

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
CIVIL DIVISION
MISCELLANEOUS CAUSE No. 279 OF 2013

1. ADAM MUSTAFA MUBIRU }
2. IRENE WALUBIRI } ::::::::::::::::::::::: APPLICANTS

VERSUS

LAW DEVELOPMENT CENTRE ::::::::::::::::::::::: RESPONDENT

BEFORE HON JUSTICE NYANZI YASIN

RULING:

1. The two applicants here are employees of the Law Development Centre which is the respondent. The 1st applicant was confirmed in the employment of the Law Development Centre on 20th September 1994 and accordingly became pensionable with effect from the date of her appointment.
2. The two have since that time worked for the respondent till the recent developments that resulted into the institution of this cause. Those developments were that on 28th January 2013 the Secretary of the respondents through an Internal Memo communicated to the Administrative staff the decision of the Law Development Centre Management Committee to

implement phase II of the restructuring exercise. It is annexure “F” to the motion.

3. The 28th January Memo from the Secretary of the respondent was quite detailed and gave 10 personnel related directives with Serious implications but one cannot miss to state the first one. It stated:

***“All administrative staff on permanent and pensionable terms should have their services with Law Development Centre terminated and they will be required to reapply or voluntarily retire.*”**

4. The communication stated that the restructuring exercise was being conducted under the new Standing Orders that had been approved by the Management Committee.
5. On the 26th March 2013 the two applicant had their services with Law Development Centre terminated under the above exercise. (See annexure “G” and “H” the motion). The letter of termination notified the applicants that their permanent and pensionable employment with Law Development Centre had ceased with effect from 1st July 2003 when notice of 3 months would expire. It added that under the new Standing Orders all staff of Law Development Centre are to be employed on contract.

6. The applicants were part of the 48 staff member whose services were terminated. They felt aggrieved by the terminations and challenged it by commencement of this application. The application was brought by way of Notice of Motion. It is brought under S. 38 of the Judicature Act and SI 11/2009 – Judicial Review Rules.

7. The applicants sought from this court the orders below as the same were stated in the motion in that:

1) An injunction do issue restraining the respondents..... its agents, servants Worker men, Consultants or any other person or body/entity deriving authority from it from illegally terminating the applicant from employment at the respondent's Institution.

2) A declaration issues that if the applicants are to be terminated they are entitled to the following:

i) *The balance of their monthly salary until they reach retirement age.*

ii) *Full pension benefits.*

iii) *Payment of their National Social Security Fund contribution.*

iv) *Payment of revised earned leave.*

v) *Severance pay.*

vi) *Transport allowance to Districts of origin.*

8. At the hearing of this cause learned Counsel Peter Walubiri represented the applicants while learned Counsel Tibaijuka Ateenyi acted for the respondent. The two learned advocates made very lengthy submissions and treated this matter as very involving which it actually was. However this court would need to pronounce itself on propriety of making the second prayer stated above and its being dealt with by the court.

Before I do so let me first restate the well known principles guiding me in matters of Judicial Review.

9. Judicial Review proceedings are special court proceedings resorted to for a purpose. My Lord V.F. Musoke Kibuuka stated that purpose in Misc. Cause No. 78 of 2009 Peter Appelli & 5 ors Vs The Permanent Secretary Ministry of Lands Housing & Urban Development. He said:

“Judicial review is a process through which the High Court exercises its supervisory jurisdiction over the proceedings and decisions of the inferior Courts, tribunals and other public bodies or persons who are charged with the performance of public acts and duties. Pius Niwagaba Vs. Law Development Centre, Civil Appeal No.18 of 05.

In deciding a judicial review application, the court is not concerned with the merits of the decision in respect of which the application is made. It is more concerned with the lawfulness of the decision making process. The court is more concerned with

whether the decision constituting the subject matter of the application for judicial review was made through an error of law, procedural impropriety, irrationality or outright abuse of jurisdiction generally”.

Also see *Council for Civil Service Union & ors Vs Minister for Civil Service 1984 ALL ER 935.*

10. The above being the nature and purpose of Judicial Review

Proceedings, I have to apply the same to the proceedings and pleadings before me particularly the pleadings in the prayer for the declaratory order.

11. I have looked at the pleadings and the affidavit evidence in

support of the application. In paragraph 15 of the application 1st applicant's affidavit: support and 16 of the 2nd applicant. It is complained that the terminal benefits to be paid to the applicants are grossly unfair, unjust and inadequate. These are the benefits in declaratory prayer.

12. The above complaint to be from the evidence does not relate

to the way the decision was arrived at but related to the decision itself. It is complained that the amount is inadequate that relates to the substantive right of the applicants as to how much they should get. It is being sought for this court to declare that the applicant be adequately and fairly remunerated. Such are not the powers of court in Judicial Review. Courts do not here question the decision but the process of making that decision.

13. All the evidence in the affidavit and the submission of Mr.

Walubiri related to the substantive claim and a rights of his clients to:

- Balance of *monthly salaries till retirement*.
- *Full pension benefit*.
- *National Social Security fund contribution and others being entitled to*.
- *One needs also to look at the ground supporting the application particularly grounds 2 and 3*.
- *Ground 2 related to uncompleted contribution to National Social Security Fund by Law Development Centre for the applicants. In effect court will deal with the issue of unpaid part of the contribution which is the decision and not the decision making process*.
- 13 (b) Ground 3 deals with terminal benefits which is paid grossly unreasonable. This also does not relate to process of decision making but the decision itself.

14. My view is that this court would be in error if it went ahead

to declare whether by particular award is adequate or inadequate or whether the applicants are to be paid for the rest of their work period till retirement age in a judicial review cause. This court could on review the process in which a decision relating to those entitlements was made not the decision itself. In Judicial Review court does not replace the decision maker.

15. For those reasons the pleadings and submissions on the

declarations that were sought from this court are struck out. Court will proceed to consider the submissions on the order of injunction.

16. The motion cites this application to have been brought under

S. 38 of the Judicature Act and the Rules of the Act on Judicial Review SI 11 of 2009. S. 38 (1) appears to be the applicable section of this motion. It provides:

“(1) The High Court shall have power to grant an injunction to restrain any person from doing any act as may be specified by the High Court.” (Emphasis added).

Any person & any act

17. S. 38 (1) being not applicable section here, means that Rule

3 r 2 (a) (b) and (c) of the Judicature (Judicial Review) Rules 2009 (SI 11/2009) is applicable to this motion a matter of procedure.

18. The gist of Rule 31 (2) (c) (b) and (c) is that an application for an injunction (a lot being an injunction mentioned – sub rule (1) (b) can be made by way of Judicial Review and the High Court may grant the injunction and the High Court may grant the same if it considers that it would be convenient for the injunction to be granted.

19. Under Rule 3 above for the court to decide whether or not it is convenient to grant the injunction it does so having regard to the provisions of Clause (a) (b) and (c) of the sub rule 2 of Rule 3.

Regard is given to the nature of matters where relief may be granted for orders of mandamus prohibition or certiorari, the nature of the person or body against which/whom the order is sought and all circumstances of the case. I must say both counsel helpful in conforming to that Rule in their submissions as far as the prayer for injunction is concerned.

20. The motion stated in ground one that the applicants were employed on permanent and pensionable terms and they could not be summarily terminated before they reach their retirement age.
21. Learned counsel for the applicants argued that for Law Development Centre to do so would be illegal, unfair and unreasonable. In addition to the above argument Mr. Walubiri added that there was no procedure being followed by the respondent in the process of termination as claimed as according to him the New Standing Order or old never lawfully existed.
22. On the question of the applicants being permanent and pensionable Mr. Walubiri argued that the applicants being such staff, they are protected by Article 173 (b) of the Constitution of Uganda as Law Development Centre is a public body created under the Law Development Centre

(Cap 173 (b) of the Constitution it is provided that a public officer cannot be removed from office or reduced in rank without a just cause.

23. He referred this court to the decision in CA No. 49 of 2005 ***Bank of Uganda Vs Betty Tinkamanyire*** where the Court of Appeal held that on similar facts that her removal from office was unlawful and oppressive.

24. He also relied on ***Fr. Francis Bahikirwe Muntu & 15 ors Vs Kyambogo University HC Misc. Cause No. 643/2005.***

Here the University directed all staff to re-apply for jobs to be re-employed on new terms. Yet many of them were on permanent and pensionable terms. Kasule J (as he then was) held that the decision was illegal for violating Article 173 of the Constitution of Uganda.

25. Learned counsel concluded that the termination of the applicants' service was illegal. He concluded that the only option Law Development Centre had as an employer would be to put in place a voluntary retirement schedules for early retirement. He cited CA No. 3 of 1998 ***Bank of Uganda Vs Fred William Masaba*** to support that reasoning.

26. In reply on the above submission Ateenyi Tibaijuka learned counsel for the respondent body disagreed that the Law Development Centre could not terminate the applicants' employment. He reasoned to the

contrary that the applicants are not protected by Article 173 as the same does not apply to them.

27. In the opinion of Mr. Tibaijuka the respondent could lawfully terminate the applicants' employment in three ways. He argued the first way to be under S3. S 24 . S. 100 (2) and (3) of the Employment Act 2006. That under S. 24 of the Act the applicants' contract of service was deemed to be under the act and since the Act is applicable the contract could be terminated there under.

28.I must quickly comment that the evidence available does not support his reasoning. The communication from the Law Development Centre Secretary to the administrative staff was clear. On how the service/employment of the applicants was being ended see the contents of annexure "F" and "G" to the affidavit of the 1st applicant. No reference was made to the Employment Act 2006.

29.Mr. Tibaijuka also argued that the same contract would be ended, the Law Development Centre Act (Cap. 132) under Ss 17 and 18 read together with S. 24 of the Interpretation Act .

I do not accept this reasoning for the same reasons I gave in paragraph 28 of this judgment.

30. In specific reply to Mr. Walubiri submission on the termination of the applicants' service as public officers who are protected by Article 173 Mr. Tibaijuka spiritedly argued that the Article relied on avails the applicants no remedy. For reasons of clarity I will reproduce the relevant part of Mr. Tibaijuka's submission. He argued and stated;

“Article 173 (b) of the Constitution does not cover the applicants they are not public officers under that Article. Article 173 (b) is under Chapter 10 of the Constitution where Article 175 defines the term “public officers”. That subjected to Judicial interpretation by the Supreme Court. In Uganda Revenue Authority Vs Ojok [1999] 2 EA 341 (SCU). The Supreme Court construed the meaning of Public Officer to exclude Employees Statutory Corporations. That case was applied by the High Court in William Mukasa Vs URA 2007 KALR 581 where court referred to great the Employees of URA as Public Officers.

Mr. Walubiri referred to B.O.U Vs Tinkamanyire but it was a Court of Appeal decision. The same case finally went to the Supreme Court as Bank of Uganda Vs Tinkamanyire [2009] 11 EA 66. The Supreme Court did not give any special consideration to the respondent's status. On the contrary the Supreme Court adopted its earlier decision in Barclays Bank of Uganda Vs Godfrey Mubiru C.A No. 1 of

1998 where the same principles applicable to private employer/employee relationship were applied.

Similarly the authority of Fr. Bahikirwe Muntu & ors Vs Kyambogo University (supra) referred to by Mr. Walubiri was decided per incuriam since it did not consider the Supreme Court decision in URA Vs Ojok's case the Supreme Court limited itself to Chapter 10 of the Constitution. I submit that the same interpretation of a "public officer" applies to the rest of the Constitution. Under the Interpretation Article of the Constitution Clause (i) (w) (x) & (y) all give the same Interpretation of a public officer as Article 175 does. So Article 173 (b).

It is also a contradiction that the applicants are seeking protection of Article 173 (b) of the Constitution which in turn exclude them from the provision of the National Social Security Fund Act particularly having regard to S. 1 (l) and Clause 7 to FIRST SCHEDULE to NSSF Act. Those provisions give excepted employment for the purpose of NSSF Act. If the applicants are public employees then they cannot make claims under the NSSF Act as they would be expected.

31.I listened to both submissions of the learned Advocates and

entirely agreed with Mr. Tibaijuka for the respondent for the reasons he gave

I was persuaded to believe that the applicants are not public servants who

can see the application and protection of Article 173 of the Constitution of Uganda.

32. I was particularly persuaded by submission on..... and bound as I must be by the Supreme Court position stated in the ***URA Vs Ojok (supra) and B.O.U Vs G. Mubiru*** (supra). Both the Bank of Uganda, URA & LDC are all created by Acts of Parliament. If the employees of the Bank of Uganda and URA are not public officers under Article 173 then those of LDC equally cannot be.
33. It was also very persuasive for Mr. Tibaijuka to argue and I believe bounded on affidavit evidence that the applicants are beneficiaries of a NSSF contribution from both their pay and that of the employer. If they were to be public officers such would not be the case. For those reasons I believed the applicants are not public officer to be protected by Article 173 of the Constitution.
34. Mr. Walubiri advanced another reason to establish the ground of illegality for the injunction to issue. It concerned the existence on non existence of valid Standing Orders. For reasons of clarity I will reproduce the relevant part of Mr. Walubiri's submission.
35. He stated:

“There is a second speech of illegality. Even if the respondent could restructure and terminate the applicants’ service it had to do so in accordance with its own procedure as prescribed by the Law.

Under S. 32 of the Law Development Centre Act the respondent is supposed to make Standing Orders to provide for issues of salary structure, appointment, discipline and dismissal, pension, gratuity and other payments for retirement, Rules for any fund or pension etc.

Under S. 32 (2) Standing Orders relating to salary structure, provision for pension and other benefits are subject to prior approval of the Minister responsible for finance and all other Standing Orders made under the subsection shall be subject to prior approval by the Attorney General.

..... *The new Standing Orders have never been approved by the Minister of Finance one cannot make any payment under the new Standing Orders which are not approved by the Minister of Finance. The first circular refers to the new Standing Orders. See annexure “7” to the affidavit in support of the 1st applicant. (it Read annexure “K” and “L” to the affidavit of the 2nd applicant).*

When the Law Development Centre realized it would be illegal to use the not approved Standing Orders they turned around and said they are using the existing Standing Orders were not approved by the Attorney General but the Minister of Justice and Constitutional Affairs. Restructuring would require prior approval by the Attorney General under S. 32 (2) LDC Act. In absence of that approval the exercise was illegal. See the case of Kulo Joseph Andrew Vs Attorney General & 6 ors Misc. Cause No. 106/2010, where Bamwine J (As he then was) held that if the procedure that is laid down is not followed the decision made is null and void.

Here the LDC Act enables the centre to employ, pay and retire staff but in accordance with the Standing Orders made under S. 132 of the Act.

The Standing Orders give the terms and conditions and must be approved by the Attorney General. The restructuring under the 2003 Standing Orders whose effect is to change the terms and conditions of service for the applicant is null and void for want of approval by the Attorney General.

36. In reply to the above Mr. Tibaijuka understood the applicant to be saying that both the new and old Standing Orders are illegal. He called this shooting one's self in the foot by the applicants as they cannot pursue their clauses unless they prove they are valid Standing Orders in place. He

added that given Mr. Walubiri's argument court is left with no basis on which it can make the decision one way or the other. That what court can do best is to refuse to intervene in the dispute. He referred court to the case of *Republic Council of Legal Education 2007 Electronic Kenya Law Report Misc. Cause No. 137/2004* where no rules existed upon which to decide the matter and court declined to intervene.

37. He argued that in the present case the applicants have

letters of appointment, confirmation, promotion and for the 1st applicant, transfer from one department to another. Their dates of appointment are for the first applicant 1989 and 1991 for the 2nd applicant. All these letters show that the decisions were subject to LDC Standing Orders. If the applicants argue that the Standing Orders are null and void it means that the applicants were illegally employed by the respondent. That that is the reason why it is in the best interest of the applicant to come out clear and concede that the respondent's Standing Orders are valid.

38. He further referred court to the authority of *Rex Vs Askew [1968] Vol. 98 ER 139 at page 141, 146 and 149*. In that case the challenge by-laws formed the ground on which the applicant's claim would stand. At page 14 the Judge reasoned:

“Dr. Letch cannot dispute these by-laws. This point is not open to him. For without them he has no ground to stand upon..... Therefore he is under a necessity upon this application, to allow the by-laws to be good.”

39. Mr. Tibaijuka then concluded that the applicants accepted employment with Law Development Centre on the understanding that her employment was subject to Law Development Centre Standing Orders, then, cannot turn around and claim that the same Standing Orders are null and void.

Mr. Tibaijuka made the above submission in respect of the 2003 Standing Orders.

40. In respect of the new Standing Orders he argued that the evidence before court was that the restructuring is being made under the 2003 Standing Orders and not the new one. He referred court to paragraph 3 of annexure “C” of the first applicant’s affidavit in rejoinder.

That it is therefore of no consequence that the new Standing Order have no approval of the Minister.

41. Mr. Tibaijuka defended the signing of the 2003 Standing Orders but by the Attorney General. He submitted that under S. 32 of the LDC Act in so far as Standing Orders relate to payment of salary and other matters the Attorney General’s approval is not necessary therefore approval by the Minister of Finance was enough.

42. As court I must quickly say this is wrong. I agree with Mr. Walubiri that the restructuring concerned the whole employment and termination relationship. It was termination first, and then payment. I reject this particular argument right way but without prejudice to the others to be decided later.
43. The respondent's advocate further defended the 2003 Standing Orders by arguing that the administration of LDC is largely influenced by the Attorney General under the Act. He cited S.7, S.10, S. 17 (1) S. 8 (2), S. 12 & 24 of the Act to support his reasoning. He concluded that it would be unreasonable to say that the Attorney General is not aware of the existence of Standing Orders of 2003 where under the law he gets annual reports from Law Development Centre. See rule 24 of the Act. For those reasons he concluded that the requirement for approval under S. 32 is a mere formality.
44. On the need for or no need for the Minister's approval under a Statute he referred court to *NIC Vs NSSF 2004 KALR 652* where Kibuuka Musoke J held that approval by the Minister does not confer any powers to the Minister. Equally here that the absence of the Minister's approval did not matter.
45. On the use of the word "shall" in S. 32 (2) counsel argued that it was directory and mandatory. He referred court to the case of *R vs Mitha*

[1961] 568 at page 569 & Catholic Diocese of Moshi Vs Attorney General [2000] 1 EA 25 and Twinomugisha Pastori vs Kabale District Local Government Misc. Cause No. 152/2006.

46. In reply on *Kuluo Joseph Vs Attorney General* supra counsel submitted that the case was distinguishable on several grounds.
47. Court took particular interest in the ground and listened to the submission of both sides. They were also given the due regard they determined in consideration.
48. The first concern for court is evidential. What is the evidence that is available before court. The issue then would be under that Standing Orders was the contested restructuring carried out.
49. I will refer to the relevant affidavit evidence together with the annexures attached thereto in order to answer this important question in this whole case. First is annexure “F” to the first applicant’s affidavit. For reasons of emphasis I will reproduce the first paragraph of Law Development Centre memo to Law Development Centre administrative staff dated 28th January 2013.
50. In the memo as above referred to the Secretary stated:

“As you are aware phase I of the restructuring exercise was effected 31st December 2011. The Law Development Centre Management Committee in the meeting held on 29th

November 2012 considered phase II of the restructuring exercise at the Law Development Centre (LDC). The new Standing Orders have been approved by the Management Committee and Law Development Centre is to implement phase II of the restructuring exercise under the approved Standing Orders. (Emphasis added).

51. Bullet four of the memo in annexure “F” stated

- *Terminal benefits will be paid by 1st July 2013 in accordance with the current Standing Orders before re-engagement.* (Emphasis added).

52. Annexure “G” to the affidavit of the first applicant stated as follows:

“The Law Development Centre (LDC) Management Committee approved phase II of the restructuring exercise. All staff of Law Development Centre are to be employed on contract terms under the new Standing Orders.

.....
.....
.....
.....

Law Development Centre will pay all your entitlements in accordance with S. 34 (1) (b) and 34 (2) of the LDC Standing Orders” (Emphasis added).

53. S. 34 (1) (b) of the old Standing Orders (2003) refers to payment of terminal benefits on (b) Termination of the employee's service as a result of restructuring the Centre.

54. Annexure "H" to the affidavit of the 2nd applicant stated in paragraph 1 as below:

"The Law Development Centre Management Committee approved phase II of the restructuring exercise. All staff of Law Development Centre are to be employed on contract terms under new Standing Orders."

55. Like annexure "G" S. 34 (1) (b) of the Standing Orders would apply to the 2nd applicant.

56. There is evidence from Law Development Centre itself given by the Secretary on oath and the Director in correspondence. This evidence follows below (a) In paragraph 5 of annexure "C" to the affidavit of the 1st applicant the Director of Law Development Centre wrote:

"The notice of termination issued to our staff does not make any reference to "new Standing Orders". The ongoing exercise is being carried out under our existing Standing Orders which apply to all staff unless and until they are revoked. (Emphasis added).

57. The truth is the memo from Law Development Centre Secretary and the Termination letters from the Director in annexure "G" and "H" as quoted

referred to the “new Standing Orders. Secondly there is no way any payment would shown under S. 34 (1) (b) of the old Standing Orders with using the new Standing Orders. Yet the two termination letters clearly informed the applicants that they would be paid as a result of restructuring.

58. Another contradictory affidavit evidence is given by the Secretary in her affidavit in reply filed on 20/06/2013 in paragraph 8 thereof. It is deponed on oath that

“8 The respondent’s right to terminate the service of her employees is not pegged on the existence of Standing Orders, old or new. (Emphasis added).

59. If the above is true one wonders why the memo and the termination letters did not say so and instead referred to the approved Standing Orders under which phase II of the restructuring exercise was being conducted.

60. It also surprises for the Secretary to so depone as above. My understanding is that it is the Standing Orders whether old or new that state in how the service would be terminated and the result of such termination. In other words rights of the employees whose services are terminated.

It forms part of the contract of service in my view. There is evidence from the respondent itself to support that conclusion.

61. I will take example of the annexures to the first applicant’s affidavit as:

- i) *Annexure “A” - Temporary Appointment.*
- ii) *Annexure “B” - Offer of Appointment on probation.*
- iii) *Annexure “C” - Confirmation letter.*
- iv) *Annexure “D” - Promotion letter.*
- v) *Annexure “F” - Memo for restructuring.*
- vi) *Annexure “G” - Termination letter.*

All referred to the Law Development Centre relationship of employment with the applicants to be subject to Standing Orders. The correspondences range between August 1989 to 20th March 2013 a period of 24 years. From that evidence it cannot be said that the Law Development Centre had any other way of terminating its relationship with the applicants without reference to the Standing Orders.

62. Secondly the Standing Orders of 2003 themselves provided for details of employment relationship including terminal benefits the relevant section apart from S.14 on appointment to S. 36 dealing with death. Particularly relevant to the issues were S. 35 dealing with retirement. From the provisions of the Standing Orders of 2003 attached as annexure “D” to the Secretary’s affidavit it would be an error to depone that the Law Development Centre had another way of terminating the relationship other than by reference and application of the Standing Orders.

63. In all the affidavit evidence available it is not denied that the new Standing Orders are not yet approved by the Minister for Finance. Yet the burden to bring to court approved new Standing Orders fell on the respondent more than on the applicants. See S. 101 and 102 of the Evidence Act.
64. It is like by the court as an admitted fact that by the 26th March 2013 when the Director of Law Development Centre communicated utters of termination to the applicants, there were no approved Standing Orders by the Minister of Finance. The Director himself made all efforts to ensure approval. These efforts are contained in the Director's letter to the Hon. Minister for Finance in annexure "K" dated 29th January 2013 and "L" dated 9th May 2013 to 2nd applicant's affidavit. Yet termination letters were signed and issued as early as 26th March 2013.
65. Learned Counsel Ateenyi for the respondent tried to down play the approval of the Standing Orders by the Minister or Attorney General. He cited the case of *NIC Vs NSSF* (supra) to this court. The rule in the case is true but to me it is not of general application. For example here in annexure "L" to the affidavit of the 2nd applicant. The Secretary gave details which explain that approval by the Minister of Finance is not a mere formality. She stated in paragraph of the letter as follows:

“Standing Orders were sent to your Ministry for signing. We are sending additional information as requested by your officer handling the matter concerning the financial application of the Standing Orders.”

66. The same letter went on to state the annual budget of Law Development Centre to be shs.6,798,000,000/= including an annual wage bill of shs.3,107,589,912/=. It is stated that the government for that matter Ministry of Finance funds the wage bill by 100%. In such circumstances I am unable to agree with Mr. Tibaijuka that the Minister’s approval of the Standing Orders were a mere formality. It was not. The approval was required for budgetary reason as the letter shows. That is why the Minister asked for financial application before approval.
67. For the reason that under S. 34 (1) (b) of the 2003 Standing Orders the applicants were entitled to terminal benefits as a result of re-structuring which exercise the Law Development Centre Management Committee approved but the responsible Minister had not yet approved it was an error and illegal for Law Development Centre to terminate the employment of the applicants.
68. In my view for the restructuring exercise to be smooth and uncontested the Law Development Centre needed the new Standing Orders in place as

approved by the Minister. It looks to me that the termination process could not be completed without reference to the new Standing Orders. That is why all relevant documents stated that phase II of the restructuring exercise was done under approved Standing Orders. With respect for those reasons I did not agree with Mr. Tibaijuka on the several reasons he gave to defeat the 2003 Standing Orders.

69. The applicants having succeeded on the part that by the time their service was terminated the 26th March 2013 there was no approved Standing Orders by the Minister of Finance they have approved that the exercise was in error and illegal. I therefore grant the injunction order they prayed for stopping Law Development Centre from continuing with an illegal exercise against the applicants. The applicants are awarded costs of this application.

.....
NYANZI YASIN

JUDGE

20/11/2014.