

REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
HCT-OO-CV-CS-0618 OF 1999

ANTHONY GATARE :::PLAINTIFF

VERSUS

UGANDA REVENUE AUTHORITY::: DEFENDANT

BEFORE: THE HONOURABLE MR. JUSTICE FMS EGONDA-NTENDE

JUDGEMENT

1. Anthony Gatare, an officer of Uganda Peoples Defence Forces and the Plaintiff in this suit seeks to recover from the Defendant, Uganda Revenue Authority, special and general damages, interest, and costs of this suit, arising from a contract of employment. The Defendant denies that the plaintiff is entitled to what he seeks in this suit and vigorously opposes this action.

2. The facts in this case both on the pleadings and evidence are not substantially in dispute, save for one or two areas that I will turn too, after setting out the story that is not in controversy. I should start by setting out the facts that the parties agreed upon.

3. “1. The Plaintiff was an officer of the UPDF.

2. On secondment in 1992, the Plaintiff was appointed in Uganda Revenue Authority as per the letter of appointment dated 26 December 1992.

3. In October 1997 the Plaintiff was sent on leave but continued to draw salary and other benefits for November, and 12 days in December.

4. While the Plaintiff was on leave all UPDF officers and men serving in the Uganda Revenue Authority were recalled by the Army establishment.

5. In about May 1998, the Plaintiff was deployed by the Army to Uganda Revenue Authority to work with Anti-Smuggling Monitoring Unit, under the Commander in Chief of the Army.

6. The above was confirmed in June 1998.

7. As of now the Plaintiff is no longer working with URA.”

4. Captain Anthony Gatare was a sergeant in the UPDF when the Army seconded him to the Uganda Revenue Authority. He was appointed an Assistant Revenue Officer. In October 1997 the Uganda Revenue Authority sent him on leave but promised to pay him while he was on leave.

While he was on leave, the officer commanding the Anti Smuggling Unit, Lt. Col. Lutaaya, on 19th December 1997, wrote a letter to the Chief of Personnel and Administration, UPDF General Headquarters, Bombo, whose contents, I set out below.

5. “Find a list of officers and men who have been under my command in Anti Smuggling Unit. They have completed their service in the Uganda Revenue Authority and are now being sent to you for further management.” In the list attached item 12 read, “Army No.RO/7271 Lt. Anthony Gatare”. The rank was corrected in ink to read Captain. Captain Gatare was subsequently deployed in the Army establishment, and commenced drawing his salary from the Army effective January 1998.

6. On the withdrawal of these officers and men from the Uganda Revenue Authority, the Uganda Revenue Authority calculated their terminal benefits and effected payment of the terminal benefits in the manner that the Authority paid their salaries. For the Plaintiff the payment went to his bank account. The Uganda Revenue Authority did not, however, in writing notify these officers and men that their employment with the Uganda Revenue Authority was terminated. I suppose it is this failure to write to the Captain Anthony Gatare to notify him that his employment with the Uganda Revenue Authority was terminated that led to the filing of this action.

7. Captain Anthony Gatare claims back pay, {inclusive of increments obtained by staff of the Uganda Revenue Authority since the Authority stopped paying him salary and other benefits to today}, from December 1997 to date of judgment.

8. I suppose that it was only to be expected that Uganda Revenue Authority would notify in writing Captain Anthony Gatare that his employment with Uganda Revenue Authority had ceased with effect from the date of his recall by the Army.

Unfortunately Uganda Revenue Authority did not do so. Now Captain Anthony Gatare is demanding back pay for 58 months totaling to a sum of *shs.58,268,000/=*.

In addition he wants interest on that sum as well as punitive damages and general damages I suppose for breach of the contract of employment with Uganda Revenue Authority.

9. The question before me is whether Captain Anthony Gatare is entitled to any claim against the Uganda Revenue Authority? Was his employment with Uganda Revenue Authority subsisting even after he was withdrawn from the Uganda Revenue Authority by the Uganda Peoples Defence Forces? Captain Anthony Gatare was seconded to serve in the Uganda Revenue

Authority. He was available to serve for as long as the Army decided that he could serve Uganda Revenue Authority or for as long as Uganda Revenue Authority maintained him on their staff establishment.

10. Once the UPDF decided to recall Captain Anthony Gatere from the Uganda Revenue Authority, this, in my view, effectively terminated his contract with Uganda Revenue Authority. This is regardless of whether the Uganda Revenue Authority had written notifying him of the termination of that employment. The seconding agency, the Uganda Peoples Defences Forces, effectively removed him from the service of the Uganda Revenue Authority. He can not thereafter have a claim to compensation or remuneration for a service he was no longer capable of rendering.

11. In his testimony Captain Anthony Gatere admitted to receiving pay from the Uganda Peoples Defence Forces from January 1998 for a year or so. He claims that the Uganda Peoples Defence Forces are no longer paying him, though he is still a serving Army Officer. He may well be on 'Katebe'! In my view it is to the Uganda Peoples Defence Forces that he must address any claims for salary arrears or other grievances and not Uganda Revenue Authority.

12. This action has no merit. I dismiss this suit with costs.

Dated, signed, delivered this 29th day of October 2002

Fredrick Egonda-Ntende

Judge