

RWANDA / JUDGMENT

RWANDA REVENUE AUTHORITY-RRA v. NDUWIMANA

RADA 0003/11/CS

COURT

Supreme Court

DECIDED

12 July 2013

CASE / FILE NUMBER

RADA 0003/11/CS

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RWANDA REVENUE AUTHORITY-RRA v. NDUWIMANA

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- Date: 2013-07-12
- Case/document no.: RADA 0003/11/CS
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Text

Page 1

RWANDA REVENUE AUTHORITY-RRA v. NDUWIMANA [Rwanda URUKIKO RW'IKIRENGA – RADA 0003/11/CS (Mugenzi, P.J., Mukamulisa na Rugabirwa, J.) 12 Nyakanga 2013] Amategeko agenga umurimo – Kwirukana ku kazi – Impamvu ikomeye – Integuza – Ingaruka zo kuba impamvu ikomeye ishingiye ku icyaha kitahamye umukozi – Kuba icyaha kitarahamye umukozi ikosa rigikomokaho ntiriyafatwa nk'impamvu ikomeye yatuma umukozi yirukanwa nta nteguza – Itegeko N° 51/2001 ryo kuwa 30/12/2001 rishinga amategeko agenga umurimo, ingingo ya 21,25 . Amategeko agenga umurimo – Kwirukanwa nta mpamvu – Indishyi – Imperekeza zo gusezerwa mu kaze hamwe nizihambwa umukozi ugiye muri kiruhuko cy'izabukuru – Kwirukanwa nta mpamvu bitangirwa indishyi hamwe n'imperekeza zinyuranye – Itegeko N° 51/2001 ryo kuwa 30/12/2001 rishinga amategeko agenga umurimo, ingingo ya 27 – Iteka rya Minisitiri n° 16/19 ryo kuwa 27/06/2003 rigena uburyo bwo gutanga amafaranga y'imperekeza y'iyirukanwa ku kazi n'ay'imperekeza ku mukozi ugiye mu kiruhuko cy'izabukuru, ingingo ya 4. Amategeko agenga imiburanishirize y'imanza z'ubutegetsi – Ubujurire – Ikirego gishya – Kuba ikirego kitaragiweho

impaka ku rwego rwa mbere ntigishobora ku gusuzumwa ku urwego rw'ubujurire – Itegeko N° 21/2012 ryo kuwa 14/06/2012 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegets, ingingo ya 168(1) Incamake y'ikibazo: Nduwimana yakoreye Rwanda revenue authority (RRA) kuva Mutarama 1998 maze imusezerera ku kazi nta nteguza kuwa 04 Ugushyingo 2008 kubera ko yakoze yakoze amakosa akomeye. Nduwimana ntishimiye icyo cyemezo maze atakambira umukoresha we ngo agikureho maze amusubiza ko icyemezo cyafashwe kidahindutse. Nduwimana yareze RRA mu Urukiko Rukuru maze rwemeza ko icyemezo kimusezerera ku kazi nta nteguza cyafashwe na Komiseri Mukuru wa RRA kinyuranyije n'amategeko gikuweho; ndetse ko agomba gufatwa nk'umukozi wari mu kazi mu gihe cyose icyo cyemezo cyamaze; RRA itegekwa ku muha indishyi zinyuranye zikomoka ku isezererwa ku kazi hamwe nay'ikurikiranarubanza n'igihembo cy'Avoka; kandi ko Nduwimana agomba gusubizwa ku kazi yari asanzwe akora, bitakubahirizwa ku neza, RRA igahatirwa kubikora. RRA yajuririye Urukiko rw'Ikirenga ivuga ko Urukiko rwemeje ko Nduwimana yasezerewe ku kazi nta kosa yakoze, kandi hari ibimenyetso bigaragaza amakosa yatumye yirukanwa, ikindi inenga uburyo indishyi yaciwe zibazwe ndetse ko itishimiye amafaranga y'ikurikirana rubanza n'igihembo cya avoka Nduwimana yagenewe. Nduwimana nawe mu bujurire bwuririye ku bundi avuga ko atagenewe amafaranga y'amasaha y'ikirenga yari yasabye, ndetse ko ntacyo Umucamanza yavuze ku mafaranga ya konji y'umwaka wa 2009 na 2010 kandi ayafitiye uburenganzira; ntiyanishimiye amafaranga y'ikurikiranarubanza yahawe. Incamake y'icyemezo: 1. Kuba icyaha kitarahamye umukozi ikosa rigikomokaho ntiriyafatwa nk'impamvu ikomeye yatuma umukozi yirukanwa nta nteguza; kubwibyo rero RRA ikaba idashobora gushingira ku icyaha cya ruswa yari yarezwe ngo yemeze ko Nduwimana yakoze

Page 2

amakosa akomeye yari gutuma imwirukana nta nteguza, RRA ikaba igomba kubimuhera indishyi.

2. kwirukanwa nta mpamvu bitangirwa indishyi hamwe n'imperekeza zibarwa hashingiwe ku itegeko rigenga umurimo mu Rwanda.
3. kuba ikirego kitaragiweho impaka ku rwego rwa mbere ntigishobora ku gusuzumwa ku urwego rw'ubujurire kubwibyo rero amafanga ya konji y'umwaka 1999 na 2000 nduwimana asaba akaba atayahabwa kuko ayaregeye bwambere ku rwego rw'ubujurire.
4. impamvu zose RRA itanga ihakana ko Nduwimana yakoze amasaha y'ikirenga yakoze ntashingiro zihabwa kuko itigeze nibura imusubiza ko atayakwiye kandi ikaba itarabashije kuvuruguzwa ibivugwa na Nduwimana y'uko n'ubwo hari igihe yimuwe ku kazi ko ku mupaka, yahashubijwe na Minisitiri w'Imari kubwibyo rero Nduwimana guhabwa amafaranga yayo masaha y'ikirenga abazwe mu byiciro bibiri: icya mbere kireba umupaka wa Rutete : kuwa kuwa 5/01/1999 kugeza kuwa 6/12/2000, ni ukuvuga amezi 11; n'umupaka wa Gisenyi :kuwa kuwa 10/12/2000 kugeza kuwa 30/04/2003, ni ukuvuga amezi 29; amezi yose akaba ari 40; akabarwa hashingiwe ku Ibwiriza n° 128/09.19 rya Minisitiri ryo kuwa 1/01/1977 rigenga uburyo bwo kubara amasaha y'ikirenga muri Leta n'ibigo byayo, aho mu gace II.1

ryateganyaga ko ingano y'amafaranga y'amasaha y'ikirenga ari 3.000 Frw (forfait) ku kwezi ku bakozi bakora ayo masaha ku buryo buhoraho. icya kabiri kijyanye n'umupaka wa Rutete, ni ukuvuga kuwa kuwa 29/10/2004 kugeza kuwa 20/12/2004, gihwanye n'amezi 2; ayo mafaranga y'amasaha y'ikirenga agomba kubarwa hashingiwe kuri Stati y'abakozi ba RRA yatangiye gukurikizwa kuwa kuwa 1/1/2004.

5. igihe umuburanyi yareze kugirango arenganurwe kandi bikaba bigaragara ko haribyo yatakaje mu rubanza agenerwa amafaranga y'ikurikiranarubanza kubwibyo rero akaba agenewe ayo yasabye kuko ari mu rugero, kuy'igihembo cyavoka akaguma ayo yagenewe ku rwego rubanza. Ubujurire bufite ishingiro. Amagarama y'urubanza aherereye kuri RRA. Amategeko yashingiweho: Itegeko N° 51/2001 ryo kuwa 30/12/2001 rishinga amategeko agenga umurimo, ingingo ya 21,25,26, 27, Iteka rya Minisitiri N° 16/19 ryo kuwa 27/06/2003 rigena uburyo bwo gutanga amafaranga y'imperekeza y'iyirukanwa ku kazi n'ay'imperekeza ku mukozi ugiye mu kiruhuko cy'izabukuru, ingingo ya 4 Itegeko N° 21/2012 ryo kuwa 14/06/2012 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ingingo ya 168(1) Ibwiriza N° 128/09.19 rya Minisitiri ryo kuwa 1/01/1977 rigena uburyo bwo kubara amasaha y'ikirenga muri Leta n'ibigo byayo, agace II.1

Page 3

Nta manza zifashishijwe. Urubanza I. IMITERERE Y'URUBANZA MURI MAKE [1] Nduwimana yari umukozi wa RRA kuwa mu kwezi kwa 1/1998, imusezerera ku kazi nta nteguza kuwa 04/11/2008 ivuga ko hari amakosa akomeye yakoze.. Ntiyishimiye icyo cyemezo, atakambira umukoresha we ngo agikureho ariko amusubiza ko icyemezo cyafashwe kidahindutse, bituma Nduwimana arega RRA mu Rukiko Rukuru, rwemeza ko ikirego gifite ishingiro kuri bimwe, runemeza ko icyemezo kimusezerera ku kazi nta nteguza cyafashwe na Komiseri Mukuru wa RRA kinyuranyije n'amategeko kikaba gikuweho, akaba agomba gufatwa nk'umukozi wari mu kazi mu gihe cyose icyo cyemezo cyamaze; RRA yanategetswe kumuha 8.608.895 Frw y'umushahara (318.885 Frw X amezi 27) atahembwe, 50.000 Frw y'ikurikirana rubanza na 500.000 Frw y'igihembo cya avoka. Urukiko rwanategetse ko Nduwimana agomba gusubizwa ku kazi yari asanzwe akora, bitakubahirizwa ku neza, RRA igahatirwa kubikora. [2] RRA yajuririye Urukiko rw'Ikirenga ivuga ko Urukiko rwemeje ko Nduwimana yasezerewe ku kazi nta kosa yakoze, kandi hari ibimenyetso bigaragaza amakosa yatumye yirukanwa, inenga kandi uburyo indishyi yaciwe zingana na 8.608.895 Frw zabazwe, ikaba itaranishimiye amafaranga y'ikurikirana rubanza n'igihembo cya avoka Nduwimana yagenewe. [3] Nduwimana nawe yajuriye avuga ko atagenewe amafaranga y'amasaha y'ikirenga yari yasabye, ndetse ko ntacyo Umucamanza yavuze ku mafaranga ya konji y'umwaka wa 2009 na 2010 kandi ayafitiye uburenganzira; ntiyishimiye 50.000 Frw yagenewe y'ikurikirana rubanza kuko umucamanza yayagennye mu bushishozi bwe atitaye ku byo yakoze ahamagaza RRA n'inshuro yaburanye urubanza nta kandi kazi yikorera, akaba asaba 200.000 Frw. [4] Urubanza rwaburanishijwe mu ruhamwe kuwa 03/01/2013, kuwa 26/02/2013 no kuwa 04/06/2013, RRA iburanirwa na Me Gasana Raoul, Nduwimana yunganiwe na Me Ntambara Emmanuel. II. IBIBAZO BIRI MU RUBANZA N'ISESENGURWA RYABYO Kumenya niba hari amakosa akomeye Nduwimana yakoze yatumye RRA imusezerera ku kazi nta nteguza

[5] Uburanira RRA avuga ko kuba Nduwimana yarasezerewe ku kazi nta nteguza byatewe n'amakosa yakoze yo kwirengagiza inshingano ze mu kazi, kuko yari „acceptance officer“ wo muri long room ya ruguru (Entrepôt Agricole-EA) na Parking Car, nyamara akaba yarakiriye amadosiye atari afitiye uburenganzira, agamije kugira ngo ibicuruzwa by'abasoresheba bamwe bisohoke mbere y'ibyaje mbere. Anavuga ko na Nduwimana yemeye ko yakiriye amadosiye atari mu nshingano ze, ko rero ibyo yakoze ari ikosa ribujijwe mu myitwarire igenga abakozi ba Gasutamo.

Page 4

[6] Akomeza avuga ko kuba Nduwimana atarahamwe n'icyaha cya ruswa yarezwe bitaba impamvu yo kwemeza ko atakoze amakosa yo mu rwego rw'akazi yatumye RRA imusezerera. Yongeraho ko ikindi RRA itishimiye ari uburyo Umucamanza yabaze indishyi za 8.608.895 Frw (318.885 X amezi 27) Nduwimana yagenewe, kuko zabazwe hashingiwe ku ngingo ya 94 y'Itegeko Ngenga n° 51/2008 ryo kuwa 09/09/2008 rigena imiterere, imikorere n'Ububasha by'inkiko¹, ko n'ubwo iyo ngingo hari ububasha iha Urukiko, mu gihe bibaye ngombwa ko hagenwa indishyi, hagomba ukurikizwa igika cya 1 cy'ingingo ya 26 y'Itegeko n° 51/2001 ryo kuwa 30/12/2001 rishinga amategeko agenga umurimo mu Rwanda.² [7] Yongeraho ko ibyo gusubiza Nduwimana mu kazi bidashoboka kuko nta mwanya we ukiri muri RRA kandi ko nta mpamvu yari kugenerwa amafaranga y'ikurikirana rubanza n'igihembo cya avoka kuko RRA itemera ko yamwirukaniye ubusa. [8] Nduwimana n'umwunganira basubiza ko RRA itagaragaje ko yamwirukaniye ikosa rikomeye kuko itabashije kwerekana ko nta burenganzira yari afite bwo kwakira amadosiye y'izindi entrepôts. Bavuga ahubwo ko icyabaye ari uko Nduwimana amaze kubona ko hari amadosiye yaje aho yakoraga atari ho yagombaga kujya, yayashyikirije abo bireba nta kindi ayakozeho, kandi ko atigeze yemera ko hari ikosa yakoze, kuko icyo yavuze mu Rukiko rubanza ari uko niyo yari kuba yihutishije dosiye, uretse ko nta byabayeho, iryo atari ikosa rikomeye ryari gutuma yirukanwa, cyane cyane ko ubuyobozi bwa RRA bwahoraga bushishikariza abakozi kwakira neza abayigana. [9] Banavuga ko RRA yabanje guhagarika Nduwimana by'agateganyo, mu gihe cy'amezi abiri, icyo gihe gishize asubira ku kazi ndetse ararahembwa, nyuma RRA imwandikira ibaruwa imusezerera nta nteguza nyamara itagaragaje amakosa imushinja, ko rero yanyuranyije n'ibyateganywaga n'ingingo ya 25 y'Itegeko N° 51/2001 ryo kuwa 30/12/2001 ryavuzwe haruguru ivuga ko iyo habaye ikosa rikomeye rituma umukozi asezererwa nta nteguza, umukoresha agomba kubimumenyeshya mu masaha mirongo ine n'umunani ikosa rikomeye rimaze kuboneka, nyamara ko mu ibaruwa yayo, RRA itaragaragaje muri icyo gihe giteganywaga n'itegeko. [10] Ku bijyanye n'indishyi Nduwimana yagenewe, avuga ko RRA yirengagiza ko yari afite uburambe burenze imyaka 10, ko rero mu kumugenera indishyi hagomba gushingirwa ku ngingo ya 26 y'Itegeko n° 51/2001 ryamaze kuvugwa, iteganya ko amezi 6 ashobora kwikuba kabiri, bityo akaba asaba indishyi zo kwirukanirwa ubusa zihwanye n'amezi 12 y'umushahara, izihwanye n'amezi 10 y'imperekeza atahawe hamwe n'iz'amezi 2 y'integuza. [11] Nduwimana n'umuburanira banavuga ko ubwo byagaragaye ko yasezerewe ku kazi mu buryo

bunyuranyije n'amategeko, RRA igomba kwemera ko yagombaga guhabwa amafaranga y'ikurikirana rubanza n'igihembo cya avoka. Banasaba ko asubizwa ku kazi ku mwanya usumbye uwo yari agezeho kuko buri myaka ibiri yajyaga azamurwa mu ntera. 1 Ivuga ko Urukiko Rukuru rusuzuma niba amasezerano n'izindi nyandiko byo mu bubasha bwawo, byakozwe n'ubuyobozi, byarakurikije amategeko, rwasanga bitarayubahirije, rukabisesa cyangwa rukemeza indinshyi z'akababaro zikomoka ku byangijwe nabyo 2 Yateganyaga ko indishyi zitangwa kubera gusezererwa ku kazi bidakurikije amategeko zidashobora kurenga inshuro 6 z'umushara n'ibindi bigenerwa umukozi

Page 5

- [12] Urukiko rusanga mu ibaruwa yayo yo kuwa 4/11/2008 RRA yandikiye Nduwimana imusezerera ku kazi nta nteguza, no mu gisubizo yahaye ubutakambe bwe, yarasobanuye ko yazize ibyaha byo kuba yarirengagije kuzuza inshingano asabwa mu kazi akemera kwakira amadosiye atari afitiye uburenganzira, kandi ko ibyo ari ibyaha biremereye „gross misconduct“ bituma icyemezo yafatiwe kidahinduka. [13] Urukiko rusanga amakosa RRA yashingiyeho yirukana Nduwimana afitanye isano n'icyaha cya ruswa yari yarezwe, nyamara nk'uko Urukiko Rukuru rwabisobanuye, icyo cyaha ntikigeze kimuhama kandi Ubushinjacyaha ntibwajuriye, bityo RRA ikaba idashobora kugishingiraho ngo yemeze ko Nduwimana yakoze amakosa akomeye yari gutuma imwirukana nta nteguza nk'uko byateganywaga mu ngingo ya 21 n'ya 25 z'Itegeko n° 51/2001 ryo kuwa 30/12/2001 rishinga amategeko agenga umurimo ryakurikizwaga³, iryo yirukana rikaba rero rinyuranyije n'amategeko nk'uko urukiko rubanza rwabyemeje, RRA ikaba igomba kubitangira indishyi. [14] Ku bijyanye n'indishyi zo kwirukanirwa ubusa RRA igomba guha Nduwimana, Urukiko rusanga zigomba kubara hashingiwe ku ngingo ya 26 z'Itegeko n° 51/2001 ryo kuwa 30/12/2001 ryamaze kuvugwa 4kuko bigaragara ko Nduwimana yakoreye RRA mu gihe kirenze imyaka icumi, kuko yatangiye akazi mu kwezi kwa 1/1998 akavaho kuwa 04/11/2008 yirukanwe; bityo indishyi agomba guhabwa zikaba zigomba kungana n'umushahara wa buri kwezi yari agezeho ungana na 318.885 Frw X amezi 12= 3.826.620 Frw. RRA igomba kandi guha Nduwimana amafaranga y'integuza ahwanye n'ukwezi 1 kw'umushahara, ni ukuvuga 318.885 Frw, hashingiwe ku ngingo ya 3 y'Iteka n° 11/19 ryo kuwa 14/03/2003 rishyiraho igihe cy'integuza. [15] Hashingiwe kandi ku ngingo ya 27 y'Itegeko rigenga umurimo, n'ya 4 y'Iteka rya Minisitiri n° 16/19 ryo kuwa 27/06/2003 rigana uburyo bwo gutanga amafaranga y'imperekeza y'iyirukanwa ku kazi n'ay'imperekeza ku mukozi ugiye mu kiruhuko cy'izabukuru, RRA igomba guha Nduwimana amafaranga y'imperekeza ahwanye n'amezi 2 y'umushahara, ni ukuvuga 318.885 Frw X 3= 956.655 Frw. [16] Urukiko rusanga amafaranga ya konji y'umwaka wa 1999 na 2000 Nduwimana asaba atarigeze ayaregera ngo agibweho impaka ku rwego rwa mbere, akaba rero adashobora kuyaregera bwa mbere ku rwego rw'ubujurire hashingiwe ku ngingo ya 168, igika cya 1 cy'Itegeko n° 21/2012 ryo kuwa 14/06/2012 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi.⁵ 3 Ingingo ya 21 ivuga ko iyirukanwa ry'umukozi ugengwa n'amasezerano y'igihe kitazwi riturutse ku ikosa, rigomba gushingira ku mpamvu igaragara

kandi nyuma y'uko ahawe umwanya wo kwisobanura ku byo aregwa. Iyo havutse impaka imbere y'ubutegetsi cyangwa y'inkiko, umukoresha ni we ugaragaza impamvu nyayo y'iryo yirukanwa. Naho ingingo ya 25 ikavuga ko igihe habaye iseswa ry'amasezerano nta nteguza, rituma uyasheshe yishyura undi indishyi y'amafaranga angana n'umushahara n'izindi nyungu z'ubwoko bwose umukozi yagombaga kubona mu gihe cy'integuza kitubabahirijwe. 4 Igika cyayo cya 1 kivuga ko indishyi z'akababaro zihabwa umukozi wirukaniwe ubusa zidashobora kurenza umushahara we w'amezi atandatu hongerewe indamunite n'ibindi umukozi yari afitiye uburenganzira buri kwezi. Naho igika cya 2 kikavuga ko iyo umukozi yari afite uburambe ku kazi burenze imyaka icumi ku mukoresha we, indishyi z'akababaro zishobora kwikuba kabiri. 5 Ivuga itya: ku rwego rw'ubujurire ntihazabwaho kuregerwa ikirego gishya keretse guhwanya imyenda, cyangwa gutanga ikirego cyo kwiregura ku kirego cy'ibanze cyatanze mu rukiko rw'ubujurire

Page 6

- [17] Urukiko rusanga bidakwiye gutegeka ko Nduwimana asubizwa mu kazi kuko nta kigaragaza ko umwanya we ugihari muri RRA, akaba rero akwiye gusa kugumana indishyi zijyanye no kwirukanirwa ubusa yagenewe n'uru Rukiko. Ku bijyanye n'amafaranga y'amasaha y'ikirenga Nduwimana asaba [18] Nduwimana n'umwunganira bavugaga ko atishimiye kuba ataragenewe amasaha y'ikirenga yasabye ku rwego rubanza angana na 6.606 ahwanye na 39.996.535 Frw, kuko asanga atari we wagombaga gusabwa kugaragaza inyandiko y'umwimerere z'uko yakoze ayo masaha, mu gihe yerekanye ko amafishi y'umwimerere ariho ayo masaha yayahaye Umuhuzabikorwa wa RRA ku rwego rw'Intara yometse kuri raporo y'akazi ya buri kwezi, akaba ari we wabijyanye ku cyicaro cya RRA kuko we atari yemerewe kuva ku mupaka bitewe n'uko yahakoraga wenyine kuko nta wo kumusimbura yari afite kugeza mu mwaka wa 2005. [19] Banavugaga ko kuba nta cachet ya RRA iteye kuri izo nyandiko atari byo byatuma avutswa ibyo isaba, kuko n'amabaruwa RRA yandikiye Nduwimana imwimurira ahandi ndetse inamwirukana, icyo kirango nta kiriho, ko rero umucamanza yivugururije bitewe n'uko hari aho yemera ko hari amabaruwa Nduwimana yanditse asaba kwishyurwa ayo masaha, ubundi akemeza ko RRA itayabonye. [20] Bongeraho ko mu Rukiko rubanza Nduwimana yasobanuye ko yatangiraga akazi saa moya za mu gitondo agataha saa kumi n'ebyiri z'umugoroba, kandi ubusanzwe akazi kararangiraga saa kumi, ko rero ku munsu w'umubyizi yakoraga buri gihe amasaha 2 y'ikirenga, ku minsi y'ikiruhuko agakora amasaha 10, ko nyamara Urukiko rutabihaye agaciro, ntirwanasuzuma ibyasabwe n'uwari ukuriye abakozi ko Nduwimana yabarirwa amafaranga hashingiwe ku mategeko agenga umurimo. [21] Uburanira RRA asubiza ko itemera ko hari amasaha y'ikirenga Nduwimana yakoze, kuko amafishi avugaga ari we wayiyujuriye, akaba ari na kopi zitagira umwimerere nta n'ikirango cya RRA kiriho, kandi ayo masaha akaba atarigeze yemezwa na RRA, ndetse ko no mu mibare yayo harimo amakosa. Anavugaga ko n'ubwo Nduwimana yemeza ko yakoze amasaha y'ikirenga kuva muri 1998 kugeza muri 2008, iyo myaka yose atari ko yayikoze ku mipaka kuko hari igihe yimuwe agahabwa akandi kazi; ko rero ibyo byose bitesha agaciro ibyo asaba. [22] Hashingiwe ku miburanire y'impande

zombi, Urukiko rwumvise uwitwa Ndivito Makima Fidèle wavuze ko yabaye „Chef de division“ ushinze amahugurwa y’abakozi, ndetse aba n’umuyobozi w’abakozi muri RRA. Yasobanuye ko ubundi abakozi bakoraga amasaha 40 mu cyumweru, ariko ko kuri Nduwimana kimwe n’abandi bakoraga ku mipaka, byari bizwi ko kenshi bakoraga amasaha agera ku icumi ku munsu cyangwa arenga, bakanakora ku minsi y’ikiruhuko, kandi ko ibyo byaterwaga n’uko buri gihe imipaka yafunguraga saa moya z’igitondo igafunga saa kumi n’ebyiri z’umugoroba. [23] Anavugaga ko hari amafishi abakozi bakoraga amasaha y’ikirenga buzuzaga kugira ngo bishyurwe, agashyikirizwa ubuyobozi bushinzwe iby’imari, akanoherezwa k’ushinzwe abakozi wayagenzuraga mbere yo kuyishyura, nyamara ko Nduwimana atigeze ahemberwa amasaha y’ikirenga yakoze n’ubwo yagiye yandika kenshi ayibutsa, ko rero niba RRA itagaragaza ko yayamuhembye, ntayo yigeze ahabwa.

Page 7

[24] Yongeraho ko n’ubusanzwe RRA yatindaga kwishyura amasaha y’ikirenga bitewe ahanini n’uko ubuyobozi bushinzwe iby’imari bwari bufite abakozi bake babanzaga gukora akazi kihutirwa, iby’amasaha y’ikirenga n’ibindi bigakorwa ari uko abafite ikibazo bishyuje, kandi ko muri 2005 ari bwo RRA yashyizeho Stati y’abakozi kuko byari bimaze kugaragara ko hagenda amafaranga menshi y’amasaha y’ikirenga, maze kuva icyo gihe abayakoze bagahabwa „forfait“ hakurikijwe inzego barimo. [25] Nyuma y’ibyo bisobanuro, Urukiko rwasabye RRA kurugezaho uko yabariraga abakozi bayo amasaha y’ikirenga kuva mu mwaka wa 1999 kugeza mu wa 2004, iyo yabaga igomba kuyishyura, mu bisobanuro bya Me Gasana Raoul uyiburanira avugaga ko iyo byabaga ngombwa kwishyura ayo masaha, RRA yashingiraga ku ngingo ya 15 ya Stati y’abakozi yo muri 2003, iteganya ko abantu bishyurwa „forfait“ hakurikijwe ibyiciro (grades) barimo nk’uko byemejwe n’Inama y’ubutegetsi ya RRA, ndetse ko mbere ya 2003 nta mukozi wigeze ayahembwa bitewe n’uko RRA yari ikiyubaka. [26] Yongeraho ko bitewe n’uko RRA yagiye yimuka kenshi aho yakoreraga, atabashije kubona inyandiko zijyanye n’amasaha y’ikirenga y’abakozi, ko ariyo mpamvu yabajije uwitwa Mazimpaka Estarco ushinze kubara imishahara n’ibijyanye nayo uburyo ayo masaha abarwa, amushyurwa ko yishyura ashingiye ku byemejwe n’Inama y’ubutegetsi kuko yasanze ari uko RRA isanzwe ibigenza, kandi ko kuri Nduwimana wari mu cyiciro cya kane, bibaye ngombwa kuyamubarira, yakwishyurwa „forfait“ ya 15.000 Frw ku kwezi. [27] Nduwimana n’umwunganira basubiza ko nta mpamvu yo gushingira kuri Statut y’abakozi ba RRA kuko nta kigaragaza ko yabayeho koko uretse kubivugaga gusa RRA ikaba itanagaragaza ko yamenyeshejwe abakozi, ko usibye n’ibyo, iyo Statut yatangiye gushyirwa mu bikorwa kuwa 01/01/2004 nyamara amafaranga Nduwimana asaba ari ayo guhera muri 1999, ko rero ayo masaha akwiye kubarwa hashingiye ku Iteka rya Minisitiri ryabanjirije iryo muri 2003 kuko bo batabashije kuribona. [28] Banavugaga ko nk’uko babisobanuye mu mwanzuro bashyikirije Urukiko rubanza, amafaranga Nduwimana asaba ari ajyanye n’igihe yakoreraga ku mupaka wa Rutete aho yakoze inshuro ebyiri, hamwe n’uwa Gisenyi, ndetse ko n’ubwo yigeze guhindurirwa imirimo, nyuma Minisitiri w’Imari yamusubije ku kazi ko ku mupaka nk’uko bigaragazwa n’ibaruwa yamwandikiye iri muri dosiye. [29] Urukiko rusanga nta

gushidikanya ko hari amasaha y'ikirenga Nduwimana yakoze kuko yagaragaje ko yashyikirije RRA amafishi yujuje yabariyeho ayo masaha, ndetse akomeza kwandika ayibutsa, n'uwari unshinzwe abakozi icyo gihe akaba yarasabye abashinzwe kubara amafaranga y'ayo masaha kuyamubarira nyamara ntibyakorwa, RRA ikaba itaranigeze imusubiza nibura imuhakanira ko atayakwiye. Byongeye kandi, RRA ntiyabashije kuvuguzwa ibivugwa na Nduwimana y'uko n'ubwo hari igihe yimuwe ku kazi ko ku mupaka, yahashubijwe na Minisitiri w'Imari; bityo rero impamvu zose RRA yatanze ihakana ayo masaha zikaba nta shingiro zifite. [30] Ku bijyanye n'uburyo bwo kubara ayo masaha ariko, ikigaragara ni uko ari Nduwimana uyasaba atabashije gusobanura ko yayabaze ashingiye ku biteganywa n'amategeko, na RRA ivuga ko akwiye kubarwa hashingiwe kuri Statut y'abakozi bayo, ntihakana ko iyo Statut

Page 8

yatangiye gukurikizwa kuwa 01/01/2004 kandi hari igice cy'amasaha Nduwimana asaba gihera muri 1999. [31] Urukiko rusanga amasaha y'ikirenga Nduwimana asaba agomba kubarwa mu byiciro bibiri. Icyo mbere kireba umupaka wa Rutete : kuwa kuwa 5/01/1999 kugeza kuwa 6/12/2000, ni ukuvuga amezi 11; n'umupaka wa Gisenyi :kuwa kuwa 10/12/2000 kugeza kuwa 30/04/2003, ni ukuvuga amezi 29; amezi yose akaba ari 40. Kuri iki cyiciro kandi, amafaranga y'amasaha y'ikirenga agomba kubarwa hashingiwe ku bisobanuro byatanzwe na Nduwimana ndetse byemejwe na Ndivito Makima Fidèle wahamagajwe n'urukiko, ko mbere ya 2004, Nduwimana yakoraga ku mupaka buri munsu kuko yari wenyine nta wundi umusimbura. Kuri iki cyiciro hagomba rero gukurikizwa Ibwiriza n° 128/09.19 rya Minisitiri ryo kuwa 1/01/1977 rigena uburyo bwo kubara amasaha y'ikirenga muri Leta n'ibigo byayo, aho mu gace II.1 ryateganyaga ko ingano y'amafaranga y'amasaha y'ikirenga ari 3.000 Frw (forfait) ku kwezi ku bakozi bakora ayo masaha ku buryo buhoraho; amafaranga y'icyi cyiciro akaba ahwanye na 3.000 Frw X amezi 40=120.000 Frw. [32] Icyiciro cya kabiri kijyanye n'umupaka wa Rutete, ni ukuvuga kuwa kuwa 29/10/2004 kugeza kuwa 20/12/2004, gihwanye n'amezi 2. Kuri iki cyiciro, amafaranga y'amasaha y'ikirenga agomba kubarwa hashingiwe kuri Stati y'abakozi ba RRA yatangiye gukurikizwa kuwa kuwa 1/1/2004, amafaranga y'amasaha y'ikirenga y'iki cyiciro akaba ahwanye na 15.000 Frw y'icyiciro (grade) cya 4 Nduwimana yari agezeho k'uko atigeze agihakana, gukuba n'amezi 2, ni ukuvuga 30.000 Frw; bityo igiteranyo cy'amafaranga y'amasaha y'ikirenga RRA igomba kwishyura Nduwimana kikaba gihwanye na 120.000 Frw+ 30.000 Frw= 150.000 Frw. Ku kibazo cy'amafaranga y'ikurikirana rubanza asabwa na Nduwimana n'ay'igihembo cya avoka yagenewe n'Urukiko rubanza [33] Nduwimana n'uwunganira avuga ko atishimiye amafaranga y'ikurikirana rubanza angana na 50.000 yagenwe n'umucamanza mu bushishozi bwe, kuko atitaye ku byo yakoze ahamagaza RRA n'inshuro yaburanye urubanza nta kandi kazi yikorera, bityo akaba asaba 200.000 Frw. Banasanga yaragombaga kugenerwa amafaranga y'igihembo cya avoka kuko byabaye ngombwa ko amushaka ngo amuburanire. [34] Uburanira RRA asubiza ko amafaranga y'ikurikirana rubanza asabwa na Nduwimana, hamwe n'aya avoka Nduwimana yagenewe ku rwego rubanza, nta shingiro afite kuko RRA yagaragaje ko itamwirukaniye ubusa. [35] Urukiko rusanga mu gihe Nduwimana yumvaga ko yarirukanwe arengana, nta cyamubuzaga kuregera

inkiko ngo zimurenganure, bikaba byumvikana ko hari ibyo yatanze ku rubanza arukurikirana. Urukiko rukaba rumugeneye 200.000 Frw asaba kubera ko ari mu rugero rukwiye. Agomba kandi kugumana 500.000 Frw y'igihembo cya avoka yagenewe n'Urukiko rubanza kuko yagaragaje ko yagombye gushaka avoka umuburanira. III. ICYEMEZO CY'URUKIKO [36] Rwemeje ko ubujurire bwa RRA n'ubwa Nduwimana Dieudonné bufite ishingiro kuri bimwe;

Page 9

[37] Rutegetse RRA guha Nduwimana 3.826.620 Frw y'indishyi zo kumusezerera ku kazi nta mpamvu, 318.885 Frw y'integuza, na 956.655 Frw y'imperekeza. Igomba kandi kumuha amafaranga ajyanye n'amasaha y'ikirenga angana na 150.000 Frw, 200.000 Frw y'ikurikirana rubanza na 500.000 Frw yagenewe n'Urukiko Rukuru, bityo amafaranga yose RRA igomba guha Nduwimana akaba ari 5.952.160 Frw; [38] Rutegetse RRA gutanga $\frac{1}{2}$ cy'amagarama y'urubanza angana na 42.900 Frw, ni ukuvuga 21.450Frw.

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Prepared on 11 October 2026 · Esheria