

**THE REPUBLIC OF UGANDA
IN THE INDUSTRIAL COURT OF UGANDA AT KAMPALA
MISC. APPLN. NO. 011 OF 2021
[ARISING FROM MISC. APPLN. NO. 004 OF 2019 & LABOUR DISPUTE
REFERENCE No. 236/2019]**

BETWEEN

STEPHEN BAKWATA TUKAHAABWA & 137 OTHERS.....CLAIMANT

VERSUS

ATTORNEY GENERAL.....RESPONDENT

BEFORE

1. Hon. Chief Judge Ruhinda Asaph Ntengye
2. Hon. Lady Justice Linda Tumusiime Mugisha

PANELISTS

1. Mr. Adrne Namara
2. Ms. Susan Nabirye
3. Mr. Micheal Matovu

RULING

Background

The applicants filed Labour Dispute Claim No. 236/2019 and later on Miscellaneous Application No. 284/2019. The latter application sought a representative order for the 5 claimants to represent 1,379 other claimants.

This court granted the claimants a representative order on condition that the names of persons to be represented be advertised in the local newspapers.

We have perused carefully the notice of motion and the affidavit in support. We have also carefully perused the Affidavit in opposition as well as the affidavit in

rejoinder. Both counsel filed written submissions which we have carefully perused and taken into consideration as we deliver this ruling.

The gist of the application is for an order of this court to dispense with advertising in the Newspapers and instead allow the applicants to advertise at the notice Boards of their working stations. The main submission or argument of the applicants is that being people in the intelligence services of the country advertisement in the press would disclose their identity and subsequently put the security of the country at risk.

The main submission or argument of the respondent is that first of all the affidavit in support of the application is not deposed before a commissioner of oaths in accordance with the law rendering the application incompetent and secondly the applicants being public employees drawing salaries and allowances from the consolidated fund ought to disclose their identities since the matter in court is not a security intelligence matter but a labour/ employment dispute. It is the contention of the respondent that the claim in court is not a matter of national security.

Following the decisions in **Misc. Application 727/2011 Mohammed Majyambere Vs Bhakresa Khalic (Commercial Division) and Kakooza John Baptist Vs Electoral Commission & Another, Election Petition Appeal No. 11/2007 (Supreme Court)** per Katureebe JSC (as he then was) at page 271, an unsworn affidavit renders the application incompetent and such application ought to be struck out.

The affidavit supporting the instant application was not sworn before a commissioner for oaths as required by law. It cannot on the basis of the above decisions stand.

Secondly the purpose of advertising the names of the litigants where a representative order is granted, is to ascertain that not only do the litigants exist but they in fact authorized the applicants to represent each and every one of them. It is a notice to the world that each of the litigants are not only in court but each and every one of them has authorized the applicants to represent them in the courts of law. Substituting the advert in the press for a notice on a notice board would not serve the purpose, in our view.

The respondent is the legal representative of the Employer of the applicants and the said Employer is the controller of all intelligence services in the country. For this reason, we have no basis to doubt paragraph 7 of the affidavit in opposition to the effect that the methods of operations and apparatus of the applicants do not constitute a matter of national security so as to avoid advertisement of the litigants in the press as ordered by the court.

We accordingly find no merits in the application which is hereby dismissed with no orders as to costs.

BEFORE

1. Hon. Chief Judge Ruhinda Ntengye
2. Hon. Lady Justice Linda Tumusiime Mugisha

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PANELISTS

1. Ms. Adrine Namara
2. Mr. Susan Nabirye
3. Ms. Michael Matovu

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Dated: 14/05/2021