

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT MBARARA

HCT-05-CV-MA-103-2004

BUNTU ZABULONAPPLICANT

VS

1 .MBARARA LOCAL GOVERNMENT COUNCIL)

2. MBARARA DISTRICT SERVICE COMMISSION)RESPONDENTS

BEFORE: THE HON. MR. JUSTICE P. K. MUGAMBA

RULING

This is an application for judicial review. It comprises a Notice of Motion, an affidavit deponed to by the applicant and a statement. It is brought under section 38 of the Judicature Act as amended by Act 3 of 2002.

Counsel for the respondent has raised ii preliminary objection arguing that the application should be struck out on the ground that it discloses no cause of action; an objection contested by counsel for the applicant. The arguments of the respective counsel are contained in written submissions which I opt to sidestep for now given the imperative of section 38 (7) of the Judicature Act which provides:

‘An application for judicial review shall be made promptly and in any case within three months from the date when the ground of the application arose, unless the court has good reason for extending the period within which the application shall be made.’

The emphasis above is added.

The pleadings refer variously to the dismissal of the applicant and the retirement of the applicant. Yet there is no date shown when such termination, if any, was effected. Indeed there is no evidence of it. Such a date should be certain in terms of section 38 (7) of the Judicature Act in order for there to be certainty of whether the application has been processed within the stipulated period. Assuming for the sake of argument that the ground of the application arose on 11th August 2003, the date when the applicant last contacted the Principal Personnel Officer, in 2004

when this application was finally registered it was past the period stipulated by S.38 (7) of the Judicature Act. There exists no reason for entertaining such an application.

Consequently I find the application incompetent and strike it out with costs.

P. K. Mugamba

Judge

13th July 2005