic plan involved my understanding of all these training Institutions ... Community Polytechnics which are an entirely new concept... [meant] to absorb UPE graduates. They [polytechnics] were supposed to be 910 in

all. This means I should know all. I submitted my first draft of strategic plan in August 2000. I had reported in October 1999... I did the plan with the help of people in the ministry. I also got help from a hired consultant from NARO.

The plaintiff went on to tell court how she was thwarted and denied a proper opportunity to defend herself. She was also not given a copy of the findings of the committee of inquiry. Her husband, a rather milder man, given the inner strength exuded by the plaintiff, who nevertheless played the lamb during her testimony, gave evidence as PW2. He told court that he and their son Patrick had been barred from standing by the otherwise assertive plaintiff during the inquiry. He also told court that the lawyer of his wife was equally barred.

From the evidence on the record I am able to say that the plaintiffs interdiction and her eventual dismissal was tainted with salient irregularity. The rather long interdiction of the plaintiff was oppressive and the inquiry committee process was not above board and seems to have been influenced by extraneous issues such as the plaintiffs' possibly disagreeable tendency to flex socially unexpected assertiveness. The committee shunned her lawyer outright and appear to have inquired her with a set mind and probable prejudice. Perhaps the plaintiffs own circumstances could have resulted in prejudice real or imagined; she could have even felt that being from West Nile, being a woman, and having

risen from a lowly nurse to a commissioner could have been a disadvantage. This could have led to some aggressiveness. But our law envisages equal protection and outlaws rejection founded on discrimination of otherwise. I am able to say that the dismissal of the plaintiff in this case and in the absence of any explanation was manifestly unlawful and oppressive. See: **Wycliffe Kiggubdu vs. Attorney General** Civil Appeal No. 27 of 1993 (S.C). I will accordingly enter judgment for the plaintiff against the defendant and order her to be compensated in terms of arrears of salary, lunch, transport and medical allowance for 5 years 7 months; Gratuity and pension in accordance with her entitlements and costs of this suit. Interest will be chargeable on the money awards (excluding gratuity and pension) at 12% from 23<sup>rd</sup> September 2003 till payment in full.

**R.O. Okumu Wengi**  
**JUDGE**

**12/10/2004.**

**12/10/2004**

Carol Mayanja for Attorney General

Rwaganika for plaintiff

Plaintiff present

Senabulya Court Clerk.

Judgment read in the presence of above persons.



**R.O. Okumu Wengi**

**JUDGE**

**12/10/2004.**