

RWANDA / JUDGMENT

SINDIZERA v. RSSB

RS/INJUST/RAD00005/2024/CA

COURT

Court of Appeal

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SINDIZERA v. RSSB

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Text

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SINDIZERA v. RSSB [Rwanda URUKIKO RW'UBUJURIRE – RS/INJUST/RAD00005/2024/CA (Rutazana, P.J.) 29 Nzeri 2025] Amategeko agenga imanza zisabirwa gusubirwamo ku mpamvu z'akarengane – Imbibi z'ikiburanwa – Umuburanyi ntashobora kuvuga ko yagize akarengane ku kibazo atigeze agaragariza Urukiko arusaba kugisuzuma, asabe ko gisuzumwa bwa mbere mu rubanza rw'akarengane. Incamake y'ikibazo: Sindizera yandikiye Rwanda Social Security Board ayisaba guhabwa pansiyu ikwiriye ingana na 1.011.861Frw, aho kuba ingana na 284.360 Frw. Rwanda Social Security Board yamwandikiye imumenyesha ko mu kubara amafaranga ya pansiyu ye hari imisanzu y'ukwezi kwa 3 n'ukwa 5 mu mwaka wa 2013, n'iy'ukwezi kwa 4 n'ukwa 6 mu mwaka wa 2015 itarabazwe kuko basanze ikabije kuba minini cyane ugereranyije n'iy'amezi abanza, imubwira ko dosiye ye izasubirwamo imaze kubona ibisobanuro by'uwaru umukoresha we. Sindizera yaje kongera kuyandikira asaba guhabwa pansiyu ikwiriye n'ibirarane byayo ngo kuko yajuririye Inama y'Ubutegetsi ntasubizwe, maze nayo imusubiza ko nyuma y'ibisobanuro byatanzwe n'uwaru umukoresha we, pansiyu ye isubiwemo ingana na 357.180Frw. Sindizera yari yaregeye Urukiko Rwisumbuye rwa Nyarugenge mu buryo bw'inyandiko nsobanurakirego itanzwe n'umuburanyi umwe, asaba ko uburenganzira bwe bwubahirizwa agahabwa pensiyu

ikwiye ingana na 1.011.861Frw n'ibirarane byayo, hamwe n'indishyi zitandukanye. Urukiko Rwisumbuye rwaciye urubanza rwemeza ko ikirego kitakiriwe ngo gisuzumwe kuko kirimo impaka. Iki cyemezo yakijuririye mu Rukiko Rukuru, maze rwemeza ko Urukiko Rwisumbuye rwakira ikirego cye rukagisuzuma. Nyuma yo gusuzuma icyo kirego, Urukiko Rwisumbuye rwemeje ko gifite ishingiro kuri bimwe, rutegeka RSSB kwishyura Urega pensiyu ikwiye hamwe n'ibirarane byayo. Uregwa yajuririye mu Rukiko Rukuru avuga ko Urukiko Rwisumbuye rwemeje ko ikirego cy'Urega gifite ishingiro, nyamara cyaragombaga gutangwa mu buryo bw'ibirego bisanzwe. Ikindi ni ukuba ngo rwaramugeneye pansiyu y'izabukuru ya buri ukwezi ingana na 1.011.861Frw n'ibirarane byayo, mu gihe iyo akwiye guhabwa ingana na 357.180Frw, rugendeye ku mishahara yagendaga ahembwa, rubishingiye no ku ngingo imwe y'Itegeko rigena pensiyu, aho gushingira no ku zindi ngingo zaryo. Urukiko Rukuru rwemeje ko ubwo bujurire bw'Uregwa bufite ishingiro, ko urubanza rukuweho, kuko ikirego cy'Urega kirimo impaka zitakemurirwa mu rubanza rw'inyandiko nsobanura kirego itanzwe n'umuburanyi umwe. Urega yanditse asaba ko urwo rubanza rwaciye n'Urukiko Rukuru rwasubirwamo ku mpamvu z'akarengane, Perezida w'Urukiko rw'Ikirenga mu cyemezo cye, yemeza ko rwongera kuburanishwa n'uru Rukiko rw'Ubujurire. Muri uru rubanza rw'akarengane, Urega avuga ko Urukiko Rukuru rutagombaga kwakira ubujurire bw'Uregwa kuko yabutanze igihe cyararenze, no kuba rwaremeje ko ikirego cye kitasuzumwa nk'inyandiko nsobanurakirego itanzwe n'umuburanyi umwe kuko harimo impaka. Urega asobanura ko Uregwa atubahirije iminsi itanu yo kujuririra icyemezo cyafashwe kirego gitanzwe mu buryo bw'inyandiko nsobanurakirego itanzwe n'umuburanyi umwe, kuko urubanza rwaciye ku wa 23/06/2023 akarujuririra ku wa 29/06/2023, nyamara umunsi wa nyuma wo

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kujurira wari ku wa 27/06/2023. Uregwa yireguye avuga ko iyi mpamvu y'akarengane nta shingiro ifite, kuko y'ubahirije ibihe by'ubujurire by'iminsi itanu, ko muri icyo gihe hajemo weekend n'umunsi w'ikiruhuko wemewe bituma iyo minsi itabarirwamo, niko kujurira ku wa 29/06/2023 aho kuba kuri 27/06/2023. Avuga kandi ko iyi mpamvu itakwagirwa nk'impamvu y'akarengane, kuko Urega atigeze ayitangamo inzitizi muri uru rubanza rusubirishwamo, ngo isuzumwe. Uregwa avuga kandi ko atigeze yima Urega pansiyu ahubwo impaka zabaye ku ngano yayo, bityo Urukiko Rukuru rwemeza ko ikirego cye kitafatwa nk'inyandiko nsobanurakirego itanzwe n'umuburanyi umwe. Agaragaza ko Urukiko Rwisumbuye rwageneye Urega ingano ya pansiyu asaba rushingiye ku ngingo imwe gusa, nyamara hari izindi ngingo zigaragaza uburyo pansiyu ibarwa. Ikindi ni uko Itegeko Urega yari gushingiraho ari itegeko ryihariye rya pansiyu, nk'uburyo atishimiye icyemezo yafatiwe n'ubwiganyirize bwa pansiyu, aho gushingira ku itegeko rusange ry'imiburanishirize y'imanza z'ubutegetsu. Incamake y'icyemezo: 1. Umuburanyi ntashobora kuvuga ko yagize akarengane ku kibazo atigeze agaragariza Urukiko arusaba kugisuzuma, asabe ko gisuzumwa bwa mbere mu rubanza rw'akarengane.

2. Itegeko ryihariye riza mbere y'itegeko riri rusange. Bityo, ingingo y'Itegeko yerekeye ibyemezo by'ubutegetsu muri rusange, siyo yashingirwaho hemezwa ko Sindizera yarenganye ku buryo bugaragarira buri wese, ahubwo hashingirwa ku ngingo ya 87 y'Itegeko

No 05/2015 ryo ku wa 30/03/2015 rigenga imitunganyirize y'ubwiteganyirize bwa Pansiyo, nk'itegeko ryihariye rigenga ibijyanye n'ubwiteganyirize bwa pansiyi. Ikirego gisaba gusubirishamo urubanza ku mpamvu z'akarengane, nta shingiro gifite. Amategeko yashingiweho: Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruza, iz'umurimo n'iz'ubutegetsi, ingingo ya 111, 178, 192, 275, 276. Itegeko No 05/2015 ryo ku wa 30/03/2015 rigenga imitunganyirize y'ubwiteganyirize bwa pansiyi, ingingo ya 7, 19 n'ya 87. Imanza zifashishijwe: RS/INJUST/RAD00003/2022/SC, Rukundo v. Urugaga rw'Abavoka mu Rwanda rwaciwe n'Urukiko rw'Ikirenga ku wa 14/04/2023. RS/INJUST/RC00001/2021/SC, Umulinga v. Ngirinshuti na Muberuka rwaciwe n'Urukiko rw'Ikirenga ku wa 17/12/2021 RS/INJUST/RC00007/2018/SC, Nditiribanbe Samuel v. Gatera Jason na Nyamaswa Faustin rwaciwe n'Urukiko rw'Ikirenga ku wa 13/03/2020. RS/INJUST/RSOC00014/2023/CA, EAR Diyoseze ya Shyira na Uwingabiye Monique rwaciwe n'Urukiko rw'Ubujurire ku wa 19/07/2024.

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Urubanza I. IMITERERE Y'URUBANZA [1] Sindizera Jean Pierre yandikiye Rwanda Social Security Board ku wa 06/05/2022 avuga ko amafaranga ya pansiyi y'ubusaza yagenewe ingana na 284.360Frw adakwiriye, asaba guhabwa 1.011.861Frw; bigeze ku wa 01/06/2022 ajuririra Inama y'Ubutegetsi ya Rwanda Social Security Board n'ubundi asaba guhabwa pansiyi ikwiriye. Ku wa 29/06/2022 Rwanda Social Security Board yamwandikiye imumenyesha ko mu kubara amafaranga ya pansiyi ye hari imisanzu y'ukwezi kwa 3 n'ukwa 5 mu mwaka wa 2013 n'iy'ukwezi kwa 4 n'ukwa 6 mu mwaka wa 2015 itarabazwe kuko basanze ikabije kuba minini cyane ugereranyije n'iy'amezi abanza, ko bategereje ibisobanuro bya Guaranty Trust Bank yari umukoresha we ku bijyanye n'izamuka y'iyi misanzu ku bryo budasanzwe, kandi ko nibabona ibyo bisobanuro dosiye ye izasubirwamo. [2] Bigeze ku wa 23/09/2022 Sindizera Jean Pierre yongeye kwandikira Rwanda Social Security Board asaba guhabwa pansiyi ikwiriye n'ibitarane byayo ngo kuko yajuririra Inama y'Ubutegetsi ntasubizwe mu gihe cy'amezi 3 giteganywa n'amategeko bityo pansiyi yasabaga ikaba yaremewe; ku wa 20/10/2022 Rwanda Social Security Board imwandikira imumenyesha ko nyuma y'ibisobanuro byatanze n'uwari umukoresha we, pansiyi ye isubiwemo ingana na 357.180 Frw. [3] Hagati aho ku wa 18/10/2022 Sindizera Jean Pierre yari yaregeye Urukiko Rwisumbuye rwa Nyarugenge mu buryo bw'inyandiko nsobanurakirego itanzwe n'umuburanyi umwe avuga ko ashingiye ku ingingo ya 178 y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruza, iz'umurimo n'iz'ubutegetsi ya 178, asaba Urukiko gutegeka ko uburenganzira bwe bwuharizwa akagererwa pansiyi ikwiriye ingana na 1.011.861Frw n'ibitarane byayo kuko igihe cy'ukwezi kumwe cyagenwe n'ingingo yavuzwe haruguru kugira ngo uwatakambye icyemezo cy'ubuyobozi asubizwe uburenganzira bwe cyarenze adasubijwe, asaba n'indishyi zinyuranye. [4] Mu rubanza RAD00125/2022/TGI/NYGE rwaciwe n'urwo Rukiko ku wa 14/11/2022, rwemeje ko ikirego cya Sindizera Jean Pierre kitakiriwe ngo gisuzumwe kuko kirimo impaka kandi akaba yaragitanze mu buryo bw'inyandikonsobanurakirego itanzwe n'umuburanyi umwe. Sindizera Jean Pierre yajuririra Urukiko Rukuru avuga ko yareze mu buryo bw'inyandiko nsobanurakirego itanzwe

n'umuburanyi umwe ashingiye ku biteganywa mu ngingo ya 178 yavuzwe haruguru, bityo rero kikaba cyaragombaga kwakirwa kigasuzumwa. [5] Mu rubanza RADA00063/2022/HC/KIG rwaciwe n'Urukiko Rukuru ku wa 13/1/2023, rwemeje ko ubujurire bwa Sindizera Jean Pierre bufite ishingiye, rutegeka ko Urukiko Rwisumbuye rwa Nyarugenge rwakira ikirego cye rukagisuzuma. [6] Urubanza rwasubiye mu Rukiko Rwisumbuye rwa Nyarugenge, rwandikwa kuri RAD00004/2023/TGI/NYGE-RAD00001/2023/TGI/NYGE, Sindizera Jean Pierre asaba Urukiko gutegeka ko uburenganzira bwe bwubahirizwa akagenerwa pansiyi ingana na 1.011.861Frw n'ibirarane byayo, kuko 284.360Frw ahabwa arimakeya; yasabaga kandi kugenerwa indishyi z'akababaro, amafaranga y'ikurikiranarubanza n'ay'igihembo cya Avoka.

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[7] Uhagarariye Rwanda Social Security Board yireguye ivuga ko ikirego cya Sindizera Jean Pierre nta shingiro gifite kuko pansiyi akwiriye guhabwa ari ingana na 357.180Frw hashingiwe ku mishahara inyuranye yagiye ahembwa n'uwahoze ari umukoresha we, aho bigaragara ko mu kwezi kumwe yahembwaga menshi ubundi agahembwa make; naho 1.011.861Frw asaba akaba ari menshi cyane kandi adafite ibisobanuro ugereranyije n'umushahara yari asanzwe ahembwa. [8] Mu rubanza RAD00004/2023/TGI/NYGE-RAD00001/2023/TGI/NYGE rwaciwe n'Urukiko Rwisumbuye rwa Nyarugenge ku wa 23/06/2023 rwemeje ko ikirego cya Sindizera Jean Pierre gifite ishingiye kuri bimwe, rutegeka Rwanda Social Security Board kumwishyura 1.011.861Frw ya pansiyi y'ubusaza ya buri ukwezi; 727.501Frw y'ibirarane (ni ukuvuga 1.011.861Frw-284.360Frw) guhera ku kwezi kwa 02/2022 kugeza igihe azatangirira kubona pansiyi ye ikwiriye yavuzwe haruguru, 700.000Frw y'igihembo cya Avoka, na 20.000Frw yatanzeho ingwate y'amagarama arega. [9] Rwanda Social Security Board yajururiye Urukiko Rukuru ishingiye ku mpamvu zikurikira: - Kuba Urukiko Rwisumbuye rwa Nyarugenge rwaremeje ko ikirego cya Sindizera Jean Pierre gifite ishingiye rwirengagije ko yagitanze mu buryo bw'inyandiko nsobanurakirego itanzwe n'umuburanyi umwe mu gihe bigaragara ko cyagombaga gutangwa nk'ikirego gisanzwe; - Kuba rwaramugeneye SINDIZERA Jean Pierre pansiyi y'izabukuru ya buri ukwezi ingana na 1.011.861 Frw n'ibirarane byayo rugendeye ku mishahara yagendaga ahembwa, ibi rubishingira gusa ku ngingo ya 19 y'Itegeko N° 05/2015 rigena imitunganyirize y'ubwiteganyirize bwa pansiyi iteganya uburyo amafaranga ya pansiyi abarwa, nyamara rwirengagiza ibiteganywa n'izindi ngingo z'iryo tegeko harimo nk'ingingo ya 7 iteganya ibishingirwaho mu kubara umusanzu w'umukozi; - Kuba Urukiko rwirengagije ko uburenganzira Sindizera Jean Pierre yari afite ari ubwo guhabwa pansiyi kandi akaba yarayihawe. [10] Mu rubanza RADA00102/2023/HC/KIG rwaciwe n'Urukiko Rukuru ku wa 02/11/2023 rwemeje ko ubujurire bwa Rwanda Social Security Board bufite ishingiye kuko ikirego cyatanze na Sindizera Jean Pierre kirimo impaka zitakemurirwa mu rubanza rw'inyandiko nsobanura kirego itanzwe n'umuburanyi umwe; rutegeka ko urubanza rwajuririwe ruvanyweho, Sindizera Jean Pierre agasubiza Rwanda Social Security Board amafaranga y'amagarama yatanze ijurira. [11] Nyuma y'icibwa ry'urwo rubanza Sindizera Jean Pierre yasabye ko rusubirwamo ku mpamvu z'akarengane, maze mu cyemezo cye

nimero 264/CJ/2024 cyo ku wa 02/12/2024 Perezida w'Urukiko rw'Ikirenga yemeza ko rusubirwamo, rwoherezwa mu Rukiko rw'Ubujurire kugira ngo ruruburanishwe, rwandikwa kuri RS/INJUST/RAD00005/2024/CA, ruburanishwa mu ruhamu ku wa 10/09/2025 Sindizera Jean Pierre ahagarariye na Me Kamonyo Rugaba Serge naho Rwanda Social Security Board ihagarariye na Me Sekabuke Jean Paul. [12] Mu myanzuro no mu miburanire ye, Sindizera Jean Pierre avuga ko akarengane ke gashingiye ku mpamvu zikurikira:

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- a) Kuba Urukiko Rukuru rutaragombaga kwakirwa ubujurire bwatanzwe na Rwanda Social Security Board kuko yabutanze igihe cyo kujurira cyararenze;
- b) Kuba Urukiko Rukuru rwaremeje ko ikirego cye kitasuzumwa nk'inyandiko nsobanurakirego itanzwe n'umuburanyi umwe kuko harimo impaka, rwirengagije ko ingingo ya 178 y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsu iteganywa ko ikirego nk'icye gitangwa muri ubwo buryo. [13] Sindizera Jean Pierre kandi asaba kugenerwa amafaranga y'igihembo cya Avoka n'amafaranga y'ikurikiranarubanza ku rwego rw'ubujurire no kuri uru rwego. [14] Uhagarariye Rwanda Social Security Board avuga ko ikirego cya Sindizera Jean Pierre nta shingiro gifite kuko ku mu kubara ibihe by'ubujurire hatagomba kubariramo iminsi y'impera z'icyumweru n'iminsi ya konji, biryo rero bakaba barajuriye mu gihe giteganywa n'amategeko; kandi Urukiko Rukuru rukaba rwaraciye urubanza rukurikije ibiteganywa n'amategeko; asaba kandi Urukiko kugenera Rwanda Social Security Board indishyi zo gushorwa mu manza nta mpamvu, amafaranga y'ikurikiranarubanza n'ay'igihembo cya Avoka. [15] Hashingiye ku mpaka zagaragajwe haruguru, Urukiko rurasuzuma ibibazo bikurikira bigize urubanza:
 - a. Kumenya niba mu Rukiko Rukuru Rwanda Social Security Board itarubahirije ibihe byo kujurira ku buryo ubujurire bwayo butagombaga kwakirwa;
 - b. Kumenya niba mu rubanza rusabirwa gusubirwamo Urukiko Rukuru rwaremeje ko ikirego cya Sindizera Jean Pierre kitagombaga gusuzumwa mu buryo bw'inyandiko nsobanura kirego itanzwe n'umuburanyi umwe, rwirengagije ko ariko biteganywa n'ingingo ya 178 y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsu;
 - c. Kumenya ishingiro ry'indishyi, amafaranga y'ikurikiranarubanza n'igihembo cya Avoka bisabwa muri uru rubanza. III. ISESENGURA RY'IBIBAZO BIGIZE URUBANZA
1. Kumenya niba mu rubanza rusabirwa gusubirwamo Rwanda Social Security Board itarubahirije ibihe byo kujurira ku buryo ubujurire bwayo butagombaga kwakirwa [16] Me Kamonyo Rugaba Serge avuga ko impamvu nyamukuru uhagarariye akarengane ka Sindizera Jean Pierre ahagarariye gashingiyeho, ari icy'uko mu rubanza rusabirwa gusubirwamo Urukiko Rukuru rwakiriye ubujurire bwa Rwanda Social Security Board kandi yarajuriye ikerewe. Asobanura ko hashingiye ku ngingo ya 192 y'Itegeko N° 22/2018 ryo ku wa

29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi iteganya ko kujuririra icyemezo cy'umucamanza ku birego bitanzwe mu buryo bw'inyandiko nsobanurakirego itanzwe n'umuburanyi umwe, bikorwa mu gihe kitarenze iminsi itanu (5) uhereye igihe ababuranyi bakimenyeyeho, Urukiko Rukuru rutagombaga kwakira ubujurire bwa Rwanda

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Social Security Board kuko urubanza RAD00004/2023/TGI/NYGE rwaciwe ku wa 23/06/2023 ikarujuririra ku wa 29/06/2023, nyamara umunsi wa nyuma wo kujurira wari ku wa 27/06/2023. [17] Me Sekabuke Jean Paul avuga ko iyi mpamvu y'akarengane nta shingiro ifite, kuko ubujurire bwa Rwanda Social Security Board ahagarariye bwatanzwe hubahirijwe ibihe biteganyijwe mu ngingo ya 192 yavuzwe haruguru. Asobanura ko koko urubanza rwasomwe ku wa 23/6/2023 ari ku wa gatanu, hakurikiraho iminsi ibiri y'impera z'icyumweru, n'umunsi wo ku wa 28/6/2023 ukaba wari umunsi w'ikiruhuko cyemewe cy'Abayisilamu (public holiday), iyo minsi yose kimwe n'umunsi urubanza rwaciriweho ikaba itaragombaga kubarwa mu bihe byo kujurira hashingiwe ku biteganywa mu ngingo ya 275 n'ya 276 z'Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi; ko rero ibihe byo kujurira byagombaga gutangira kubarwa ku wa 26/6/2023 bikarangira ku wa 30/6/2023, bityo ubujurire Rwanda Social Security Board yakoze ku wa 29/6/2023 bukaba bwubahirije ibihe biteganywa n'amategeko. [18] Me Sekabuke Jean Paul avuga kandi ko n'iyi Rwanda Social Security Board yaba yarajuriye ikerewe, bitaba impamvu y'akarengane yashingirwaho urubanza rusubirwamo kuko Sindizera Jean Pierre atatanze iyo nzitizi mu Rukiko Rukuru, haba mu myanzuro ye haba no mu iburanisha, ngo Urukiko rwemeze ko nta shingiro ifite. UKO URUKIKO RUBIBONA [19] Impaka kuri iyi ngingo zishingiye ku kumenya niba ingingo Sindizera Jean Pierre aburanisha y'uko mu Rukiko Rukuru Rwanda Social Security Board yajuriye ikerewe, yaba impamvu y'akarengane yashingirwaho urubanza RADA00102/2023/HC/KIG rusubirwamo. [20] Mu rubanza RS/INJUST/RC00007/2018/SC rwaciwe n'Urukiko rw'Ikirenga ku wa 13/03/2020 Nditiribanbe Samuel aburana na Gatera Jason na Nyamaswa Faustin, mu gika cya 66 Urukiko rwasobanuye ko kuba umuburanyi wumva ko urubanza yaburanye rwabayemo akarengane yarahawe inzira yo kuba yarusubirishamo rukaburanishwa bundi bushya bitavuga ko yakwitwaza iyo nzira kugira ngo abe yazana ingingo zitasuzumwe mu rubanza rusubirishwamo, kuko yaba avuye mu mbibi z'urwo rubanza. Uwo murongo wanagarutseweho mu zindi manza nazo zaciwe n'Urukiko rw'Ikirenga ndetse n'Urukiko rw'Ubugurire, harimo nk'urubanza RS/INJUST/RC00001/2021/SC rwaciwe n'Urukiko rw'Ikirenga ku wa 17/12/2021 Umulinga aburana na Ngirinshuti na Muberuka (igika cya 40) n'urubanza RS/INJUST/RSOC00014/2023/CA rwaciwe n'Urukiko rw'Ubugurire ku wa 19/07/2024 haburana EAR Diyoseze ya Shyira na Uwingabiye Monique (igika cya 35). Muri izi manza inkiko zombie zongeye gushimangira ko umuburanyi adashobora kuvuga ko yagize akarengane ku kibazo atigeze agaragariza Urukiko arusaba kugisuzuma. [21] Ku bijyanye n'uru rubanza, dosiye yarwo igaragaza ko ikibazo kijyanye no kuba Rwanda Social Security Board yarajuriye ikerewe kitigeze kiburanwaho ngo kinasuzumwe mu rubanza rwasabiwe gusubirwamo ku mpamvu z'akarengane, bityo rero hashingiwe ku murongo

wagaragajwe haruguru watanzwe n'Urukiko rw'Ikirenga ukanagarukwaho n'Urukiko rw'Ubujujire mu manza zinyuranye, Sindizera Jean Pierre akaba atasaba ko gisuzumwa bwa mbere kuri uru rwego; bityo iyi mpamvu y'akarengane ikaba nta shingiro ifite.

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2. Kumenya niba Urukiko Rukuru rwaremeje ko ikirego cya Sindizera Jean Pierre kitagombaga gusuzumwa mu buryo bw'inyandiko nsobanura kirego itanzwe n'umuburanyi umwe, rwirengagije ko ariko biteganywa n'ingingo ya 178 y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi [22] Uhagarariye Sindizera Jean Pierre avuga ko mu rubanza rusabirwa gusubirwamo, Urukiko Rukuru rwirengagije ibiteganywa n'ingingo ya 178 y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, rwemeza ko ikirego yatanze kwemeza uburenganzira bwe kuri pansiyi ikwiriye kitaburanishwa nk'inyandiko nsobanurakirego itanzwe n'umuburanyi umwe kuko kirimo impaka. [23] Asobanura ko yatanze ikirego mu Rukiko Rwisumbuye rwa Nyarugenge asaba guhabwa uburenganzira bwe kuri pansiyi yabuze biturutse ku kuba yaratakambiye Inama y'Ubutegatsi ya Rwanda Social Security Board ntasubizwe mu gihe giteganywa n'ingingo ya 178 yavuzwe haruguru ku bijyanye no gutakambira icyemezo cy'ubutegetsi, kandi iyo ngingo ikaba iteganywa ko iyo bigenze bityo uwatakambye aba abonye ubwo burenganzira yasabaga iyo butanyuranyije n'amategeko. [24] Uhagarariye Sindizera Jean Pierre avuga ko n'Urukiko Rwisumbuye rwa Nyarugenge ariko rwari rwabibonye mu rubanza RAD00004/2023/TGI/NYGE-RAD 00001/2023/TGI/NYGE maze rumusubiza uburenganzira bwe rushingiye ku ngingo ya 19, igika cya 2 y'Itegeko No 05/2015 ryavuzwe haruguru, ariko Urukiko Rukuru ruvanaho urwo rubanza rushingiye ku mpamvu y'uko rutagombaga gufatwa nk'inyandiko nsobanurakirego itanzwe n'umuburanyi umwe, ari naho akarengane ke gashingiye. [25] Me Sekabuke Jean Paul uhagarariye Rwanda Social Security Board avuga ko iyi mpamvu y'akarengane nta shingiro ifite, ashingiye ku mpamvu zikurikira:
 - a. Mu icibwa ry'urubanza rusabirwa gusubirwamo, Urukiko Rukuru rwashingiye ku biteganywa n'amategeko no ku murongo (jurisprudence) watanzwe n'Urukiko rw'Ikirenga mu rubanza RS/INJUST/RAD00003/2022/SC rwaciwe ku wa 14/04/2023, aho rwasobanuye neza ko ingingo ya 178 igika cya 3 n'icya 5 y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi ntarengayobora yateganyije, bityo rero iramutse ikoreshejwe uko yanditse bikaba byahesha uwatakambye ibyo yatakambiye, yaba abifitiye uburenganzira cyangwa ntabwo, cyangwa se bitanashoboka ko abugira; Urukiko rw'Ikirenga rwasanze icyo ari icyuho muri iyo ngingo kuko icyo Umushingamategeko yari agamije atari uko hagira ubona uburenganzira ku byo atemerewe kubera gusa ko yatakambye ntasubizwe (reba ibika bya 21,22 na 23 by'urwo rubanza);

- b. Nta burenganzira Rwanda Social Security Board yimye Sindizera Jean Pierre kuko ahabwa pansiyi, ahubwo impaka zikaba ziri ku ngano yayo, ari nayo mpamvu mu rubanza rwasabiwe gusubirwamo Urukiko Rukuru rwasanze ikirego cye kitafatwa nk'inyandiko nsobanurakirego itanzwe n'umuburanyi umwe;
- c. Ingingo ya 19 y'Itegeko rigenga imitunganyirize y'ubwiteganyirize bwa Pansiyi siyo yonyine ikurikizwa kugira ngo uwiteganyirije ahabwe uburenganzira kuri pansiyi

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y'izabukuru, kuko hari izindi ngingo z'iryo Tegeko zirimo nk'ingingo ya 7 itegamya ibishingirwaho mu kubara imisanzu;

- d. Ibyo Sindizera avuga ko Inama y'Ubutegetsi itamusubije si ukuri kuko yasubijwe; kuba yaba yarasubijwe atinze cyangwa agasubizwa n'utariwe ntibimuha uburenganzira kuri pansiyi asaba kuko ifite uko ibarwa hakurikije ibiteganywa n'Itegeko No 05/2015 ryo ku wa 30/03/2015 rigenga imitunganyirize y'ubwiteganyirize bwa pansiyi;
- e. Itegeko No 05/2015 ni Itegeko ryihariye (loi speciale), rikaba ariryo ryagombaga gushingirwaho aho gushingira ku itegeko rusange; kandi ingingo yaryo ya 87 (y'Itegeko No 05/2015) ikaba iteganya ko utanga ikirego ari utasubijwe mu gihe cy'amezi 3. UKO URUKIKO RUBIBONA [26] Impaka kuri iyi ngingo zishingiye ku kumenya niba mu rubanza rusabirwa gusubirwamo, Urukiko Rukuru rwaremeje ko ikirego cya Sindizera Jean Pierre gisaba kwemeza uburenganzira bwe kuri pansiyi y'izabukuru kitagombaga gusuzumwa nk'inyandiko nsobanurakirego itanzwe n'umuburanyi umwe, rwirengagije ko ingingo ya 178 y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi iteganya ko bene ibyo birego bitangwa muri ubwo buryo, kandi ko ubwo burenganzira bwaregwe buba bwemewe; kuba ibiteganywa n'iyi ngingo bitarubahirijwe bikaba byaramuteye akarengane kagaragarira buri wese. [27] Ingingo ya 178 y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi iteganya ibyerekeye iyakirwa ry'ikirego gisaba gukuraho ry'icyemezo cy'ubutegetsi, mu gika cyayo cya 3, igira iti: umuyobozi utakambiwe agomba gusubiza ubwo butakambe mu gihe cy'ukwezi kumwe (1) kubarwa uhereye umunsi yabuboneyeho. Iyo adasubije, ubutakambe bufatwa nk'aho bufite ishingiro. Naho mu gika cya 5 ikagira iti: iyo nta gisubizo yahawe kandi atasubijwe uburenganzira bwe, ashobora gusaba Urukiko ruburanisha imanza z'ubutegetsi gutegeka ko uburenganzira bwe bwubahirizwa. Icyo kirego gitangwa mu gihe kitarenze ukwezi kumwe (1) mu buryo bw'inyandiko nsobanurakirego itanzwe n'umuburanyi umwe. [28] Ingingo ya 87 y'Itegeko No 05/2015 ryo ku wa 30/03/2015 rigenga imitunganyirize y'ubwiteganyirize bwa Pansiyi, yo iteganya ko umunyamuryango cyangwa ufite uburenganzira bwa pansiyi utishimiye icyemezo afatiwe n'ubwiteganyirize bwa pansiyi, ashobora gusaba, mu nyandiko, ko icyo cyemezo gisubirwamo n'Inama y'Ubuyobozi cyangwa Inama y'Ubutegetsi y'urwego rwagifashe mu gihe kitarenze amezi atandatu (6). Iyo hashize amezi atatu (3) urwego rwandikiwe rudatanze igisubizo, icyasabwe

gifatwa nk'aho cyemewe. Iyo uwajuriye atanyuzwe n'icyemezo yafatiwe, ashobora kuregera Urukiko rubifitiye ububasha. [29] Isesengura ry'ingingo zivuzwe haruguru rigaragaza ko ingingo ya 178 y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi iteganya ibijyanye n'ibyemezo by'ubutegetsi muri rusange (ibihe byo gutakamba, igihe umuyobozi watakambiwe agomba kuba yasubijemo, ingaruka mu gihe uwatakambye adasubijwe ku gihe kandi ntahabwe uburenganzira bwe, uburyo n'ibihe ashobora kuregeramo Urukiko); naho ingingo ya 87 y'tegeko No 05/2015 igateganya umwihariko

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ujyanye n'uburyo utishimiye icyemezo yafatiwe n'ubwiteganyirize bwa pansiyi ashobora gusaba ko gisubirwamo, ibihe agomba gusubizwamo, ingaruka zo kudasubizwa mu gihe kigenwe n'uburyo utishimiye icyemezo yafatiwe aregera Urukiko. [30] Ku birebana n'uru rubanza, dosiye igaragaza ko Sindizera Jean Pierre yareze mu buryo bw'inyandikonsobanurakirego itanzwe n'umuburanyi umwe ashingiye ku ngingo ya 178 y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, asaba Urukiko kwemeza ko uburenganzira bwe kuri pansiyi y'izabukuru avuga ko ariyo ikwiriye bwubahirizwa kuko iyo yahawe ari nkeya kandi akaba yarajuririye Inama y'Ubutegatsi ya Rwanda Social Security Board ntasubizwe mu gihe giteganywa n'amategeko. [31] Dosiye y'urubanza igaragaza kandi ko mu rubanza rusabirwa gusubirwamo Urukiko Rukuru rwasanze ikirego cye kitaragombaga gutangwa mu buryo bw'inyandiko nsobanurakirego itanzwe n'umuburanyi umwe kuko mu byo yaregeye harimo impaka zigomba kuburanwaho. [32] Urukiko rw'Ubujurire rurasanga hashingiwe ku byasobanuwe haruguru mu gika cya 29, no ku ihame ry'amategeko rivuga ko itegeko ryihariye riza mbere y'itegeko riri rusange (Specialia generalibus derogant) byumvikana ko ikirego cya Sindizera Jean Pierre kirebwa n'ingingo ya 87 y'Itegeko No 05/2015 ryo ku wa 30/03/2015 rigenga imitunganyirize y'ubwiteganyirize bwa Pansiyi, nk'itegeko ryihariye rigenga ibijyanye n'ubwiteganyirize bwa pansiyi, nk'uburyo utishimiye icyemezo yafatiwe n'ubwiteganyirize bwa pansiyi ashobora gusaba ko gisubirwamo, ibihe agomba gusubizwamo, ingaruka zo kudasubizwa mu gihe kigenwe n'uburyo utishimiye icyemezo yafatiwe aregera Urukiko; bityo rero Sindizera Jean Pierre akaba atavuga ko akarengane ke mu rubanza asaba ko rusubirwamo gashingiye ku kuba Urukiko rwariyengagije ingingo ya 178 y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi mu gihe nk'uko byasobanuwe iyo ngingo y'Itegeko yerekeye ibyemezo by'ubutegetsi muri rusange, ikaba atariyo igenga ikirego cye; bityo rero ikaba itashingirwaho hemezwa ko yarenganye ku buryo bugaragarira buri wese. [33] Hashingiwe ku bisobanuro byose byatanzwe haruguru, Urukiko rw'Ubujurire rurasanga ikirego cya Sindizera Jean Pierre gisaba gusubirishamo ku mpamvu z'akarengane urubanza No RADA00102/2023/HC/KIG kikaba nta shingiro gifite.

3. Kumenya niba indishyi zasabwe muri uru rubanza zatangwa [34] Sindizera Jean Pierre asaba Urukiko rw'Ubujurire kugenerwa 3.0000.000Frw akubiyemo igihembo cya Avoka n'amafaranga y'ikurikiranarubanza mu Rukiko Rukuru no kuri uru rwego. [35] Uhagarariye

Rwanda Social Security Board avuga ko indishyi Sinizera Jean Pierre asaba nta shingiro zifite kuko nta karengane kagaragara mu rubanza RADA00102/2023/HC/KIG; ahubwo agasaba ko ari we wishyura Rwanda Social Security Board indishyi zo kuyishora mu manza nta mpamvu, amafaranga y'ikurikiranarubanza n'ay'igihembo cy'avoka. UKO URUKIKO RUBIBONA

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[36] Ingingo ya 111 y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi iteganya ibikurikira: ikirego cy'amafaranga y'ikurikiranarubanza ni ikirego gishamikira ku kirego cy'iremezo kigamije kwishyura ibyakoreshejwe mu rubanza. Ikirego cy'amafaranga y'ikurikiranarubanza kiburanishirizwa rimwe n'ikirego cy'iremezo. Gishobora kandi kwakirwa kikanaburanishwa n'ayo ikirego cy'iremezo cyaba kitakiriwe. [37] Urukiko rw'Ubujurire rurasanga Sindizera Jean Pierre ari we watanze ikirego gisaba gusubirishamo urubanza ku mpamvu z'akarengane, kandi nk'uko byasobanuwe ikirego cye kikaba nta shingiro gifite, bityo indishyi asaba zikaba nta shingiro zifite. Urukiko rurasanga ahubwo hashingiwe ku ngingo ya 111 yavuzwe haruguru, Sindizera Jean Pierre ari we ugomba kwishyura Rwanda Social Security Board 500.000Frw n'igihembo cya Avoka na 200.000Frw y'ikurikiranarubanza agenwe mu bushishozi, kuko byabaye ngombwa ko ikurikirana urubanza ikanashaka Avoka uyiburanira. III. ICYEMEZO CY'URUKIKO [38] Rwemeje ko ikirego cyatanzwe na Sindizera Jean Pierre gisaba gusubirishamo ku mpamvu z'akarengane urubanza RADA00102/2023/HC/KIG rwaciwe n'Urukiko Rukuru ku wa 02/11/2023, nta shingiro gifite. [39] Rutegetse Sindizera Jean Pierre kwishyura Rwanda Social Security Board amafaranga ibihumbi magana atanu (500.000Frw) y'igihembo cya Avoka n'ibihumbi magana abiri (200.000Frw) y'ikurikiranarubanza kuri uru rwego.

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