

TANZANIA / JUDGMENT

EX

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19 November 2024

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IN THE UNITED REPUBLIC OF TANZANIA JUDICIARY IN THE HIGH COURT OF TANZANIA
MBEYA SUB- REGISTRY AT MBEYA MISCELLANEOUS CIVIL APPLICATION NO. 21187 OF 2024
CASE REFERENCE NO. 202408281000021187 EX-H.2433 PC ANTHONY INNOCENT
MWENGA.....APPLICANT VERSUS INSPECTOR GENERAL OF POLICE
.....1ST RESPONDENT ATTORNEY
GENERAL.....2ND RESPONDENT

RULING

16th October & 19th November 2024 NONGWA, J. The applicant named above filed this application for the Court to grant leave to the Applicant to pursue orders of Certiorari, and Mandamus against the respondent's Dismissal decision that discontinued him from his duty post as Police Officer. The application is made under the provision of section 18(1) and 19

- (2) (3) of the Law Reforms (Fatal Accident Miscellaneous Provision Act, Cap. 310 and rule 5(1)(2) (a) (b) (c) (d) (3) (4) (5) (6) and 7 (1) and (5) of the Law Reform (Fatal Accidents and Miscellaneous Provisions) (Judicial Review 1 Procedure and Fees) Rules, 2014, GN. No. 324 of 2014. The application is supported by grounds and reasons set forth in the affidavit sworn by EX- H.2433 PC Anthony Innocent Mwenga, the applicant. The applicant has been enjoying the service of the leaned counsel Ms. Subira Mwakibibi while the respondents under the good hands of learned state attorneys Mr. Joseph Tibaijuka and Mr. Michael Fyumagwa, the application is uncontested. In brief from the applicants' affidavit, he was a servant of the Tanzania Police force, his work station was Mahenge Police station, Ulanga District, Morogoro region up to June 2019 when he was dismissed from post as civil servant by military procedures for influencing and receiving bribes and had requested to be supplied with the Proceedings and Judgment of the Court Martial in vain. That the Applicant was brought to the Civil Court, at the Resident Magistrate of Songwe where he was discharged from corruption offences and acquitted before the High Court of Tanzania in Mbeya sub registry for the offence of murder. On appeal against the decision of Military court to the Inspector General Police, the decision of disciplinary committee was maintained. That no other alternative remedy available as he has 2 exhausted all other remedy and the only remedy for him is to pursue his employment right by way of judicial review hence this leave to file judicial review. It is also not disputed that all the time when this matter was tabled on

Court Martial the Applicant was languishing in Prison even when severally asked to be supplied with the proceedings and judgment of the court martial the same had never been availed to him so that he can appeal based on the facts existing on proceedings. Now since all the conditions for the grant of leave have been met as per the law, presence of an arguable case, that the applicant's complaint is on the grounds stated before of which this court has mandate to decide and leave has to be sought for that matter. The applicant also has an interest over the decision because it affected the applicant. In the light of the above discussion, this court finds that the application for leave has merit. Therefore, the application for leave for the applicant to apply for orders of Certiorari and Mandamus to move into the High Court for purposes of quashing the decision of the disciplinary committee under Inspector General Police of Tanzania that dismissed him from police duty 3 post. The same must be filed within 14 days from the date hereof as provided for under rule 8 (1) (b) of the Rules. Each party shall bear own costs. V.M. NONGWA JUDGE 19/11/2024 Dated and delivered at Mbeya this 19th November 2024 in presence of the applicant in person and Mr. Michael Fyumagwa State Attorney for the respondents. V.M. NONGWA JUDGE 4

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