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THE REPUBLIC OF UGANDA

IN THE INDUSTRIAL COURT OF UGANDA AT KAMPALA

LABOUR DISPUTE REFERENCE No. 156 OF 2018

ARISING FROM MGLSD/LG/530/2017

1. JOSEPH TINDYEBWA

10

**2. THE GENERAL SECRETARY OF
THE UNIVERSITY PROFESSIONAL
ACADEMIC STAFF UNION(UPASU)**

..... CLAIMANTS

VERSUS

KABALE UNIVERSITY

.....RESPONDENT

15

BEFORE:

THE HON. AG. HEAD JUDGE, LINDA LILLIAN TUMUSIIME MUGISHA

PANELISTS

1. MR. FX MUBUKE

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2. MS. HARRIET MUGAMBWA NGANZI

3. MR. EBYAU FIDEL

AWARD

BRIF FACTS

25 The Respondent University while under private ownership appointed the 1st Claimant as
a part-time Lecturer in September 2009. He became a full-time lecturer on a renewable
contract from 1/09/2013 to 1/08/2017. After the Respondent was a private to a public
University with effect from 1st July 2016, it was obliged by law to comply with the
requirements of a Public University. This included the transfer of Contracts of the
30 existing members of staff to the new University for the un-expired period and thereafter
to validate them for re-appointment under new terms.

The 1st Claimant was validated and retained as a lecturer until the expiry of his contract
on 31/08/2017. Upon the expiry of his contract, he applied for re-appointment as a
lecturer. He contends that although he had evidence that he had completed his PHD, the
35 appointments board, declined to appoint him on grounds that, he did not have the
requisite qualifications for the position as required under the new arrangement of a Public
University.

He further contends that instead on 25/01/2017, the Respondent, invited him to appear
before the Respondent's Management Committee led by the Respondent's Vice
40 Chancellor, requiring him to explain his participation and role in the 2nd Claimant's
activities at the University. On 19/08/2017, without giving him notice about the non-
renewal of his contract, his position was advertised, moreover while he was still on
official leave in Lagos, Nigeria. His appeal against the University Council's decision not

45 to renew his contract was dismissed without giving him any hearing and his efforts to get
alternative employment were stifled by the Respondent's refusal to give him a certificate
of service. He contends that, he was victimized and discriminated against because of his
participation in activities of the 2nd Claimant, therefore his dismissal was unfair.

ISSUES:

- 50 **1. Whether the Respondent decision of transferring the 1st Claimants contract
of employment from a private to a public University was done in accordance
with the law and /or with legitimate expectation of**
- 2. Whether the Respondent's decision not to renew the 1 Claimant's contract
was unfair ultra vires and unlawful?**
- 3. Whether the Respondent has a right not to renew the 1st Claimant's contract
55 and whether the decision not to renew the contract was unfair?**
- 4. Whether the Respondent's actions and treatment against the 1st Claimant
mounted to infringement of his rights and freedoms?**
- 5. Whether the actions of the Respondent against the 2nd Claimant's
Chairperson at the Respondent's campus amounted to victimization.**
- 60 **6. Whether the actions and omissions of the Respondent against the 2nd
Claimant was in breach of the rights of its members to belong to a Labour
union of their choice.**
- 7. Whether in the Claimants are entitled to remedies sought?**

REPRESENTATION

65 The Claimant were represented by Mr. Timothy Twikirize of M/s Twikirize & Co. Advocates Kampala and Mujurizi Jamil of M/s Mujurizi, Alinaitwe & Byamukama Advocates , Kampala and the Respondent was represented by Mr.Akmpulira Micheal of M/s Akampulira & Partners , Kampala

SUBMISSIONS

70 **1.Whether the Respondent’s decision of transferring the 1st Claimant's contract of employment from a private to a public University was done in accordance with the law and /or with legitimate expectation of new terms and conditions offered.**

It was submitted for the Claimant that, pursuant to section 28(2) of the employment Act No. 6 of 2006, the transfer of a business or a trade translates into the transfer of all
75 existing contracts of service. According to Counsel for the Claimants, in terms of the same section, the University is a business. Counsel contended that, the transfer of 1st Claimant’s employment from a private to a public University was done outside the law, because he Respondent did not take into account legitimate expectation of new terms and conditions as directed by the Attorney General in his letter dated
80 5/09/2016.(Respondent’s exhibit 3). According to Counsel in that letter the Attorney General directed that, all existing staff of the Private University are given priority and the option to join the newly formed Public University under new terms and conditions. The new terms and conditions were better than those under the private entity which implied that all staff were to be given new terms and conditions of service. He contended that in
85 the circumstances, the validation of the remaining part of the Claimant’s contract in accordance with the old terms under the KAB Scale which was lower than that M Scale

under the Public University was done in disregard of the Attorney General's directive and in bad faith. It was discriminatory and it was a witch hunt against the 1st Claimant's because of his involvement in the lawful activities of the 2nd Claimant. Counsel cited a number of correspondences and specifically the Vice Chancellor's response to a letter dated the 22/10/2016, in which the Claimant on behalf of the 2nd Claimant was advocating for Government intervention, following which the Claimant was subjected to numerous management committee meetings which he considered a total breach of the properly provided lawful procedure in the University manual.

95 It was further his submission that, on 17/07/2016, the Respondent, as a Public University, notified all members of staff including the 1st Claimant, requiring them to apply to be absorbed into the Respondent as a Public University, under new terms and conditions of service, in line with public service regulations and pay structure (notice is marked TV. 7 of the Record) and pursuant to the said notice, the Claimant applied accordingly with the expectation to be placed on the new terms and conditions of service. However, on 100 3/10/2016, he received his validation letter which stated that, the University Council only approved his application for retention as a lecturer for the remaining duration of his the 2013 contract, under the old salary scale. On 6/10/2016, he accepted the validation of appointment but protested the retention on old terms and conditions. According to 105 Counsel, around the same time, the Claimant learnt that, the Respondent had given some of its staff including Mr. Narcis Tibenderana (the Academic Registrar and Ag. University Secretary) four (4) years' contracts under the lucrative Government payroll, from the date of validation until 2020.

110 He further contended that the Claimant experienced salary discrepancy because he was paid under KAB scale from October 2016 to June 2017 and placed he was only placed on the M-scale at Ugx. 6,055,947/-) for the months of July and August 2017 as evidenced by the M-Scale pay slip. Counsel insisted that all this was contrary to the AG's directives and therefore it was illegal and unlawful. He prayed that this issue is determined in the affirmative.

115 In reply, Counsel for the Respondent submitted that, the Respondent's transformation from a private to a Public University was guided by the advice from the Attorney General and the Ministry of Public Service, therefore it was duty bound to follow the guidelines issued by the Attorney General and Permanent Secretary to the Public Service and the law regulating Public Universities. According to Counsel, it was the evidence of the University Secretary John Baryantuma Munono, that, the University Appointments Board, with the approval of the University Council properly validated all members of staff, including the 1st Claimant in accordance with the guidelines issued to all Universities and they provided that, for one to be qualified for the position of Lecturer, one had to possess a PHD or prove to be on track of attaining a PHD.

125 It was his submission that the 1st Claimant was properly validated and retained as a lecturer until the expiry of his 4-year contract. When the contract expired, he did not prove that, he had completed his PHD, therefore he could not be retained. According to Counsel, the process of renewing contracts was transparent and cannot be faulted.

DECISION OF COURT

130 **1. Whether the Respondent's decision of transferring the 1st Claimant's contract of
employment from a private to a public University was done in accordance with the
law and /or with legitimate expectation of new terms and conditions offered.**

After carefully analysing the evidence on the record, the one adduced in court, the
submissions of both Counsel and the law applicable, we found as follows:

135 Section 28 of the Employment Act provides for the transfer of a contract of service as
follows:

*(1) Except as provided for by this section (2), a contract of service shall not be
transferred from one employer to another without the consent of the employee.*

140 *(2) Where a trade or business is transferred in whole or in part, the contracts of
service of all employees employed at the date of transfer shall automatically be
transferred to the transferee, and all rights and obligations between each
employee and the transferee shall continue to apply as if they had been rights
and obligations concluded between the employee and the transferee.*

145 *(3) A transfer referred to in subsection (2) shall not interrupt the employee's
continuity of service and the service shall continue with the transferee as if he
or she were the transferor.*

Our interpretation of subsection 2 of section 28 (supra) is that, the all-subsisting contracts
of service of all employees on the date of transfer or acquisition of the business or trade,
automatically transfer to the new employer or transferee under the same terms and
150 conditions and continue in force as if they had been negotiated between the said

employees and the new employer/transferee. In other words, the duration of the contract and the terms and conditions held under the old employer are carried in whole, to the new employer and they continue as if they had been negotiated between the employee and new employer. Continuity of service is guaranteed under subsection 3 of Section 28,
155 however the transfer is conditional upon the consent of the employee as provided under subsection (1). It is further our considered opinion that, the wording of Section 28 does not envisage any variation of the terms and conditions or the duration of the contract. It only provides for the transfer of the contract to the new entity as negotiated with the old entity.

160 In the circumstances, when the Respondent University transformed into a Public University, all the employees with subsisting contracts of employment at the time were given the option to transfer their services to the new establishment/ the Public University. However, the new establishment having become a Public University, it was placed under the ambit of the Universities and Other Tertiary Institutions Act 2001 and regulations
165 thereunder, therefore it changed in both structure and character, with new terms and conditions of service. This necessitated the validation of all the staff who opted to transfer from the old entity, to place them in the positions which they qualified under the new structure and with new terms and conditions of service. In light of Section 28(supra) however, the change in terms and conditions did not affect the duration of the contract,
170 because what is transferred in our understanding, are the rights and obligations under the contract, including and not limited to the right to provide work, remuneration to the employee, the duty to exercise reasonable care for health and safety, duty of trust and

confidence, to provide rest days among others and the obligations of the employee to provide personal service, duty of fidelity/good faith and to protect the employers
175 interests, duty to exercise reasonable care, skill and diligence, duty to be obey lawful instructions, among others during the set duration of the contract. This notwithstanding, there is nothing in the section that precludes the new employer from varying the terms and conditions and the duration of the transferred contract to the advantage of the transferred employee. It is our considered view that in the instant case what changed were
180 the rights and obligations under the transferred contracts and not the duration of the contracts.

Therefore, all the staff who were validated and appointed in positions in which they qualified under the new establishment carried their contracts of service as negotiated under the old establishment, save that upon being appointed under the new establishment
185 their terms and conditions of service / rights and obligations, were varied in accordance with the new structure, save for the duration of their contracts. We are fortified by the wording in section 28(2) which for emphasis states as follows:

“...Where a trade or business is transferred in whole or in part, the contracts of service of all employees employed at the date of transfer shall automatically be transferred to the transferee, and all rights and obligations between each employee and the transferee shall continue to apply as if they had been rights and obligations concluded between the employee and the transferee.(emphasis ours).”
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We reiterate that, nothing in section 28(supra) obligates the new employer to vary the duration or terms of the contract transferred to him or her although as already discussed,

195 the law does not preclude the employer from varying the terms and conditions of service
and the duration of the contract, to the advantage of the transferring employee. The
requirement to vary the terms and conditions of the transferring staff in the instant case
was necessitated by the transformation of the old entity from a Private to a Public
University, that is to move them from the KAB Scale to the M scale among other things.
200 We believe that the Permanent Secretary to the Public Service was cognizant of the
provisions of section 28 of the Employment Act, in her advice to the Respondent dated
regarding the transfer of staff to the New establishment. The letter reads in part as
follows:

- 205 1. *Staff should be given option of resigning or joining the university on the new terms
and conditions(emphasis ours).*
2. *Staff who decide to join the university should be validated to appropriately place
them into positions in the new establishment where they qualify... ”*

It is clear from this letter, that all the staff were to be given the option to transfer their
services to the new establishment (Public University) under new terms and conditions,
210 after being validated to appropriately place them into the positions in which they
qualified under the new establishment.

In fact, in his directives, the Attorney General, laid emphasis on necessity to vary their
terms and conditions of service in accordance with the new structure. Therefore, all
contracts were expected to be transferred, as negotiated under the old entity, save that
215 upon validation and placement in the position one qualified to hold under the new

structure, the terms and conditions of the transferred contract was varied in accordance with new structure. The duration of the contract as transferred remained the same.

220 In the circumstances, the Respondent having validated the 1st Claimant and found him qualified to occupy the position of Lecturer, Public Administration under the new establishment, it cannot be faulted for appointing him to the said position for the remaining part of his Contract that was transferred from the Private entity. However having validated and placed him under the new structure it was not correct to maintain him on the KAB scale which ceased to exist, when the Respondent became a Public University. After his validation and placement under the new structure his terms and
225 conditions should have been varied in accordance with the new structure.

His retention at the KAB scale was therefore contrary to the directives of the AG and the Secretary Public Service as well as the law regulating the new Public University, therefore it was done in error. This issue is therefore, resolved in the affirmative.

We considered issues 2 and 3 concurrently and drafted them as follows:

230 **2. Whether the Respondent has a right not to renew the 1st Claimant's contract and whether the decision not to renew the contract was unfair, ultra vires and unlawful?**

It was the submission of Counsel for the Claimant that, the Respondent's Management and appointments' committee exhibited prejudice, unjust and unfair bias against him during the contract renewal process because it turned the process into a disciplinary
235 session based on grounds that, he was his involved in the 2nd Claimant's activities at the Respondent's campus. According to Counsel the 1st Claimant was not given a fair hearing

nor was he given sufficient time within which to prepare his defense or to obtain legal representation. Counsel relied on **Hilda Musinguzi vs Stanbic Bank (U) LTD, SCCA No.512016**, for the legal proposition that, even if an employer has a right to terminate a contract of employment he or she should do so after following the right procedures. He insisted that, in addition to the Respondent's Management disregarding the Attorney General's advice on offering its staff new terms and conditions of employment, they also unfairly refused to renew the 1st Claimant's contract without following the established procedures. Counsel contended that, the Respondent did not take into account the 1st Claimant's outstanding performance and conduct nor did it consider the reviews about his performance between September 2009 and 2017 and the validation and appointment to the position of Lecturer under the new establishment as a Public University. He also relied on **Donna Kamuli vs DFCU Bank Labour Claim No. 02 of 2015**, on the proposition that reliance on any appraisals between an employee and employer was not sufficient as a basis for terminating the employee without subjecting the employee to a disciplinary hearing. According to Counsel this was not done by the Respondent, therefore, even though she had a right not to renew the 1st Claimant's contract, she did not follow the correct procedure.

As to whether the decision not to renew was correct or not , Counsel submitted that, the 1st Claimant's contract was meant to be renewed after the Respondent became a Public University under new terms and conditions. It was his submission that, some of the staff members were taken on under new contracts running up to 2020, excluding the 1st Claimant. He further argued that, even if the Claimant's contract was validated for only

6 months, at the time of its review for renewal, the process of renewal was marred with
260 bias, false accusations and victimization, because the Respondent did not follow the right
procedure as disclosed by the Respondent's Secretary and other policy documents, and
instead the process was turned into a disciplinary process. He insisted that the 1st
Claimant was not given any reasons for not renewing his contract, save for the reason
that, he was involved in 2nd Claimant's activities, which Top Management
265 misinterpreted to amount to inciting staff and students to strike. It was his submission
that, in spite of providing evidence to the effect that his PhD was on track, the
Respondent did not take that into consideration. He further contended that the 1st
Claimant could not have served the Respondent for so many years, conducting
supervision of students including masters students, with the impugned academic papers
270 and the same University contested his qualification, yet he successfully used the same
academic documents to seek for part time employment elsewhere. Besides the Head of
Department and dean of faculty for Arts and Social Sciences recommended him for
promotion on merit. He relied on **Florence Mufumba vs Uganda Development Bank,
LDC No. 138/2014**, for the legal proposition that, before termination, an employee is
275 entitled to have clear justification for his or her termination and in this case the allegation
that the Claimant was not a qualified PHD holder was an afterthought, marred with
malice and bias intended to frustrate the renewal of his contract. He submitted, that, the
contracts of all other staff in his category were renewed and placed under Public Service
tenures excluding the Claimant, yet the AG's recommendation was to the effect that, all
280 the staffs contracts had to be renewed. Therefore, the non- renewal of the Claimant's
contract amounted to unfairly terminating him and this was unlawful and ultra vires.

In reply, Counsel for the Respondent refuted the submission that the 1st claimant's termination was unfair because Section 73(1) of the Employment Act provides that, a termination is only deemed unfair if the employer did not act in accordance with justice and equity in terminating the employee from service. He argued that, in the instant Case, the 1st Claimant's contract expired by operation of law because it was a fixed term contract and the Employer was not obligated by law to renew it. He also contended that, the 1st Claimant lacked the requisite qualifications for the job and he did not deny this. Counsel cited **Bank of Uganda v Joseph Kibuuka and others Court of Appeal Civil Appeal No. 281 of 2016**, where it was held that, *an employer cannot be forced to keep an employee against his will.*

DECISION OF COURT

2. Whether the Respondent has a right not to renew the 1st Claimant's contract and whether the decision not to renew the contract was unfair, ultra vires and unlawful?

After carefully analysing the evidence on the record and the one adduced in court, we established that, the 1st Claimant's contract of employment was validated and confirmed by the Respondent as a Public University, for the remaining 6 months in accordance with the Section 28 of the Employment Act(supra). It was not in dispute that, and it was the contract was a was fixed term contract and it was scheduled to expire on 30/08/2017. It was validated on 27/09/2016 and this marked the revocation of the contract under the private entity. We found nothing in the contract to indicate that, the Respondent was under any obligation to renew it. We also established that, on 16/04/2016, the Claimant applied for promotion to the position of Senior Lecturer and this was 3 months before the

validation exercise under the new structure commenced and in fact it had not yet come
305 into force. Clearly the application for promotion was made during the subsistence of the e
defunct private University.

The letter dated which notified him about the non-renewal of his contract, 11/08/2017,
stated that he would hand over after the expiry of the contract. The letter reads in part as
follows:

310 *Dear Mr. Tindyebwa,*

RENEWAL OF CONTRACT AS LECTURER GOVERNANCE

Reference is made to your application for renewal of contract,

*I regret to inform you that the Appointments Board of Kabale University
under Minute 40/19/AB/2017 directed that your contract as Lecturer
315 (Governance) should not be renewed.*

*You should arrange to hand over office to your immediate supervisor in
accordance with the provisions of kabale University Human Resource
Manual 2016 section 9.17, which relates to handing over of office.
Handover should be after the expiry of your contract. ...”*

320 Section 2 of the Employment Act defines termination to mean “... *the discharge of an
employee from employment at the initiative of the employer for justifiable reasons other
than misconduct such as expiry of contract, attainment of retirement age etc...*”

Section 65(1) (b) of the same Act is to the effect that a contract of employment shall be deemed to be terminated

325 “...b) *Where the contract of service, being a contract for a fixed term or task, ends with the expiry of the fixed term or specified task or the completion of the specified task and is not renewed within a period of one week from the date of expiry on the same terms or the terms not less favourably to the employee...*”

Given the foregoing, we found nothing that connected the alleged mistreatment by the Respondent and the decision not to renew the contract following its expiry. Even if it Claimant contended that, the Respondent subjected him to numerous disciplinary actions on alleged unfounded allegations, no evidence was led to show that the disciplinary measures were the reasons why his contract was not renewed. It is not in dispute that his contract expired on 30/08/2017 and even if the Respondent gave him notice, which was
335 not required as provided under section 65(1)(b), it was not under any obligation to give him a reason for not renewing the contract. It is a settled matter that, an employer is under no obligation to renew a fixed term contract after its expiry or to give a reason for not renewing it, unless the contract expressly provides that it is renewable.

We already established that, the issues concerning his engagement with the 2nd Claimant
340 occurred before the expiry of his contract and precisely, between April and July 2016, before the Attorney General’ directives and advice from the Ministry of Public Service, regarding the management of staff of the old entity, were issued on 9/09/2016 and 9/05/2016, respectively and his contract was validated on 27/09/2016. At the time of the validation his contract was subsisting, therefore its renewal was not due for consideration.

345 We found no basis upon which to fault the Respondent for giving the 1st Claimant notice
of non-renewal, because, in any case, he was expected to hand over if after its expiry, his
contract was not renewed in accordance with section 65(1) (b). We also found no basis to
make a finding that, he was victimized and or discriminated against by the Vice
Chancellor, because as already stated the employer is under no obligation to renew an
350 expired fixed term contract and we found nothing to indicate that his right to participate e
in a labor union was breached. Even if the Respondent is alleged to have extended the
contract of a one, Tibenderana Narcis for 4 years, no evidence was adduced to enable us
determine whether by extending this contract, the 1st Claimant had been discriminated
against. In any case as already discussed section 28(1) requires each employee to
355 individually consent to the transfer from an old to new entity new entity and in the instant
case after opting to join the entity, each employee was subjected to validation to place
them where they quailed in the new structure under new terms. We believe that, the
Respondent had the discretion to decide whether to extend the duration of an individuals
contract or to adopt it as is save for the variation of the terms and conditions to be in line
360 with the new structure. We found nothing on the record to indicate that, when varying the
terms and conditions, as advised by the AG and Public Service, the Respondent was
precluded from varying any other provisions of the transferred contracts including their
duration. As already discussed, the validation was done on an individual basis and each
staff was considered as an individual. We believe that this is what happened in the case of
365 Mr. Tibenderana. For emphasis this court has held in many cases that, an employer has
discretion determine the terma and conditions of service(the work to be done, who to do
the work, from where it should be done) and for how long and when the employee agrees

to do the work in accordance with the terms and conditions set, the Courts cannot fetter with the Employers discretion regarding their employees, unless they are in breach of the employees' rights under their contracts of employment and relevant law. (see **ZTE Uganda Limited vs Sseyiga Hermenegild & Others LDANo. 24 of 2019, Charles Lubowa vs Makerere University LDC No. 030/2017**).

From our analysis of the evidence on the record and given the chronology of events, we respectfully disagree with the submission of Counsel for the Claimant that, the recommendations of the AG and the Ministry of Public Service required the Respondent to renew the staffs contracts as opposed to validating them for suitability for appointment under the new establishment. For emphasis, the contracts were transferred as negotiated between the staff and the private University and it was only after an individual was validated and appointed under the new structure that, his or her the terms and conditions that is rights and obligations under the contract, were varied to bring them into conformity with the terms and conditions provided for under new structure and nothing else. Therefore the validation process had nothing to do with the renewal or non-renewal of contracts, which in our view was outside the validation process and therefore, different matter altogether.

Having established that, the 1st Claimant's contract was affixed term contract and it expired by effluxion of time, 30/08/2017, the Respondent was not under any obligation to renew it or to give any reasons for not renewing it. It had a right not to renew the contract and its none renewal was not unlawful. This issue is resolved in the negative.

We shall considered issues 4, 5 and 6, concurrently as follows:

390 **4. Whether the Respondent's actions and treatment against the 1st Claimant amounted to infringement of his rights and freedoms?**

5. Whether the actions of the Respondent against the 2nd Claimant's Chairperson at the Respondent's campus amounted to victimization.

395 **6. Whether the actions and omissions of the Respondent against the 2nd Claimant was in breach of the rights of its members to belong to a Labour union of their choice?**

We have already established that the Claimant's retention on the old KAB scale was unlawful. We have also established that there was nothing to indicate that the Respondent's actions against the 1st claimant regarding his engagement with the 2nd Claimant amounted to victimization. Therefore, there was no basis for this court to make a finding that, there was any breach on the part of the Respondent regarding the rights of members to belong to a labour Union. There was insufficient evidence to enable us make a finding regarding issue 5 and 6. Therefore issues 5 and 6 are resolved in the negative.

6. Whether the Claimants are entitled to the remedies sought?

405 a) We have already found that, the Claimant's retention on KAB scale after he was validated and found suitable for appointment under the new establishment was unlawful, therefore he is entitled to payment of the difference in salary between what he was paid under the KAB scale and the salary he was entitled to under the new structure from the date of validation to the 30/08/2017 to the expiry of his contract. According to the claimant he was entitled to Ugx. Ugx. 42,441,984 /- which was the difference between

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his entitlement of Ugx. 6,055,946/= per month under the M-scale in the new establishment and Ugx 1,340, 171/- per month which he was earning with the Private University. From 9/09/2016 to 30/08/2017 as seen under Exhibit TV23. In the absence of evidence to the contrary, this claim is awarded at an interest rate of 15% per annum, from
415 the date of filing this matter in this court until payment in full.

b) It is our finding that, the non-renewal of the 1st Claimant's contract was not unlawful, therefore his prayer to declare it so, is denied.

c) It is our finding that, the Application for promotion was done under the defunct Private University before it transformed into a new establishment as a Public University,
420 therefore, the Respondent was not under any obligation to consider the same.

d) There was no evidence to indicate that he was unfairly treated because the consent and validation exercise was carried on an individual basis and the Respondent had discretion to vary the duration of and individuals' contract, under the new terms and conditions.

e) The contract of service having terminated by effluxion of time, there was no
425 requirement for the Respondent to give the Claimant any notice. Therefore, the claim for two months' salary in lieu of notice totaling to Ugx.12,111,894/= cannot stand. It is denied.

f) We have already established that, his contract expired by effluxion of time therefore he was not unlawfully terminated. In the circumstances, his prayer for severance pays fails.

430 g) Having found that his contract for employment was not unlawfully terminated, the respondent is not entitled to the payment of the outstanding balance on his loan. This

435 court in **Irene Nassna Vs Equity Bank Ltd LDC No. 6/2014**, held that, “...where an employee has applied for and been granted an unsecured loan whose repayment is solely based on salary and the employee is unlawfully dismissed, the liability of paying the loan shifts to the employer who unlawfully terminated the said employee. However, the employee has the onus to prove that, the said loan was approved/guaranteed by the employer, as a salary loan and that the loan is purely unsecured and solely premised on salary for its repayment...” The Claimant in the instant case, was not unlawfully terminated, therefore he is not entitled to this remedy. It is denied.

440 h) Having not proved discrimination and victimization, the prayer to order the payment of Ugx 200,000,000/= to the 2nd Claimant, as general damages for discrimination and inconvenience cannot stand. It is denied.

i) An interest of 15% per annum shall accrue on all pecuniary awards above from date of filing this matter in the Industrial Court until payment in full.

445 j) No Order as to costs.

Delivered and signed by:

THE HON. AGHEAD JUDGE, LINDA LILLIAN TUMUSIIME MUGISHA

PANELISTS

1. MR. FX MUBUKE

450 **2. MS. HARRIET MUGAMBWA NGANZI**

3. MR. EBYAU FIDEL

DATE: 7/12/2022