

RWANDA / JUDGMENT

RUZIBIZA v. MOUNT MERU LOGISTICS RWANDA Ltd

RLR V.4-2025

COURT

Supreme Court

DECIDED

7 February 2025

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RS/INJUST/RSOC00003/2024/SC

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RUZIBIZA v. MOUNT MERU LOGISTICS RWANDA Ltd

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Text

Page 1

RUZIBIZA v. MOUNT MERU LOGISTICS RWANDA Ltd [Rwanda URUKIKO RW'IKIRENGA – RS/INJUST/RSOC00003/2024/SC (Hitiyaremye, J.P., Muhumuza na Kazungu, J.) 07 Gashyantare 2025]

Amategeko agenga imanza z'umurimo – Amasezerano y'umurimo – Iseswa ry'masezerano y'umurimo – Indishyi – Umukoresha usheshe amasezerano y'umurimo ntiyubahirize inzira n'uburyo bikorwamo aba yirukanye umukozi mu buryo bunyuranyije n'amategeko, abitangira indishyi. Amategeko agenga imanza zisabirwa gusubirishwamo ku mpamvu z'akarengane – Impanuka y'akazi – Indishyi z'ikomoka ku mpanuka yakozwe n'ikinyabiziga – Indishyi zo kwivuka – Umukoresha afite inshingano zo gushyira umukozi mu bwiteganyirize no kumutangira imisanzu mu Kigo cy'ubwiteganyirize bw'abakozi – Umukozi ntahabwa amafaranga yo kwivuka mu ntoki ngo ayakoreshe uko abyumva, mu gihe umukoresha atamutangiye imisanzu yo kwivuka, ahubwo ayo mafaranga ahabwa ibigo by'ubuvuzi bigatanga serivise z'ubuvuzi ku mukozi. Incamake y'ikibazo: Ruzibiza yareze uwari umukoresha we Mount Meru Logistics Rwanda Ltd mu Rukiko Rwisumbuye rwa Nyarugenge asaba ko yategewe kumuha indishyi

zitandukanye zituruka ku mpanuka y'akazi yamukomerekeje bikabije, yabereye mu gihugu cy'Ubugande, kuko yakoraga akazi k'ubushoferi. Mount Meru yireguye ivuga ko Urega yakozwe impanuka akiri mu gihe kigeragezwa kuko yari amaze hafi ukwezi atangiye akazi, akaba ariyo mpamvu atamutangiye ubwiteganyirize muri RSSB. Ikindi ngo ni uko yatangiye akazi afite imyaka 60, imyaka ifatirwaho ku rwego rwo hejuru mu kugena ibigenerwa ubwiteganyirize ndetse akaba ari nabwo buryo bukoreshwa mu kubara ibigenerwa uwamugariye ku kazi. Bityo, ibi bikaba bisobanura ko ikirego cye nta shingiro kigomba guhabwa. Urukiko Rwisumbuye rwaciye urubanza rwemeza ko ikirego cy'Urega gifite ishingiro kuri bimwe rutegeka umukoresha guha Urega indishyi zitandukanye. Iki cyemezo Urega yakijuririye mu Rukiko Rukuru avuga ko urukiko hari indishyi rwirengagije kumugenera. Uregwa yatanze ubujurire bwuririye ku bundi asaba ko rwamugenera indishyi z'ikurikiranarubanza n'igihembo cya Avoka rushingiye ku mategeko no ku bimenyetso yatanze bigaragaza ko yakurikiranye Urega mu buryo bwose bushoboka akimara gukora impanuka. Urukiko Rukuru rwaciye urubanza rwemeza ko ubujurire bw'Urega bufite ishingiro kuri bimwe ariko ko ubwuririye ku bundi bwatanze n'Uregwa nta shingiro bufite, maze rutegeka ko Urega ahabwa indishyi zitandukanye. Urega ntiyishimiye iki cyemezo maze yandikira Perezida w'Urukiko rw'Ikirenga asaba ko urubanza rwasubirishwamo ku mpamvu z'akarengane, arabyemererwa, ruburanishwa n'uru Rukiko rw'Ikirenga. Muri uru rubanza rw'akarengane Urega avuga ko akarengane ke gashingiye ku kuba inkiko zabanje zarafashe ibyemezo bidakwiye kandi binyuranyije n'amategeko. Avuga ko yirukanywe mu kazi mu buryo bunyuranyije n'amategeko ku buryo yagenerwa indishyi kuko atamenyeshejwe ko yasezerewe ku kazi, ko nta nteguza yahawe, ko yatunguwe no guhagarikirwa umushahara. Avuga ko itegeko rigenga umurimo mu Rwanda ritegeka umukozi cyangwa umukoresha gutanga integuza mu nyandiko iyo agiye gusesa amasezerano y'umurimo. Ibi akaba yarabigaragarije Urukiko Rukuru ariko ntirwagira icyo rubivugaho, akaba ariyo mpamvu asaba uru Rukiko rw'Ikirenga, mu gihe rusanze yarasezerewe mu buryo bunyuranyije n'amategeko, gutegeka ko ahabwa ibirarane by'umushahara kuva igihe wahagarikiwe kugeza igihe ikibazo kizakemukira. Uregwa muri uru rubanza, avuga ko Urega atigeze asezererwa mu kazi ahubwo akazi ke kahagaritswe n'impanuka yagize, akitabwaho, akomeza guhabwa umushahara kugeza mu kwezi kwa 10/2020 ndetse akomeza guhabwa amafaranga yo kwivuka kugera mu kwezi kwa 2/2021. Avuga kandi ko indishyi Urega asaba atagomba kuzihabwa kuko zihabwa umukozi wirukanwe mu buryo bunyuranyije n'amategeko, mu gihe Urega akazi ke kahagaze kubera ko imodoka yatwaraga yari yarangiritse idashobora gusubira mu

Page 2

muhandu. Asoza avuga ko itegeko ry'umurimo ritenganya ko umushahara utangwa ku murimo wakoze, bityo akaba atari gukomeza guhamba Urega kuko yari atakibasha gukora kubera iyo mpanuka ndetse akaba ntawundi murimo yari kubona amushyiramo. Urega agaragaza kandi ko akarengane ke gashingiye ku kuba Uregwa yaragombaga kumuvuka, akaba ataramuteganyirije muri RSSB bikamugiraho ingaruka kuko yakozwe impanuka nta bwishingizi bwo kwivuka afite, akaba asaba ko ubuvuzi n'ibindi bigomba gutangwa n'Uregwa. Ibi abisaba ashingiye kuri raporo ya muganga yemeza ko iyo mpanuka yakozwe yamusigiye ubumuga buhoraho bwa 92%, akaba

yarahawe “proforma” y’ubuvuzi agomba gukorerwa ariko Uregwa yanga kumuha amafaranga yo kwivuzza. Kuri iyo ngingo ijyanye n’ubuvuzi bw’Urega, Uregwa avuga ko umubare w’amafaranga Urega asaba yibaza aho awukura kuko nta tegeko ashingiraho. Urega aregera ibintu bitarimo ukuri kuko ingingo z’amategeko yifashisha zishimangira ko ubwishyu bukorwa ku buvuzi bwamaze gukorerwa umukozi kandi bukishyurwa mu biganza by’ibigo by’ubuvuzi byamuvuye. Bityo, ibyo asaba nta shingiro bigomba guhabwa kuko yamaze igihe kinini yakira amafaranga yo kwivuzza, ubu muri uru rubanza akaba aribwo avuga ko atigeze afashwa kuvuzwa. Ikindi kibazo cyasuzumwe muri uru rubanza ni ikijyanye no kumenya niba indishyi Urega asaba zahabwa ishingiro; aho avuga ko mu rubanza rusubirishwamo atagenewe indishyi mbangamirabukungu akaba asaba uru Rukiko rw’Ikirenga kubikosora. Asaba ko izo ndishyi zabarwa hashingiwe ku myaka 65, dore ko hirengagijwe ibiteganywa n’amategeko ko umucamanza aca urubanza ku cyasabwe cyose kandi kuri icyo cyonyine. Avuga kandi ko atigeze agenerwa indishyi zijyanye n’akababaro yatewe n’imvune yaturutse ku mpanuka no kutabona ubuvuzi kubera amikoro, ndetse bityo akaba asaba uru Rukiko ko rwamugenera izo ndishyi kuko yarenganye. Urega yasabye uru Rukiko rw’Ikirenga ko rumugenera indishyi z’umukozi wazahajwe burundu n’impanuka y’akazi, gusuzuma niba akeneye umufasha no kugenerwa amafaranga yakoresheje ajya kwivuzza. Asobanura ko kuba Uregwa yaramukoresheje atamuteganyirije, akaza kugira impanuka ikamutera ubumuga butandukanye, agomba gutegekwa kumwishyura amafaranga angana nk’ayo yagahawe n’Ikigo cy’Ubwiteganyirize mu Rwanda iyo aza kuba yaramuteganyirije. Ikindi ni uko atabasha kugira icyo yikorera agakeneye umufasha mu buzima bwe bwa buri munsu, akaba ariyo mpamvu asaba ko Urukiko rwategeka Uregwa kumwishyurira umufasha ashingiye ku biteganywa n’amategeko ko iyo ufata amafaranga ya pansiyi y’ubumuga agomba gufashwa buri gihe n’undi muntu kugira ngo ashobore gukora uturimo dusanzwe, abona inyongera ingana na mirongo ine ku ijana (40%) by’ayo agomba kubona. Asoza asaba ko Uregwa yamusubiza amafaranga yakoresheje ajya kwivuzza ashingiye ku kuba yaramutereranye ntagire icyo amumarira mu burwayi bwe. Uregwa yireguye ko niba Urega asaba ko hari ibigomba kugenwa n’amategeko bijyanye n’indishyi zihabwa umukozi wazahajwe burundu n’impanuka y’akazi, zabarwa mu gihe kitarengeje ikigero cy’imyaka 60 kuva igihe ubumuga bwemerejwe kandi hakanabarwa gusa amezi 6 ya buri mwaka. Avuga kandi ko ugendeye ku kuba ubumuga Urega yasigaranye bwagabanutse ukurikije raporo yatanze na muganga we, asaba ko uru Rukiko rwabishingiraho rufata icyemezo kuko nta bufasha bw’undi muntu yagenerwa. Incamake y’icyemezo: 1. Umukoresha usheshe amasezerano y’umurimo ntiyubahirize inzira n’uburyo bukorwamo aba yirukanye umukozi mu buryo bunyuranyije n’amategeko, abitangira indishyi. 2. Umukoresha afite inshingano zo gushyira umukozi mu bwiteganyirize no kumutangira imisanzu mu Kigo cy’ubwiteganyirize bw’abakozi. Umukozi ntahabwa amafaranga yo kwivuzza mu ntoki ngo ayakoreshe uko abyumva, mu gihe umukoresha atamutangiye imisanzu yo kwivuzza, ahubwo ayo mafaranga ahabwa ibigo by’ubuvuzi bigatanga serivise z’ubuvuzi k’umukozi. Ikirego gisaba gusubirishamo urubanza ku mpamvu z’akarengane, gifite ishingiro kuri bimwe. Imikirize y’urubanza rwaciye n’Urukiko Rukuru rwa Kigali ihindutse ku bimwe.

Page 3

Amategako yashingiweho: Itegeko N° 66/2018 ryo ku wa 30/08/2018 rigenga umurimo mu Rwanda, ingingo ya 3, 19, 24, 29, 30 n'ya 39. Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ingingo ya 10. Itegeko N° 05/2015 ryo ku wa 30/03/2015 rigenga imitunganyirize y'ubwiteganyirize bwa pansiyu, ingingo ya 6, 18, 24, 25 n'ya 26. Itegeko N° 06/2003 ryo ku wa 22/03/2003 rihindura kandi ryuzuzwa Itegeko-Teka ryo ku wa 22 Kanama 1974 rigenga ubwiteganyirize bw'abakozi, ingingo ya 14, 16 n'ya 22. Iteka rya Perezida N° 31/01 ryo ku wa 25/08/2003 rishyiraho uburyo bwo kwishyura indishyi ku bubabare bw'umubiri buturutse ku mpanuka zitewe n'ibinyabiziga, ingingo ya 18. Imanza zifashishijwe: RS/INJUST/RC00012/2022/SC, Mukakimenyi Marie Claire na Sanlam Ag Plc, rwaciwe n'Urukiko rw'Ikirenga kuwa 02/02/2024. RCAA0202/07/CS, Nyetera Jean Baptiste na Corar, rwaciwe n'Urukiko rw'Ikirenga ku wa 09/04/2009. RS/INJUST/RC00013/2021/CA, Manirarora Jean de Dieu na Rwanda Rudniki Ltd, Sanlam Ag Plc, rwaciwe n'Urukiko rw'Ubujurire ku wa 28/06/2022. RCAA00073/2018/CA, Nyirabatesi Laurence n'Ibitaro byitiriwe Umwami Fayisali, rwaciwe ku wa 19/07/2019. RCAA00008/2020/CA, Ndizeye Alphonse na Kibungo Medical Center, rwaciwe ku wa 25/06/2021. Urubanza I. IMITERERE Y'URUBANZA [1] Ruzibiza Aloys yahawe akazi k'ubushoferi muri Mount Meru Logistics Rwanda LTD, (Mount Meru muri uru rubanza) ariko ntiyafatirwa ubwishingizi bw'ubwiteganyirize bw'abakozi muri RSSB. Ku wa 28/09/2020 ubwo yari mu butumwa bw'akazi mu Gihugu cya Uganda, yakozwe impanuka atwaye imodoka y'akazi ifite plaque RAD 765 T arakomereka bikabije. [2] Nyuma yo kutumvikana na Mount Meru nk'uwari umukoresha we ku bijyanye n'indishyi yayasabaga, Ruzibiza Aloys yatanze ikirego mu Rukiko Rwisumbuye rwa Nyarugenge, aregera indishyi zinyuranye zikomoka ku mpanuka y'akazi nk'uko yazisobanuye atanga ikirego. [3] Uhagarariye Mount Meru yireguye avuga ko igihe Ruzibiza Aloys yakoraga impanuka yari amaze hafi ukwezi kumwe atangiye akazi ari nayo mpamvu umukoresha atamwandikishije mu kigo cy'ubwiteganyirize bw'abakozi (RSSB) kuko yari akiri mu gihe cy'igerageza, bityo akaba asanga hashingiwe ku mushahara yahembwaga ndetse n'ikigereranyo cy'umusanzu we wa buri kwezi, hazakurikizwa ibyo itegeko riteganyira ku muntu wari ugitangira akazi, akagererwa ibyo ikigo cy'ubwiteganyirize cyari kumugenera iyo aza kuba yaragombaga kwishingirwa koko, ibyo kandi bigakorwa habazwe uruhare rw'ibyasabwaga Mount Meru hashingiwe ku gihe yari imaranye nawe. Avuga kandi ko Ruzibiza Aloys yatangiye akazi yaragejeje imyaka 60 ariyo inafatirwaho ku rwego rwo hejuru mu kugena ibigenerwa ubwiteganyirize ndetse akaba ari nabwo buryo bukoreshwa mu kubara ibigenerwa uwamugariye ku kazi, ko asanga rero ikirego cye nta shingiro gifite. [4] Mu rubanza RSOC00292/2021/TGI/NYGE rwaciwe ku wa 06/05/2022, Urukiko Rwisumbuye rwa Nyarugenge rwemeje ko ikirego cya Mount Meru gifite ishingiro kuri bimwe; rwemeza ko igomba guha Ruzibiza Aloys amafaranga mu buryo bukurikira: $150.000 \text{ Frw} \times 30\% = 45.000 \text{ Frw} \times 6$:

1Aha habayeho kwibeshya kuko Ruzibiza Aloys ariwe wari watanze ikirego

Page 4

270.000Frws; “Rente d’incapacité permanente”: 7950 Frws ya buri kwezi + 3600Frws ya buri kwezi, yose hamwe akaba:11.550Frws. Rwategetse kandi Mount Meru kwishyura Ruzibiza Aloys 700.000Frw y’igihembo cy’Avoka no kumusubiza 20.000 Frw yatanzeho ingwate y’amagarama arega. [5] Ruzibiza Aloys yajuririye urwo rubanza mu Rukiko Rukuru, avuga ko Urukiko Rwisumbuye rwirengagije kumugenera amafaranga yo kwivuza, ayerekeranye n’ugomba kumufasha, ay’indishyi mbangamirabukungu, ay’indishyi mbangamiraburambe, amafaranga agenerwa umukozi uzahajwe burundu n’impanuka y’akazi, indishyi z’akababaro, ko anasanga amafaranga y’ikurikiranarubanza n’ay’igihembo cya Avoka yatanzwe ku rwego rwa mbere adakwiye. Mount Meru na yo yatanze ubujurire bwuririye ku bundi isaba ko Urukiko rwategeka uwareze kuyishyura amafaranga Milioni imwe y’ikurikiranarubanza n’igihembo cya Avoka ngo kuko yagaragaje bimenyetso byerakana ko yitaye mu buryo bwose bushoboka kuri Ruzibiza Aloys igihe yagiraga impanuka, kandi n’Urukiko rukaba rwaramugeneye ibyo amategako ateganya byose ariko agakomeza kuyishora mu manza ku maherere. [6] Mu rubanza RSOCA 00117/2022/HC/KIG rwaciye ku wa 14/07/2023, Urukiko Rukuru rwemeje ko ubujurire bwa Ruzibiza Aloys bufite ishingiro kuri bimwe, ko ubujurire bwuririye ku bundi bwa Mount Meru nta shingiro bufite, rwemeza ko imikirize y’urubanza rwajuririwe ihindutse kuri bimwe. Rwategetse Mount Meru guha Ruzibiza Aloys 270.000Frw yari yagenewe mu rubanza rwajuririwe kubera ko atajuririwe; ruyitegeka kandi kujya imuha 68.000Frw buri kwezi ya pansiyi y’ubumuga nk’uko yasobanuwe aho kuba 11.550Frw yari yagenwe mu rubanza rwajuririwe; ruyitegeka nanone kumuha 700.000 Frw y’igihembo cya Avoka nk’uko yari yemejwe ku rwego rwa mbere, 100.000Frw y’ikurikiranarubanza ku rwego rw’ubujurire; runayitegeka kumusubiza 20.000Frw yatanzeho ingwate y’amagarama nk’uko yari yagenwe mu rubanza rwajuririwe na 40.000Frw yatanzeho ingwate y’amagarama kuri urwo rwego. [7] Ku wa 10/08/2023, Ruzibiza Aloys yandikiye Perezida w’Urukiko rw’Ubujurire asaba ko urubanza RSOCA00117/2022/HC/KIG rwaciye n’Urukiko Rukuru ku wa 14/07/2023, rwasubirwamo ku mpamvu z’akarengane. Nyuma yo gusuzuma ubusabe bwe, Perezida w’Urukiko rw’Ubujurire yandikiye Perezida w’Urukiko rw’Ikirenga amusaba ko urwo rubanza rwasubirishwamo ku mpamvu z’akarengane. Perezida w’Urukiko rw’Ikirenga amaze kubona raporo yarukorewe, yafashe icyemezo ko rwakongera kuburanishwa, maze ruhabwa RS/INJUST/RSOC00003/2024/SC. [8] Ruzibiza Aloys avuga ko akarengane ke gashingiye ku kuba inkiko zabanje zarafashe ibyemezo bidakwiye kandi binyuranyije n’amategako. [9] Iburanisha ry’urubanza ryabaye mu ruhame ku wa 09/09/2024, ababuranyi bose bitabye, Ruzibiza Aloys yunganiwe na Me Chuma Ndekezi Claude, Mount Meru ihagarariye na Me Gakwaya Gilles, maze ababuranyi bajya impaka ku bibazo bikurikira:

- a. Kumenya niba Ruzibiza Aloys yarirukanywe mu kazi mu buryo bunyuranyije n’amategako ku buryo yagenerwa indishyi;
- b. Kumenya niba Mount Meru yaragombaga kuvuza Ruzibiza Aloys;
- c. Kumenya ishingiro ry’indishyi zinyuranye zisabwa na Ruzibiza Aloys;

- i. Indishyi mbangamirabukungu; ii. Indishyi mbangamiraburambe; iii. Indishyi z'akababaro; iv. Amafaranga y'umukozi wazahajwe burundu n'impanuka y'akazi;
- v. Amafaranga y'ugomba kumufasha; vi. Amafaranga y'ingendo yakoresheje ajya kwivuza.

Page 5

- d. Kumenya ishingiro ry'indishyi zerekeranye n'amafaranga y'igihembo cya Avoka n'ay'ikurikiranarubanza zisabwa n'ababuranyi. [10] Nyuma yo kumva ibisobanuro by'ababuranyi, Urukiko rwapfundikiye iburanisha rubamenyesha ko urubanza ruzasomwa ku wa 18/10/2024, kuri iyo tariki ntirwasomwa kubera ko hari hakiri ibikirusuzumwamo, isomwa ryarwo ryimuriwa ku wa 01/11/2024. Uwo munsu Urukiko rwaciye urubanza rubanziriza urundi, rwemeza ko mbere yo guca urubanza mu mizi, muganga wasuzumye Ruzibiza Aloys agomba kurugaragariza niba uyu akeneye umwitaho kubera ubumuga yasigiwe n'impanuka, runategeka Mount Meru kugaragariza Urukiko ibigize umushahara Ruzibiza Aloys yahembwaga (Fiche de paie). [11] buranisha ryasubukuwe ku wa 17/12/2024, Ruzibiza Aloys yitabye yunganiwe na Me Chuma Ndekezi Claude, Mount Meru ihagarariwe na Me Gakwaya Gilles, ababuranyi bavuga kuri raporo y'umuhanga wapimye Ruzibiza Aloys. II. ISESENGURA RY'IBIBAZO BIGIZE URUBANZA A. Kumenya niba Ruzibiza Aloys yarirukanywe mu kazi mu buryo bunyuranyije n'amategako ku buryo yagenerwa indishyi [12] Ruzibiza Aloys n'umwunganizi we bavuga ko atamenyeshejwe ko yasezerewe ku kazi, ko nta n'integuza yahawe, ko yatunguwe no guhagarikirwa umushahara. Basobanura ko Umukoresha we yamugejeje i Kigali aramuta, yanga kumuvuza, ataranamuteganyirije mu kigo cy'ubwishingizi, kandi ntiyamuha n'ibyo amategako amuteganyiriza amaze kumusezerera. [13] Bavuga ko ingingo ya 24 y'Itegeko N° 66/2018 ryo ku wa 30/08/2018 rigenga umurimo mu Rwanda iteganya ko integuza igomba gutangwa n'umukoresha cyangwa umukozi mu buryo bukurikira: 1° iminsi cumi n'itanu (15) nibura iyo umukozi yakoze igihe kiri munsu y'umwaka umwe (1); Ingingo ya 29 y'iryo Tegeko igateganya ko integuza igomba kumenyeshwa mu nyandiko uruhande ireba hakagaragazwa n'impamvu zituma amasezerano aseswa....; naho ingingo ya 30 yaryo igateganya ko iseswa ry'amasezerano y'umurimo rinyuranyije n'amategako rituma hatangwa indishyi; ko basanga indishyi zihabwa umukozi wirukanywe binyuranyije n'amategako zidashobora kujya munsu y'umushahara w'amezi atatu (3), ariko ntizirenze umushahara ahabwa w'amezi atandatu (6). [14] Bagaragaza ko mu Rukiko Rukuru, Ruzibiza Aloys yari yasabye $150,000\text{Frw} \times 6 = 900,000\text{Frw}$ y'indishyi z'uko yasezerewe ku kazi mu buryo bunyuranyije n'amategako, ariko umucamanza ntiyagira icyo abivugaho, bakavuga ko ibyo ari akarengane. Basaba Urukiko ko mu gihe rwasanga yarasezerewe ku kazi mu buryo bunyuranyije n'amategako, rwazatega ko yishyurwa ibirarane by'imishahara kuva igihe umushahara wahagarikiwe mu kwezi kwa 10/2020 kugeza igihe ikibazo kizakemukira. [15] Me Gilles Gakwaya uburanira Mount Meru yiregura kuri iyi ngingo avuga ko urega atabasha guhuza ibyo asaba n'amategako. Asobanura ko Ruzibiza Aloys atigeze asezererwa ku kazi kuko akazi ke kahagaritswe n'uko yagize impanuka aho yitaweho bihagije kugeza mu kwezi kwa 2 ubwo yari agihabwa amafaranga yo kwivuza nk'uko ibimenyetso batanze bibigaragaza. Asobanura ko uregwa ubwe yemeza ko

nyuma yo gukora impanuka yakomeje guhabwa umushahara kugera mu kwezi kwa 10/2020 ndetse akaba yari akivuzwa kugera mu kwezi kwa 2/2021. [16] Asoza avuga ko indishyi Ruzibiza Aloys asaba zihabwa umukozi wirukanwe mu buryo bunyuranyije n'amategeko; ko kuri we atari ko bimeze kuko Mount Meru itaba yaramwirukanye hanyuma ngo ikomeza kumuhemba no kumuvuza na nyuma y'amezi arenga atandatu akoze impanuka. Arangiza avuga ko kuba atarakomeje guhembwa, icyabaye atari ukumwirukana ku kazi, ko ahubwo ari akazi kahagaze kubera ko imodoka yatwaraga yari yarangiritse idashobora gusubira mu muhanda. Avuga ko Itegeko ry'umurimo riteganyaga ko umushahara utangwa ku kazi kakozwe, ko kubera ko imodoka Ruzibiza yatwaraga yangiritse kandi ntawundi murimo umukoresha yari kumubonera, byumvikana ko atari

Page 6

gukomeza kumuhemba adakora, hashingiwe ku byo itegeko ry'umurimo riteganyaga ku bijyanye n'umushahara. UKO URUKIKO RUBIBONA [17] ngingo ya 24 y'Itegeko N° 66/2018 ryo ku wa 30/08/2018 rigenga umurimo mu Rwanda nk'uko ryahinduwe kugeza ubu, igira iti: haseguriwe ibikubiye mu masezerano rusange, amategeko ngengamikorere cyangwa amasezerano y'umurimo, integuza igomba gutangwa n'umukoresha cyangwa umukozi mu buryo bukurikira: 1° iminsi cumi n'itanu (15) nibura iyo umukozi yakozwe igihe kiri muni y'umwaka umwe (1); ... Gutanga integuza bigomba gukorwa mu nyandiko kandi hakagaragazwa impamvu yo gusesa amasezerano y'umurimo. [18] Ingingo ya 29 y'Itegeko rimaze kuvugwa iteganyaga ko integuza igomba kumenyeshwa mu nyandiko uruhande ireba hakagaragazwa n'impamvu zituma amasezerano aseswa. [19] Ingingo ya 30 y'iryo Tegeko iteganyaga ko iseswa ry'amasezerano y'umurimo rinyuranyije n'amategeko rituma hatangwa indishyi; ko indishyi zihabwa umukozi wirukanywe binyuranyije n'amategeko zidashobora kujya muni y'umushahara w'amezi atatu (3), ariko zidashobora kurenza umushahara ahabwa w'amezi atandatu (6). [20] Mu miburanire ye kuri iyi ngingo, Ruzibiza Aloys agaragaza ko umukoresha we atamukoreye ibyo amategeko ateganyaga ku byerekeye gusezerera umukozi. [21] Urukiko Rukuru mu cyemezo cyarwo rwagaragaje ko amasezerano Ruzibiza Aloys yari afitanye na Mount Meru atahagaritswe no kwirukanwa, ko ahubwo yahagaritswe n'impanuka, ko Ruzibiza atagaragaza ko impanuka yakozwe itari kumubuza gusubira ku kazi cyane cyane ko nawe mu miburanire ye yemeraga ko akeneye umurwaza bigaragaza ko atari agishoboye akazi. [22] Iyi myumvire ihura n'imyiregurire ya Mount Meru ivuga ko itasezereye Ruzibiza Aloys ku kazi, ko ahubwo akazi ke kahagaritswe n'uko yagize impanuka, bityo akazi yakoraga kagahagarikwa nuko imodoka yatwaraga yari yarangiritse, umukoresha akaba nta kandi kazi yari kumubonera, ahubwo ko yakomeje kumurwaza, bityo ko hashingiwe ku byo itegeko ry'umurimo riteganyaga ku mushahara, atari gukomeza guhembwa adakora. [23] Urukiko rurasanga iyi mvugo ya Mount Meru nta shingiro yahabwa kuko nubwo itemera ko yasezereye Ruzibiza ku kazi ngo kubera ko yakozwe impanuka akaba atarabashaga kongera gukora nka mbere, kandi n'imodoka yatwaraga ikaba yarangiritse, ntihakana ko atakiyikorera kandi nayo ikaba itakimuhemba. Uko byagenda kose ntibikuraho inshingano Mount Meru yari ifite nk'umukoresha yo kubahiriza ibyo amategeko ateganyaga ku birebana n'uko amasezerano y'akazi aseswa. [24] Hashingiwe ku ngingo ya 24, iya 29 n'ya 30 z'Itegeko N° 66/2018

ryo ku wa 30/08/2018 ryavuzwe haruguru, Urukiko rusanga ibivugwa na Ruzibiza ko yirukanywe mu buryo bunyuranije n'amategeko bifite ishingiro kuko kuba imodoka yatwaraga yari yarakoze impanuka nawe agakomereka, bitari kubuza Mount Meru kumwandikira imumenyesha ko akazi karangiye, bityo kuba itarabyubahirije ikaba igomba kubitangira indishyi. [25] Ingingo ya 3, igika cya 1, agace ka 29 y'Itegeko N° 66/2018 ryo ku wa 30/08/2018 rigenga umurimo mu Rwanda ryariho Ruzibiza avanwa mu kazi isobanura ko ibigize umushahara ari umushahara w'ibanze (basic salary) umukozi ahembwa hiyongereyeho indamunite kubera akazi yakoze. Muri dosiye hari inyandiko Mount Meru yashyikirije urukiko igaragaza ko umushahara Ruzibiza Aloys yahembwaga buri kwezi ari 173,450.60Frw.

Page 7

[26] Hashingiwe ku biteganywa n'ingingo z'Itegeko N° 66/2018 ryo ku wa 30/08/2018 ryavuzwe haruguru, Urukiko rurasanga Mount Meru igomba guha Ruzibiza Aloys indishyi zo kumwirukana mu buryo bunyuranije n'amategeko zingana na 173,450.60Frw x 6= 1,040,703Frw. B. Kumenya niba Mount Meru yaragombaga kuvuza Ruzibiza Aloys [27] Ruzibiza Aloys na Me Chuma Ndekezi umwunganira bavuga ko Mount Meru yamukoreye amakosa yo kutamufatira ubwishingizi muri RSSB, ibyo bakaba basanga binyuranye n'ibiteganywa n'ingingo ya 6, igika cya 2, y'Itegeko N° 05/2015 ryo ku wa 30/03/2015 rigenga imitunganyirize y'ubwiteganyirize bwa pansiyoni; 2 bikaba byaramugizeho ingaruka igihe yakoraga impanuka nta bwishingizi yafatiwe, ko kubera iyo mpamvu ubuvuzi n'ibindi byose asaba bigomba gutangwa na Mount Meru nk'uko biteganywa n'ingingo ya 19 y'Itegeko N° 66/2018 ryo ku wa 30/08/2018 rigenga umurimo mu Rwanda. [28] Bavuga ko ibijyanye no kuvuza Ruzibiza Aloys babishingira ku ngingo ya 22 y'Itegeko N° 06/2003 ryo ku wa 22/03/2003 rihindura kandi ryuzuzwa Itegeko-Teka ryo ku wa 22 Kanama 1974 rigenga ubwiteganyirize bw'abakozi iteganywa ko ibigize ubuvuzi ku mukozi wagize impanuka y'akazi, ari gusuzumwa, gufatwa ibipimo no kubisesengura, kuvurwa, guca mu byuma, kubagwa, gufatwa neza no guhindurirwa ibyuma bisimbura ahababaye n'ibivura ubumuga, kongera kumenyereza umubiri, guhabwa imiti n'ibimutunga, amatike yo kujya kwivuza mu bitaro no kugaruka imuhira; ko basanga ibyo byose bigomba gukorwa na Mount Meru kuko nta bwiteganyirize yari yaramufatiye muri RSSB. [29] Basobanura ko ubumuga Ruzibiza Aloys yatewe n'iyi mpanuka bugaragazwa na raporo ya muganga wo mu Bitaro bya Gisirikare i Kanombe yo ku wa 14/01/2021 yerekana ko impanuka yamuteye ubumuga buhoraho (incapacité physique permanente) ku rwego rwa 92%. Bavuga ko nyuma y'iyi mpanuka, Ruzibiza Aloys yasabye proforma z'ibyo agomba gukorerwa mu buvuzi arazihabwa, ariko azeretse Mount Meru ntiyamuha amafaranga yo kwivuza. [30] Basaba ko Urukiko rwategeka Mount Meru kumuha indishyi ziteye ku buryo bukurikira: - 12.374.672Frw yo kubagwa hashingiwe kuri Proforma yo ku wa 04/11/2021 yakozwe n'ibitaro byitiriwe Umwami Faysal (KFH); - 7.503.500Frw y'insimburangingo hashingiwe kuri Proforma yo ku wa 09/08/2021 yakozwe na Pharmacie KIPHARMA; - 10.121.828Frw y'ingendo, ay'umurwaza n'ibindi, yose hamwe akaba 30.000.000Frw. [31] Me Gilles Gakwaya uburanira Mount Meru yiregura kuri iyi ngingo avuga ko yibaza aho urega akura umubare wa 30.000.000Frw asaba, kuko nta

tegeko ashingiraho. Avuga ko urega ashingira ku ngingo ya 19 y'Itegeko N° 66/2018 ryo kuwa 30/08/2018 rigenga umurimo mu Rwanda, asaba ko igihe umukoresha atashyize umukozi we mu bwiteganirize agomba kumuha ibyo ikigo cy'ubwiteganirize cyakamuhaye iyo aza kuba yarateganyirijwe, no ku ngingo ya 22 y'Itegeko N° 06/2003 ryo kuwa 22/03/2003 rihindura kandi ryuzuza Itegeko-teka ryo kuwa 22 Kanama 1974 rigenga ubwiteganirize bw'abakozi, iteganya ko ...ibarwa rikorwa uherye igihe ubumuga bwemerejwe kugeza ku myaka 55 ibyo bigakorwa habarwa gusa amezi 6 mu mwaka. Amafaranga y'ukwezi abarwa hagenwa ubwiteganirize buhabwa uwamugaye ni 30% y'umushahara we mpuzandengo yahembwaga; ko hashingiwe kuri izo ngingo, bidashoboka ko akora imibare uko abyumva kandi hari umurongo itegeko ryatanze.

2Ingingo ya 6 igika cya 2 y'Itegeko N° 05/2015 ryo kuwa 30/03/2015 rigenga imitunganyirize y'ubwiteganirize bwa pansiyi itegamye ko: Umukoresha agomba kandi kwandikisha buri mukozi ahaye akazi mu gihe kitarenze iminsi irindwi (7) y'akazi uherye igihe amushyirye mu kazi. 3Ingingo ya 19 y'Itegeko N° 66/2018 ryo kuwa 30/08/2018 rigenga umurimo mu Rwanda iteganya ko: Umukozi wagize impanuka cyangwa indwara bikomoka ku murimo atateganyirijwe n'umukoresha we mu kigo cy'ubwiteganirize mu Rwanda yishyurwa n'umukoresha amafaranga angana nk'ayo yagahawe n'ikigo cy'ubwiteganirize mu Rwanda iyo aza kuba yarateganyirijwe, harimo kumuvuza n'ibindi bijyanye nabyo.

Page 8

[32] Asobanura ko ashingiye ku bikubiye mu ngingo ya 25 y'Itegeko N° 05/2015 ryo kuwa 30/03/2015 rigenga imitunganyirize y'ubwiteganirize bwa Pansiyi, asanga kugira ngo haboneke ibikwiye kugenerwa umukozi byagakwiye kuba byaratanze na RSSB, hakwiye kubarwa kuva igihe ubumuga bwa Ruzibiza Aloys bwemerejwe na muganga wemewe kugeza igihe yagiriye imyaka 60. Uhagarariye Mount Meru avuga ko hashingiwe kuri iyo ngingo hakwiye kubarwa ikigereranyo cya 30% cy'umushahara we mpuzandengo w'ukwezi ukubye amezi 6 avugwa muri iyo ngingo bigatanga igiteranyo nyacyo cya Pansiyi y'ubumuga. Avuga ko itegeko ritigeze riteganya amafaranga ngo rinavuge ko umuntu azayahabwa ubuzima bwe bwose, ko ahubwo ryerekanye umurongo na formule ikoresheya (mode of computation). [33] Asoza avuga ko nta hantu Itegeko ryateganyije mu ngingo yavuze haruguru ko umukozi yerekana proforma yakoresheje agamije kuzereka urukiko, cyane cyane ko hamwe mu nzego zabanje yagiye avuga proforma y'insimburangingo ya Miliyoni 4, yarangiza mu myanzuro ye agasaba 7.503.500Frw, ibintu bigaragaza ko urega aregera ibintu bitarimo ukuri kuko ingingo z'amategeko yifashisha zishimangira ko ubwishyu bukorwa ku buvuzi bwamaze gukorwa umukozi kandi bukishyurwa mu biganza by'ibigo by'ubuvuzi byamuvuye. Avuga ko Umuntu yakwibaza impamvu Ruzibiza Aloys yamaze icyo gihe cyose yakira amafaranga yabaga yakoresheje yivuzwa nta nkomyi ariko ubu akaba aribwo ari kuvuga ko atigeze afashwa kuvuzwa, ko ibyo asaba nta shingiro byahabwa. UKO URUKIKO RUBIBONA [34] Ingingo ya 19, igika cya 2, y'Itegeko N° 66/2018 ryo kuwa 30/08/2018 rigenga umurimo mu Rwanda nk'uko ryahinduwe kugeza ubu, iteganya ko umukozi wagize impanuka cyangwa indwara bikomoka ku murimo atateganyirijwe n'umukoresha we mu

kigo cy'ubwiteganyirize mu Rwanda yishyurwa n'umukoresha amafaranga angana nk'ayo yagahawe n'ikigo cy'ubwiteganyirize mu Rwanda iyo aza kuba yarateganyirijwe, harimo kumuvuza n'ibindi bijyanye nabyo. [35] Naho ingingo ya 14 y'Itegeko N° 06/2003 ryo kuwa 22/03/2003 ihindura kandi yuzuzwa Itegeko- Teka ryo ku wa 22 Kanama 1974 rigenga Ubwiteganyirize bw'Abakozi yo isobanura ibigize ubuvuzi bukorerwa uwagiriye impanuka mu kazi4.

4 Ingingo ya 14: Ingingo ya 22 y'Itegeko-Teka ryo ku wa 22 Kanama 1974 rigenga Ubwiteganyirize bw'Abakozi ihinduwe kandi yujijwe ku buryo bukurikira: Ukwivuzwa kugizwe n' ibi bukurikira:

- a. Kuvurwa, kubagwa, kuvurwa amenyo, gusuzumwa harimo no guca mu cyuma, gufatwa ibigomba gupimwa no kubisesengura;
- b. Guhabwa imiti n'ibindi bijyana na yo;
- c. Kwitabwaho mu bitaro cyangwa mu mavuriro yemewe na Leta no guhabwa ifunguro. Inama y'Ubutegetsi ishira umubare w'amafaranga ahabwa abarwariye mu bitaro bidatanga ibiryo hakurikijwe ikiguzi fatizo cyo mu bitaro binyuranye by'igihugu;
- d. Gutanga ibyuma bisimbura ingingo n'ibivura ubumuga buturutse ku murimo, kubyitaho no kubihindura kandi bikemurwa na Muganga wemewe na Leta igihe abona ko ari ngombwa kandi bishobora gufasha ingingo kwisubiranywa no kwigisha uwamugaye kwibeshaho, ariko, bikemurwa na Muganga Ngishwanama w'Isanduku y'Ubwiteganyirize bw'Abakozi;
- e. Gutanga no guhindura indorerwamo z'amaso. Ibifata indorerwamo bizatangwa n'Isanduku y'ubwiteganyirize bw'abakozi hakurikijwe igiciro gisanzwe naho indorerwamo zizishyurwa ku giciro cyazo;
- f. Gufasha ingingo z'uhamugaye kwisubiranywa no kumwigisha kwibeshaho;
- g. Gutanga amafaranga y'urugendo kugira ngo umuntu avanze aho yakomerekeye ajyanwe mu mavuriro cyangwa se imuhira mu gihe ubuzima bwe bukeneye.
- h. Uretse kuvurwa byihutirwa bikorwa n'umukoresha, Isanduku y'ubwiteganyirize bw'abakozi ni yo ivuza umukozi ugize impanuka y'akazi, igaha amafaranga, ku buryo butaziguye, abavuzi, abacuruzwa imiti, abafasha b'abaganga, abarunguza imiti ndetse n'ibigo by'ubuzima bya Leta cyangwa byigenga byemewe n'abategetsi b'ubuvuzi.
- i. Kwishyura amafaranga ateganywa mu gika kibanza bikorwa hakurikijwe ibiciro biteganywa n'amategeko.
- j. Amafaranga y'urugendo avugwa kuri g) y'igika cya mbere ashobora gusubizwa uwagize impanuka ari uko abitangiye ibimenyetso.

- k. Iyo uwiteganyirije yitabye Imana ari mu nzira ajya ku kazi cyangwa se avayo, Isanduku y'Ubwiteganyirize bw'Abakozi itanga amafaranga yakoreshejwe mu kugeza umurambo ku bitaro biri hafi y'aho atuye. Iyo ari ngombwa kandi byemejwe n'Akanama k'abaganga, uwiteganyirije ashobora kuvurirwa mu bitaro bifite ubushobozi bwihariye biri mu gihugu cyangwa mu mahanga.

Page 9

- [36] Ku byerekeye uru rubanza, impande zombi zemeranywa ko Mount Meru itubahirije ibiteganywa n'Ingingo ya 39, igika cya 1, agace ka 6, y'Itegeko N° 66/2018 ryo ku wa 30/08/2018 ryavuzwe haruguru iteganya ko umukoresha afite inshingano yo gushyira umukozi mu bwiteganyirize no kumutangira imisanzu mu Kigo cy'ubwiteganyirize bw'abakozi mu Rwanda kuko Ruzibiza Aloys akora impanuka nta bwiteganyirize yari yarafatiwe n'umukoresha we muri RSSB, nyamara inyandiko Ruzibiza Aloys yahemberwagaho igaragaza ko yakatwaga umusanzu w'ubwiteganyirize. [37] Dosiye y'urubanza igaragaza ko mu Rukiko Rukuru, Ruzibiza Aloys yasabye ko yahabwa 30.000.000Frw yo kwivuka, ayo mafaranga akaba akubiyemo ayo kubagwa angana na 12.374.672Frw nk'uko bigaragazwa na Proforma Invoice nimeru KFH/11/21/06 yo ku wa 4/11/2021 yatanze n'Ibitaro byitiriwe Umwami Faisal, na 7.503.500Frw y'insimburangingo agaragazwa na "Proforma Invoice" ebyiri zo ku wa 9/8/2021 zatanze na Pharmacie ya Kipharma, hamwe na 10.121.828Frw, akubiyemo ay'ingendo, gutunga umurwaza n'ibindi. Urukiko Rukuru rukaba rutarayamugeneye rushingiye ku kuba ibyo asaba bidateganyijwe n'amategeko kuko ngo inshingano za Mount Meru ari ukwishyura ibigo by'ubuvuzi kuri serivisi byahaye Ruzibiza Aloys, ko itari kumuha amafaranga mu ntoki ngo ayakoreshe uko abyumva kandi binyuranyije n'amategeko. [38] Urukiko rurasanga nk'uko byemejwe mu zindi manza5 zaciwe n'uru Rukiko, iyi myumvire y'itegeko ibaye ari ihame, uwaba adafite ubushobozi bwo kwivuka ntabwo yazigera abona ubufasha. [39] Urukiko rurasanga nk'uko byagaragajwe mu bindi bika by'uru rubanza, bimwe mu byo itegeko riteganyiriza uwahohotwe n'impanuka byerekeranye no kuvurwa harimo gusuzumwa no guca mu cyuma, gufatwa ibigomba gupimwa no kubisesengura; kuba Ruzibiza Aloys yarahawe Proforma Invoice n'ibitaro nuko yari yasuzumwe n'abaganga kugirango hamenyekane ibikenewe ngo azabashe kuvurwa. [40] Dosiye igaragaza ko mu nyandiko yo kuwa 8/02/2021, Ruzibiza Aloys yasabye Mount Meru ko ikibazo bafitanye cyakemurwa mu bwumvikane ariko ntibashobora kumvikana. Urukiko Rurasanga icyo Mount Meru yari gukora imaze kugaragarizwa ibikenewe kugirango Ruzibiza Aloys avurwe ari ugukora ibishoboka byose, (nk'uri mu mwanya w'ikigo cy'ubwiteganyirize) igashakira Ruzibiza Aloys uburyo bwo kwivuka. [41] Raporo yakorewe Ruzibiza Aloys ku Bitaro bya Gisirikare by'i Kanombe igaragaza ko yakomeretse ku buryo bukomeye, impanuka ikaba yaramusigiye ubumuga bwa burundu (permanent disability) ku kigero cya 85%, zimwe mu ngingo z'umubiri we harimo amaguru, amatako amavi n'ibirenge bikaba bidakora neza ku buryo akenera imbago n'ibindi byuma (assistive devices) byamufasha kugenda. Iyi raporo igaragaza ariko ko Ruzibiza Aloys avuwe byuzuye atakenera umuntu wo kumufasha mu mirimo ye ya buri munsu6.

5 Mu rubanza RCAA0202/07/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 09/04/2009, haburana Nyetera Jean Baptiste na Corar, Urukiko rwasuzumye ikibazo gisa n'ikiri muri uru rubanza rusanga, ku byerekeye kuvurwa ubwabyo, nta gikuraho inshingano y'umwishingizi yo guha uwahohotewe n'impanuka uburyo bwo kwivuzwa, imyiregurire ya CORAR y'uko uwahohotewe ariwe ugomba byanze bikunze kwirihira akazishyurwa nyuma yerekanye impapuro yishyuriyeho amafaranga yo kwivuzwa, ikaba nta shingiro ifite, kuko kuvuga ko igika cya mbere cy'ingingo ya 13 yavuzwe haruguru cyasobanurwa gutyo, byaba ari ukumvikanisha ko uwagize impanuka adafite uburyo bwo kwitangira mbere amafaranga yo kwivuzwa adashobora kugobokwa n'umwishingizi, ibi bikaba byaba ari isesengura rikosheje ry'Itegeko, ridashobora rero kwemerwa, hakurikijwe amahame agenga isesengura ry'amategeko. Na none, mu rubanza RS/INJUST/RC00012/2022/SC rwaciwe kuwa 02/02/2024 haburana Mukakimenyi Marie Claire na Sanlam Ag Plc, uru Rukiko rwasanze kimwe mu byo Mukakimenyi Marie Claire yasabaga urubanza rugitangira, kwari ukwemeza ko amafaranga agaragara kuri facture proforma yazishyurwa kugira ngo opération yari yategetswe na muganga ishobore gukorwa; rutegeka Sanlam Ag Plc gukora ibikenewe byose mu gihe kitarenze ukwezi kumwe kuva urubanza rusomwe kugira ngo Mukakimenyi Marie Claire avurwe, bitaba ibyo ikamuha 5.265.000Frw (yari kuri proforma) kugira ngo abashe kwivuzwa ubwe. 6After final treatment, he will be autonomous and will not require a third person for help in his daily activities.

Page 10

[42] Hashingiwe ku ngingo ya 19, igika cya 2, y'Itegeko N° 66/2018 ryavuzwe haruguru, Urukiko rusanga Ruzibiza Aloys agomba kuvuzwa na Mount Meru, itabikora ikishyura factures zagaragajwe haruguru, zikubiyemo ibi bikurikira: 12.374.672Frw agaragara kuri "Proforma Invoice" nimeru KFH/11/21/06 yo ku wa 4/11/2021 yatanze n'Ibitaro byitiriwe Umwami Faisal, na 7.503.500Frw y'insimburangingo agaragazwa na Proforma Invoice ebyiri zo ku wa 9/8/2021 zatanze na Pharmacie ya Kipharma, yose hamwe akaba 19.878.172Frw, ayo mafaranga ikayishyura ibigo byavuzwe haruguru mu gihe cy'ukwezi kumwe uru rubanza rumaze gucibwa, Mount Meru itabikora ikayaha Ruzibiza Aloys akajya kwivuzwa ubwe. C. Kumenya ishingiro ry'indishyi zinyuranye zisabwa na Ruzibiza Aloys

- i. Indishyi mbangamirabukungu [43] Ruzibiza Aloys n'umwunganira bavuga ko ingingo ya 18 y'Iteka rya Perezida N° 31/01 ryo ku wa 25/08/2003 rishyiraho uburyo bwo kwishyura indishyi ku bubabare bw'umubiri buturutse ku mpanuka zitewe n'ibinyabiziga iteganya ko "Iyo ari ubumuga buhoraho burengeje 30%, indishyi y'ibangamirabukungu ikorwa hakurikijwe amategeko akurikira: Iyo uwahohotewe akora umurimo ahemberwa, ahabwa amafaranga abarwa hakurikijwe igihembo umuntu atahana, urwego rw'ubumuga n'umyaka ye. [44] Bavuga ko bashingiye ku rubanza RS/INJUST/RC00013/2021/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 28 Kamena 2022, haburana Manirarora Jean de Dieu n'umukoresha we Rwanda Rudniki Ltd, Sanlam Ag Plc ikaba yararuhamagajwemo nk'umwishingizi, mu gika cyarwo cya 54, Urukiko rwageneye Manirarora indishyi mbangamirabukungu kubera ko impanuka y'akazi yamuvukije umusaruro yari asanzwe abona, izo ndishyi zibarirwa ku myaka 65 kuko ariyo yo kujya mu kiruhuko cy'izabukuru, ko hashingiwe kuri urwo rubanza),

basanga no muri uru rubanza izo ndishyi zabarirwa ku myaka 65, Ruzibiza Aloys agahabwa indishyi mbangamirabukungu zibariye kuri SMIG ya 5,000Frw ku munsu, ku gipimo cy'ubumuga bwa burundu bungana na 92%, gukuba imyaka 4 yari asigaje gukora, ku gipimo cy'ibitsa cya 7%, akaba asaba ko zabarwa mu buryo bukurikira: $(5,000 \times 30 \times 12 \times 92\% \times 4 \text{ ans}) : 1 + (7\% \times 4) = 5,175,000 \text{ Frw}$. [45] Basoza bavugaga ko mu rubanza rusabirwa gusubirwamo ku mpamvu z'akarengane, Umucamanza ntacyo yavuze kuri iyi ngingo y'ikirego, bakaba basanga harirengagijwe ibiteganywa n'ingingo ya 10 y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, iteganywa ko umucamanza aca urubanza ku cyasabwe cyose kandi kuri icyo cyonyine, basaba ko uru Rukiko rwakosora ayo makosa. [46] Me Gilles Gakwaya uburanira Mount Meru yiregura kuri iyi ngingo avugaga ko ibarwa rya SMIG urega yifashisha, rikoresheye ku wamugajwe n'impanuka yo mu muhanda, hakurikijwe ibiteganywa n'amategeko agenga ubwishingizi busanzwe, mu gihe urubanza rwa Ruzibiza Aloys ari urw'umurimo rutareba ubwishingizi busanzwe. Avugaga ko hashingiwe ku byo amategeko y'ubwiteganyirize agenera utarageza imyaka 60, hakwiye kubarwa gusa igihe cyari gisigaye ngo icyo myaka igere. Arangiza avugaga ko ibyo Ruzibiza Aloys yagenerwa ari ibyo yari guhabwa na RSSB icyo aza kuba yarandikishijwe mu icyo kigo, ibyo bikababwariye hashingiwe kuri formule iri mu ngingo ya 22, igika cya 2, y'Itegeko N°06/2003 ryo kuwa 22/03/2003 rihindura kandi ryuzuzwa Itegeko-Teka ryo kuwa 22 Kanama 1974 rigenga ubwiteganyirize bw'abakozi. UKO URUKIKO RUBIBONA [47] Mu rubanza rwaciye n'Urukiko Rukuru, Ruzibiza Aloys yasabaga ko yahabwa indishyi mbangamirabukungu, akazisaba ashingiye ku Iteka rya Perezida N° 31/01 ryo ku wa 25/08/2003 rishyiraho uburyo bwo kwishyura indishyi ku bubabare bw'umubiri buturutse ku mpanuka zitewe n'ibinyabiziga.

Page 11

[48] Ingingo ya 19, igika cya 1, y'Itegeko N° 66/2018 ryo ku wa 30/08/2018 rigenga umurimo mu Rwanda nk'uko ryahinduwe kugeza ubu, iteganywa ko umukozi wagize impanuka cyangwa indwara bikomoka ku murimo yarateganyirijwe n'umukoresha we mu kigo cy'ubwiteganyirize mu Rwanda yishyurwa hakurikije amategeko agenga ubwiteganyirize bw'abakozi mu Rwanda. Ibi bikaba bisobanuye ko Iteka rya Perezida N° 31/01 ryo ku wa 25/08/2003 ryavuzwe haruguru Ruzibiza Aloys ashakaga kwiambaza ridashobora gukoreshwa hasuzumwa iki kibazo, bityo ikirego cye cy'indishyi mbangamirabukungu kikaba nta shingiro cyahabwa. [49] Urukiko rurasanga kandi n'ikibazo cy'indishyi mbangamiraburamba Ruzibiza Aloys asaba bitari ngombwa kugisuzuma kuko nacyo gishingiye ku Iteka rya Perezida N° 31/01 ryo ku wa 25/08/2003 ryavuzwe, kandi nk'uko bimaze gusobanurwa, iryo Teka rikaba ridahuye kamere n'uru rubanza. ii. Indishyi z'akababaro [50] Ruzibiza Aloys na Me Chuma Ndekezi Claude umwunganira bavugaga ko yasabye Urukiko Rukuru gushingira ku kubabara gukabije yatewe n'imvune yaturutse ku mpanuka, kuba atabona ubuvuzi bitewe n'amikoro make, maze rugatega umukoresha we kumuha indishyi z'akababaro zingana na 9,100,000Frw; ariko ko Umucamanza ntacyo yabivuzeho mu cyemezo yafashe, akaba yarirengagije ingingo 10 y'Itegeko N°22/2018 ryo ku

wa 29/04/2018 ryavuzwe haruguru. Ubusabe babushingira ku byemezo byafashwe mu manza n'Urukiko rw'Ubujurire⁷ aho ababuranyi bagiye bahabwa indishyi zinyuranye kubera ububabare bagize, bagasaba ko nawe yagenerwa indishyi kuko yarenganye. [51] Me Gilles Gakwaya uburanira Mount Meru yiregura kuriyi ngingo avuga ko indishyi zose zisabwa mu rwego rw'impanuka nk'uko bazigaragarije ibisobanuro haruguru zitangwa hifashishijwe ibyo amategeko agenga ubwiteganyirize ateganya cyane cyane iyo urega yahisemo iyo nzira agasaba ibyari kuba byaratanzwe na RSSB. Akomeza avuga ko amategeko ateganya kandi ko zibarirwa ku ijanisha rya 30% y'umushahara; ko kandi izindi ndishyi zitangwa ari iziteganywa n'itegeko ry'umurimo kuko uru ari urubanza rw'umurimo, ariko nazo zigatangwa hagaragajwe ibimenyetso byo gusesa amasezerano mu buryo budakurikije amategeko. Asoza avuga ko asanga urega yitiranye indishyi zatanzwe hashingiwe ku miterere y'urubanza ndetse n'ibimenyetso byagaragajwe muri izo manza ashingiraho zavuzwe haruguru, ariko bitari kugaragazwa muri uru, kuko bisanzwe bizwi ko ifatwa ry'ubwishingizi bw'umushoferi ari facultatif, bityo ko Urukiko rukwiye kubona ko ibyo asaba bidafite ishingiro. UKO URUKIKO RUBIBONA [52] Kuva uru rubanza rugitangira impande zombi zemeranya ko Ruzibiza Aloys nta bwiteganyirize Mount Meru yari yaramufatiye muri RSSB; bisobanuye ko ibyo amategeko agenera uwakoze impanuka byagombaga gukorwa na RSSB bikorerwa Ruzibiza Aloys harimo no kumuvuza, bigomba gukorwa na Mount Meru. [53] Ruzibiza Aloys asaba indishyi z'akababaro ashingiye ku kuba yaratereranywe n'umukoresha we nyuma y'impanuka, akaba atabona ubuvuzi bitewe n'amikoro make, Mount Meru igategekwa kumuha indishyi z'akababaro zingana na Frw 9,100,000Frw kuko asanga yaramurangeranye. [54] Raporo ya muganga wapimye Ruzibiza Aloys igaragaza ko impanuka yamusigiye ubumuga bwa 85%. Dosiye y'urubanza igaragaza kandi ko yasuzumwe agahabwa impapuro zerekana ibikenewe mu rwego rwo kumuvura (kubagwa) hamwe n'izo kumugururira insimburangingo. Ibyo byose ntacyo Mount Meru yabikozeho kandi ariyo yari ifite inshingano zo kumuvuza nk'uko byasobanuwe haruguru, bityo

7 Urubanza rwaciwe n'Urukiko rw'Ubujurire haburana Manirarora Jean de Dieu na Rwanda Rudniki Ltd (igika 54 na 55), urubanza RCAA00073/2018/CA rwaciwe ku wa 19/07/2019, haburana Nyirabatesi Laurence n'Ibitaro byitiriwe Umwami Fayisali, hamwe n'urubanza RCAA00008/2020/CA rwaciwe ku wa 25/06/2021, haburana Ndizeye Alphonse na Kibungo Medical Center.

Page 12

kuba Ruzibiza Aloys yarakoze impanuka ari mu kazi, umukoresha we ntamuvuze uko bikwiye, bikamuzahaza bigatuma ajya mu manza, Urukiko rusanga Mount Meru igomba kubitangira indishyi; ariko kubera ko izo Ruzibiza Aloys asaba rusanga ari umurenge, mu bushishozi bw'Urukiko rukaba rumugeneye 2.000.000Frw. iii. Indishyi z'umukozi wazahajwe burundu n'impanuka y'akazi [55] Ruzibiza Aloys n'umwunganira bavuga ko Urukiko Rukuru rwategetse Mount Meru kujya iha Ruzibiza Aloys 68.000Frw buri kwezi ya pansio y'ubumuga, mu mwanya wa 11.550Frw yari yaragenwe mu rubanza rwari rwajuririwe, ko basanga icyo cyemezo kinyuranyije n'uburyo amategeko ateganya uko amafaranga agenerwa umukozi uzahajwe burundu n'impanuka y'akazi agomba kubarwa; kandi ko batanumva n'icyashingiweho agenerwa

ayo mafaranga. Bakomeza basobanura ko ingingo ya 25 y'Itegeko N° 05/2015 ryo kuwa 30/03/2015 rigenga imitunganirize y'ubwiteganirize bwa Pansiyo iteganya ko uburyo bwo kubara amafaranga ya pansiyi y'ubumuga ari bumwe n'ubukoreshwa mu kubara aya pansiyi y'izabukuru". Naho ingingo ya 16 y'Itegeko N° 06/2003 ryo kuwa 22/03/2003 rihindura kandi ryuzuza Itegeko-Teka ryo kuwa 22 Kanama 1974 rigenga ubwiteganyirize bw'abakozi mu gika cyayo cya 2, igateganya ko "Iyo uwiteganyirije afite ubumuga buhoraho bwo ku rugero rwa 100%, ahabwa amafaranga angana na 85% y'umushahara ngereranyo wa buri kwezi. [56] Bavuga ko basanga rero, kuba Mount Meru yarakoresheje Ruzibiza Aloys adateganyirijwe, akagira impanuka ikamutera ubumuga butandukanye nk'uko bigaragara muri raporo z'abaganga, basaba ko yamwishyura amafaranga angana nk'ayo yagahawe n'ikigo cy'ubwiteganyirize mu Rwanda iyo iza kuba yaramuteganyirije angana na: $150,000 \times 12 = 1,800,000 \text{Frw}$ (amafaranga yakorereye ku mwaka); igihe yari asigaye gukora: $65-61 = \text{imyaka } 4$; bityo ko Amafaraanga yagahawe n'ikigo cy'ubwiteganyirize ari: $1,800,000 \times 4 \times 85\% = 6,120,000 \text{Frw}$. Bavuga ko rero hashingiwe ku bisobanuro batanze, basanga iyi ngingo y'amategeko ariyo Urukiko Rukuru rwari gushingiraho mu kubara amafaranga agenerwa umukozi uzahajwe burundu n'impanuka y'akazi. [57] Bakomeza bavuga ko mu bujirire Urukiko rwategetse Mount Meru kujya iha Ruzibiza Aloys 68.000Frw buri kwezi, ko ariko bibaza igihe bizamara kuko Umucamanza atabisobanuye, ibyo bikaba; binyuranye n'ibiteganywa n'ingingo ya 18 y'Itegeko N°05/2015 ryo kuwa 30/03/2015 rigenga imitunganirize y'ubwiteganirize bwa Pansiyo iteganya ko iyo uwiteganyirije ageze ku myaka y'izabukuru kandi atujuje imisanzu y'imyaka cumi n'itanu (15), ahabwa amafaranga y'ingunga imwe (1)". Bavuga ko bashingiye kuri iyi ngingo, no kuba Ruzibiza Aloys atakiri umukozi wa Mount Meru, basanga yakagombye kuyahererwa rimwe (rente unique) aho kugira ngo ayishyurwe buri kwezi (rente viagère) atazi n'igihe bizamara ; ko byongeye kandi, gutegeka Mount Meru guha Ruzibiza Aloys indishyi z'ubumuga buri kwezi atakiri umukozi wayo, basanga irangiza ry'urubanza rishobora kuzagorana bigashora Ruzibiza Aloys mu zindi manza; cyane cyane ko hashize imyaka 4 impanuka yarabaye Mount Meru yaranze kumuvuza. Bakaba basanga rero nk'uko byagenze mu rubanza rwa Manirarora Jean de Dieu na Rwanda Rudniki Ltd rwavuzwe haruguru, aho indishyi Manirarora yazigenewe rimwe, atari buri kwezi kuko atari akibarizwa mu bakozi ba Rwanda Rudniki Ltd, ariko bikwiriye kugenda no muri uru rubanza. [58] Me Gilles Gakwaya uburanira Mount Meru yiregura kuri iyi ngingo avuga ko niba urega asaba ko hari ibigomba kugenwa n'amategeko yavuzwe haruguru, ibyo akabishingira ku ngingo ya 19 y'Itegeko ry'umurimo, aho asaba ko ibyo RSSB yari kumugenera aribyo bikwiye kwemezwa, adakwiye kandi kwikorera imibare ye idafite aho ihuriye n'amategeko ubwe yatanze. Avuga ko ibarwa ry'ibigenerwa uwamugaye rikorwa hashingiwe ku biteganywa n'ingingo ya 25 y'Itegeko N°05/2015 ryo kuwa 30/03/2015 rigenga imitunganirize y'ubwiteganirize bwa pansiyi, ibarwa ry'ibikwiye kugenerwa uwagize ubumuga (Mode of computation) bwemejwe na muganga nk'uko ingingo ya 24, 4° y'iryo Tegeko ibivuga, ryakorwa mu gihe cyabarwa ntikirenze ikigero cy'imyaka 60 kuva igihe ubumuga bwemerejwe kandi hakanabarwa gusa amezi 6 ya buri mwaka.

Page 13

[59] Akomeza asobanura ko niba urega yari yaragejeje imyaka 60 nubundi bidahindura ko kuva igihe impanuka yabereye, hazabarwa igihe gishize ibaye nk'uko itegeko ribiteganyanya ubariye ku gihe cy'amezi 6 ya buri mwaka ugakuba ukoresheje uburyo ingingo ya 22, igika cya 2, y'Itegeko N° 06/2003 ryo kuwa 22/03/2003 rihindura kandi ryuzuza Itegeko-Teka ryo kuwa 22 Kanama 1974 rigenga ubwiteganyirize bw'abakozi twavuze haruguru ibiteganyanya. [60] Agaragaza ko ubusanzwe ibarwa ry'ibyishyurwa na RSSB rikorwa muri ubu buryo bw'ijanisha: Umukozi yiyishyurira 2.4%; Umukoresha yishyura 5.3%; hakanishyurwa Maternity ya 0.3%; ko rero Ruzibiza Aloys yahembwaga umushahara wa 150.000 Frw, akaba yari amaze gukora ukwezi kumwe ahembwa amezi 3, akaba yaragombaga kujya atangirwa n'umukoresha 5.3% bibazwe ku mushahara bikangana na 7386Frw buri kwezi mu gihe we ubwe yari kwitangira angana na 4599Frw yose hamwe akaba 11985 Frw akwiye gusabwa umukoresha. [61] Akomeza avuga ko ku bijyanye na "bulletin de paie" Mount Meru yasabwe gutanga igaragaza umushahara Ruzibiza Aloys yahembwaga, asobanura ko net salary yari 150.000Frw, gross salary ikaba 173.450.60Frw, ko umushahara Ruzibiza Aloys yahembwaga ukubiyemo 3% y'ubwiteganyirize, aya maternité 0.3%, maternity benefits zihwanye na 3%, ariko ko nta "transport allowances" cyangwa amafaranga y'icumbi yagenerwaga, ko mu kubara indishyi hazashingirwa kuri "gross salary" ingana na 173.450.60Frw. [62] Ruzibiza Aloys n'umwunganira bavuga ko nk'uko bigaragazwa na bulletin de paie yatanze na Mount Meru, indishyi yari yasabye zari zishingiye kuri net salary ingana na 150.000 Frw, kuko nta kindi yari azi kijyanye n'umushahara we. Asaba ko mu gihe cyo kugena indishyi hazashingirwa kuri "gross salary" kuko kugirango asabe ko indishyi zibarirwa kuri net salary byatewe ni uko atari azi "gross salary" ye. UKO URUKIKO RUBIBONA [63] Ingingo ya 24, y'Itegeko N° 05/2015 ryo kuwa 30/03/2015 rigenga Imitunganyirize y'Ubwiteganyirize bwa Pansiyo iteganyanya ko uwiteganyirije ugize ubumuga ataruzuzwa imyaka yo gufata pansiyi y'izabukuru, ahabwa pansiyi y'ubumuga iyo yujuje ibi bikurikira: 1° kuba nibura amaze imyaka itatu (3) mu bwiteganyirize; 2° kuba afite amezi atandatu (6) y'imisanzu y'ubwiteganyirize mu gihe cy'amezi cumi n'abiri (12) abanziriza itariki ubumuga bwe bwemerejweho na muganga. [64] Ku birebana n'amafaranga y'ubwiteganyirize bw'ubumuga, dosiye igaragaza ko Ruzibiza Aloys yakoze impanuka ataruzuzwa ukwezi atangiye akazi. Ingingo ya 19, igika cya 2, y'Itegeko N° 66/2018 ryo kuwa 30/08/2018 rigenga umurimo mu Rwanda nk'uko ryahinduwe kugeza ubu, iteganyanya ko umukozi wagize impanuka cyangwa indwara bikomoka ku murimo atarateganyirijwe n'umukoresha we mu kigo cy'ubwiteganyirize mu Rwanda yishyurwa n'umukoresha amafaranga angana nk'ayo yagahawe n'ikigo cy'ubwiteganyirize mu Rwanda iyo aza kuba yarateganyirijwe, harimo kumuvuza n'ibindi bijyanye nabyo. Iyi ngingo yumvikanisha ko ibyo Ruzibiza Aloys agomba guhabwa bijyanye na pansiyi y'ubumuga yakagombye kubihabwa na Mount Meru (umukoresha) kuko itamuteganyirije mu kigo cy'ubwiteganyirize. [65] Urukiko rurasanga ariko, n'iyi Ruzibiza Aloys aza kuba yarateganyirijwe nk'uko Itegeko ribiteganyanya, indishyi zijyanye na Pansiyo y'ubumuga ntazo yari guhabwa hashingiwe ku ngingo ya 24 y'Itegeko N° 05/2015 ryo kuwa 30/03/2015 ryavuzwe haruguru kuko impanuka yamuteye ubumuga

yabaye ataruzuzwa imyaka itatu (3) mu kazi iteganyijwe n'Itegeko. Urukiko rukaba rusanga atari ngombwa kujya mu mukoro wo kubara indishyi zijyanye na pansiyi y'ubumuga Ruzibiza Aloys asaba kandi atari mu mubare w'abazigenewe.

Page 14

[66] Urukiko rurasanga ahubwo amafaranga Ruzibiza Aloys agomba guhabwa ari ajyanye no kuba impanuka yakoze yaratumye atakaza umushahara (rente d'incapacité permanente). Hashingiwe ku ngingo ya 16 y'Itegeko N° 06/2003 ryo ku wa 22/03/2003 rihindura kandi ryuzuzwa Itegeko-Teka ryo ku wa 22 Kanama 1974 rigenga ubwiteganyirize bw'abakozi, ayo mafaranga akaba agomba kubarwa ku buryo bukurikira: $(173.450.60\text{Frw} \times 85\%) \times 85\% \times 51$ (ni ukuvuga amezi abazwe kuva igihe aherukira guhembwa kugeza igihe cyo kujya mu zabukuru) = 6.391.220Frw. iv. Kumenya niba Ruzibiza Aloys akeneye umufasha [67] Ruzibiza Aloys na Me Chuma Ndekezi Claude umwunganira bavuga ko bashingiye ku ngingo ya 26, igika cya 5, y'Itegeko N° 05/2015 ryo ku wa 30/03/2015 rigenga imitunganyirize y'ubwiteganyirize bwa pansiyi iteganyijwe ko "iyi ufata amafaranga ya pansiyi y'ubumuga agomba gufashwa buri gihe n'undi muntu kugira ngo ashobore gukora uturimo dusanzwe, abona inyongera ingana na mirongo ine ku ijana (40%) by'ayo agomba kubona"; basanga Ruzibiza Aloys, kubera ubumuga yatewe n'impanuka, agomba gufashwa mu buryo buhoraho kugira ngo ashobore gukora uturimo dusanzwe. [68] Bongeraho ko nk'uko raporo y'umuhanga washyizweho n'Urukiko ibigaragaza, urwego rw'ubumuga rwa Ruzibiza Aloys buri ku kigero cya 85%; ko basanga iyi raporo igaragaza ko iyi aza kuvuzwa mu buryo bukwiriye kandi bwihuse yashoboraga gukora, akaba yaba autonome (atakeneye umuntu ukomeza kumufasha), ko bashingiye ku gihe amaranye ubumuga afashwa n'inshuti n'abavandimwe, basanga amafaranga y'ugomba kumufasha yasabye yayahabwa. [69] Basaza bavuga ko mu Rukiko Rukuru Ruzibiza Aloys yasabye amafaranga y'ugomba kumufasha abaze mu buryo bukurikira: $6,120,000 \text{ Frw (rente d'incapacité permanente)} \times 40\% = 2,448,000\text{Frw}$; ko yanagaragazaga ibimenyetso ashingiraho ayasaba, ariko ko mu cyemezo umucamanza yafashe ntacyo yavuze kuriyiyo ngingo, akaba atarubahirije ingingo ya 10 y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi iteganyijwe ko umucamanza aca urubanza ku cyasabwe cyose kandi kuri icyo cyonyine. [70] Uhagarariye Mount Meru we avugaga ko raporo ya muganga igaragaza ko Ruzibiza Aloys nta bufasha bw'undi muntu akeneye, ko raporo inagaragaza ko ubumuga asigaranye bwagabanutse kuko bwavuye kuri 92% bukagera kuri 85%, agasaba Urukiko kuzabashingiraho rufata icyemezo. UKO URUKIKO RUBIBONA [71] Urukiko rurasanga nk'uko bigaragara muri dosiye, Umuganga wiyambajwe n'Urukiko mu rubanza rubanziriza urundi (Dr Hope J.M.V) kugira ngo arugaragarize niba Ruzibiza Aloys akeneye umufasha, yaratanze raporo ku wa 17/12/2024 avugaga ko mu gihe Ruzibiza Aloys yaba yarangije kuvurwa, atazaba agikeneye umufasha mu mirimo ye ya buri muni (After his final treatment, he will be autonomous and will not require a third person for help in his daily activities). [72] Urukiko rurasanga, hashingiwe kuri Raporo ya muganga no kuba muri uru rubanza rwemeje ko Ruzibiza Aloys avuzwa, amafaranga asaba y'ugomba

kumufasha atayahabwa kuko muganga wamupimye yemeje ko navurwa agakira atazaba agikeneye umufasha.

- v. Kumenya niba Ruzibiza Aloys yahabwa amafaranga y'ingendo yakoresheje ajya kwivuza [73] Ruzibiza Aloys avuga ko asaba amafaranga y'ingendo yakoresheje ajya kwivuza n'andi yakoresheje mu burwayi bwe angana na 10.121.828Frw, ayasaba ashingiye ku kuba Mount Meru yaramutereranye ntigire icyo imumarira mu burwayi bwe. [74] Uhagarariye Mount Meru avuga ko amafaranga y'ingendo Ruzibiza Aloys asaba atayahabwa kuko ntacyo agaragaza ashingiraho ayasaba.

Page 15

UKO URUKIKO RUBIBONA [75] Ingingo ya 14 y'Itegeko N° 06/2003 ryo ku wa 22/03/2003 rihindura kandi ryuzuza Itegeko-Teka ryo ku wa 22 Kanama 1974 rigenga ubwiteganyirize bw'abakozi, iteganya ko ibigize ubuvuzi ku mukozi wagize impanuka y'akazi; mu byo iteganya harimo ... amatike yo kujya kwivuza mu bitaro no kugaruka imuhira. [76] Urukiko rurasanga amafaranga y'ingendo n'andi ajyanye n'ibindi avuga yakoresheje ajya kwivuza Ruzibiza Aloys asaba ayakwiriye, ariko 10.121.828Frw asaba akaba ari umurengeza kuko atanagaragaza uko yagiye ayakoresha, bityo hashingiwe ku gihe gishize (hafi imyaka itanu) n'urugero rw'ubumuga yagize (85%) no ku ngingo y'Itegeko yagaragajwe haruguru, mu bushishozi bw'Urukiko akaba agenewe 500.000Frw. D. Kumenya ishingiro ry'indishyi zerekeranye n'amafaranga y'igihembo cya Avoka n'ay'ikurikiranarubanza yasabwe n'ababuranyi [77] Me Chuma Ndekezi Claude uhagarariye Ruzibiza Aloys avuga ko Urukiko Rukuru rwategetse Mount Meru guha Ruzibiza Aloys amafaranga 700.000Frw y'igihembo cya Avoka (yari yagenwe mu rubanza rwari rwajuririwe), bikaba bitumvikana ukuntu rwamugeneye igihembo cya Avoka cyari cyagenwe ku rwego rwa mbere kandi rwemeje ko ubujurire bwe bufite ishingiro. Avuga kandi ko aya mafaranga asanga ari make ugereranyije nuko Ruzibiza Aloys na Avoka bemeranyije igihembo cya 5.000.000 Frw kuva mu muhango wo kumvikana hagati y'umukozi n'umukoresha mu bugenzuzi bw'umurimo, ndetse no kumuburanira mu Rukiko ku rwego rwa mbere nk'uko bigaragara mu masezerano y'ubwunganizi bagiranye yashyikirijwe Urukiko. [78] Avuga kandi ko ingingo ya 23 y'Amabwiriza N° 01/2014 yo kuwa 11/08/2014 akena ibihembo mbonera by'abavoka iteganya ko Avoka w'urega wateguye dosiye n'inyandiko ashobora gusaba igihembo fatizo kiri hagati ya 500.000Frw na 5.000.000Frw, cyongerwaho iyo hari imyenda yagarujwe nawe ubwe cyangwa intumwa ye, igihembo cy'inyongera cyo kwishyura, kibarwa hakurikijwe ijanisha riteganywa mu gace ka II k'ingingo ya 23; ko rero hashingiwe kuri iyi ngingo, ntaho bigaragara ko amasezerano yavuze haruguru anyuranyije n'amategeko. Avuga ko bitewe n'uko urubanza rwakomeje kugera kuri uru rwego, asaba ko Ruzibiza Aloys yagenerwa igihembo cya Avoka kingana na 1,000,000Frw mu Rukiko Rukuru, 1,000,000 Frw mu Rukiko rw'Ubujurire na 1,000,000Frw mu Rukiko rw'Ikirenga cyiyongera ku gihembo cya 5.000.000 Frw yari yasabye mbere, yose akaba 8,000,000Frw. [79] Ku byererekeye amafaranga y'ikurikiranarubanza, Me Chuma Ndekezi Claude avuga ko Ruzibiza Aloys yari yarasabye Urukiko gutegeka Mount Meru kumwishyura 1.000.000Frw, Urukiko rumugenera 100.000Frw yonyine ku rwego rwabanjirije Urukiko Rukuru. Avuga ko asanga aya mafaranga ari make ugereranyije n'amafaranga yakoresheje kuva mu muhango wo kumvikana

hagati ye n'umukoresha, mu Bugenzuzi bw'umurimo, kuburana mu Rukiko Rwisumbuye no mu Rukiko Rukuru; cyane cyane ko muri izo nzego zose hemejwe ko ikirego cye gifite ishingiro. Bityo rero akaba asaba ko izo ndishyi z'ikurikiranarubanza yasabye zingana na 1,000,000Frw yazigenerwa; cyane cyane ko hiyongereyeho ikirego cyo gusubirishamo urubanza ku mpamvu y'akarengane mu Rukiko rw'Ubujurire no kuruburana mu Rukiko rw'Ikirenga. Asoza asaba Urukiko kandi gutegeka Mount Meru kwishyura amagarama Ruzibiza Aloys yatanze aregera Urukiko ku rwego rwa mbere no mu bujurire angana na 60,000Frw. [80] Me Gilles Gakwaya uburanira Mount Meru yiregura kuri iyi ngingo avuga ko hari ibihembo bya Avoka ndetse n'ikurikiranarubanza inkiko zari zageneye urega, ko rero asanga kuba yarakomeje kwishora mu manza, amafaranga zimutwara ariwe ugomba kuyirengera. UKO URUKIKO RUBIBONA

Page 16

[81] Urukiko rurasanga amafaranga y'igihembo cya Avoka n'ay'ikurikiranarubanza Aloys asaba ntayo agomba guhabwa kubera ko hari ibyo atsindiwe mu rubanza. III. ICYEMEZO CY'URUKIKO [82] Rwemeje ko ikirego cyatanzwe na Ruzibiza Aloys asaba gusubirishamo ku mpamvu z'akarengane urubanza RSOCA00117/2022/HC/KIG rwaciwe n'Urukiko Rukuru rwa Kigali ku wa 14/07/2023, gifite ishingiro kuri bimwe. [83] Rwemeje ko imikirize y'urubanza RSOCA00117/2022/HC/KIG rwaciwe n'Urukiko Rukuru rwa Kigali ku wa 14/07/2023 ihindutse ku bimwe. [84] Rutegetse Mount Meru Logistics Rwanda Ltd guha Ruzibiza Aloys 1,040,703Frw y'indishyi zo kwirukanwa ku kazi mu buryo bunyuranyije n'amategeko. [85] Rutegetse Mount Meru gukora ibikenewe byose mu gihe kitarenze ukwezi kumwe kuva urubanza rusomwe kugira ngo Ruzibiza Aloys avurwe, bitaba ibyo ikamuha 19.878.172Frw kugira ngo abashe kwivuza ubwe. [86] Rutegetse Mount Meru guha Ruzibiza Aloys 500.000Frw yakoresheje mu ngendo yivuze. [87] Rutegetse Mount Meru guha Ruzibiza Aloys 6.391.220Frw asimbura umushahara yatakaje kubera impanuka. [88] Rutegetse Mount Meru Logistics Rwanda Ltd guha Ruzibiza Aloys 2.000.000Frw y'indishyi z'akababaro.

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