

**THE REPUBLIC OF UGANDA**  
**IN THE HIGH COURT OF UGANDA AT KAMPALA**  
**CIVIL SUIT NO.1322/2000**

**IVAN RWAKAIKARA KIIZA..... PLAINTIFF**

**VS**

**ATTORNEY GENERAL..... RESPONDENT**

**BEFORE: THE HON. MR. JUSTICE P. MUGANBA**

**JUDGMENT**

Ivan Kiiza Rwakaikara instituted this suit against the Attorney General seeking recovery of special damages amounting to Shs.1, 773,865/=, general damages for breach of contract and costs of the suit. He prayed also for interest at 50% per annum, from 1985 until payment in full, on the salary arrears which constitute the amount claimed as special damages. Hearing was ex parte as the defendant did not find it worthwhile to be represented. In the event the testimony of the single witness that the plaintiff was is not contested.

The plaintiff's case is that in 1960 he qualified as a teacher, a vocation from which he retired in 1999. He testified that in 1985 he was arrested and later indicted with the offence of kidnapping with intent to murder, contrary to section 235(a) of the Penal Code. He was in prison from July 1985 until July 1990 when the High Court at Fort Portal acquitted him of the offence. During the period the plaintiff was on remand his salary was not paid to him. Indeed even after his acquittal and release from prison it took long before he was reinstated and some salary arrears paid to him. That was despite several pleas he made to the Ministry of Education, evidence of which abounds in the many exhibits tendered to Court.

The plaintiff in his testimony gave what I found a moving chronology of his woes ever since 1985 when he was arrested. His testimony is backed by the exhibits he proffered to Court. In all his endeavours the plaintiff did not show evidence of the amount of money he claims he

ought to have been paid. This is a disadvantage as special damages need a more exacting standard for their proof. I do not agree with the contention in Counsel's submissions that the plaintiff gave particulars of his salary arrears from August 1985 to January 1993 amounting in all to Shs.1,773,865/=. Certainly contemporaneous pay slips or an acknowledgement could have made a difference. Unfortunately even these were not available. The Court of Appeal for East Africa in The Estate of Shami Visram and Kurji Karsan vs Shankerprasad. Maganlal Bhatt & Others [1965] EA 789, 796 had this to say:

“While damages in tort are very often at large, with the result that compensatory damages are not restricted to actual pecuniary loss, this, of course, is not the position where the damages are claimed as special damages. In such a case the plaintiff has to plead and prove his loss...”

Consequently I find no basis for awarding special damages in this case. However I award the plaintiff general damages of Shs.4, 000,000/= at 20% interest per annum from the date of judgment until final payment. The plaintiff is also entitled to costs of this suit.

Before I take leave of this suit I must note that earlier on I had declined, having heard what evidence there was, to write this judgment. The reason was that when I came to write this judgment I read the exhibited judgment of the Criminal Court way back in 1990 and observed that I had been the Advocate who represented the plaintiff herein in the Criminal Court. I had much heart-searching and doubted whether it would be appropriate that I stand in judgment of this claim. I have since been persuaded otherwise hence this judgment. My sense of justice is unalloyed.

27/11/2001