

TANZANIA / JUDGMENT

RULING ESTHER NATHANIEL MDEME VS TARIME POLICE COMMANDER AND 3 OTHERS FINAL NEW

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IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA (MAIN REGISTRY) AT DODOMA
MISCELLANEOUS CIVIL CAUSE NO. 24975 OF 2024 IN THE MATTER OF AN APPLICATION FOR
ORDERS OF CERTIORARI AND MANDAMUS AND IN THE MATTER OF POLICE FORCE, PRISON
SERVICE, FIRE AND RESCUE FORCE AND IMMIGRATION SERVICE COMMISSION ACT [CAP 241
RE 2002] AND IN THE MATTER OF THE POLICE FORCE SERVICE REGULATIONS, 1995 AND IN
THE MATTER OF AN APPLICATION FOR JUDICIAL REVIEW TO CHALLENGE THE DECISION OF
THE INSPECTOR GENERAL OF POLICE AND TARIME POLICE COMMANDER DISMISSING THE
APPLICANT FROM THE POLICE EMPLOYMENT BETWEEN EX. WP 8608 CPL ESTER NATHANIEL
MDEME..... APPLICANT AND TARIME POLICE
COMMANDER.....1st RESPONDENT THE INSPECTOR GENERAL OF
POLICE..... 2nd RESPONDENT THE PERMANENT SECRETARY MINISTRY OF
HOME AFFAIRS.....3rd RESPONDENT THE ATTORNEY
GENERAL..... 4th RESPONDENT

RULING

02nd & 17th December, 2024 KAGOMBA, J.: The applicant herein seeks judicial review of the decision of the Tarime Rorya Police Commander (the 1st respondent) who dismissed her from her employment in the Police Force, on 22nd January 2023, following a trial for a disciplinary offence which involved five other Police officers. Being aggrieved, she appealed to the Inspector General of Police (the 2nd respondent) without success. Still aggrieved, the applicant sought and obtained leave of this court to file this application where she now craves the following orders:

- 1) an order of the court to quash and nullify the decision made by the 1st respondent of dismissing her from the Police employment, and
- (2) an order of mandamus to compel the 2nd respondent to reinstate her to the Police work. The application, which was brought under a certificate of urgency, is made by way of a chamber summons under section 17(2) of the Law Reform (Fatal Accidents and Miscellaneous Provisions) Act, [Cap 310 R.E 2019] and Rule 8(1) (a) (b), (2) & (3) of the Law

Reform (Fatal Accidents and Miscellaneous Provisions) (Judicial Review Procedure and Fees) Rules, GN 324 of 2014. The same is accompanied by a supporting affidavit sworn by Ester Nathanael Mdeme, the applicant herein as well as a statement in respect of which leave was granted. The application has been vehemently opposed by the respondents through their counter affidavit sworn by Dunstan Gerald Mkisa, a Principal Officer in the office of the 2nd respondent and a supplementary counter 2 affidavit sworn by Thomas Kusekwa Shibitali, where it was averred that the decision to dismiss the applicant from employment was done according to the due process of the law. Briefly, the applicant was an employee of the Police Force at the rank of a Corporal. She was serving in Nyamwanga Police District under the Tarime Rorya Police Region. On 10th January, 2023 the applicant went out on an assigned patrol mission, together with other police officers to pursue people who had invaded the famous Barrick North Mara Gold Mine for purpose of stealing sand believed to contain gold. In the course of their operation, the appellant and her colleagues allegedly managed to seize five packages of the valuable sand carried in what is locally called "in Bob Marley bags" (hereinafter referred to "bob bags") from escaping invaders. It is alleged that when they were asked about the number of bob bags they seized, they declared only two, which they handed over to the Security Guard at the gate known as Double Gate. The remaining three bob bags vanished into thin air, an act that was later treated as a misconduct. Upon review of CCTV footages, it was revealed that the appellant and her team had actually seized five bags. Six members of that team who were in a patrol car known as LV 45, including the appellant were arrested, 3 remanded and charged for the misconduct C.S (XLVI) of the Police Force Service Regulations of 1995 (R.E 2002) and PGO 106 Appendix "A" Para 47. Following a disciplinary hearing, the appellant and her colleagues were found guilty and consequently dismissed by the 1st respondent from employment. Their appeal to the 2nd respondent, who is the final appellate authority for the applicant's rank, was also barren of fruits. Hence, a resort to judicial review. At hearing, the applicant was represented by a trio of Charles Simon, Grace Benny and Irene Ishengoma, all being learned advocates, while the respondents were represented by Nicodemus Agweyo, learned State Attorney. In his oral submission in chief, Mr. Charles Simon, adopted the affidavit of the applicant and proceeded to cite the case of Sinai Mirumbe and Another vs. Muhere Chacha, [1990] T.L.R 54, for the principles governing judicial review of decisions of administrative bodies, which he used to guide his submission. He stated four reasons for challenging the decision to dismiss his client from employment as illegality of procedure or decision; taking into account matters it ought not to take into account; not taking into account 4 matters it ought to have taken into account and unreasonableness of the decision. He expounded these four grounds as follows: Firstly, that the impugned decision has contravened PGO No. 106(7) & (8) of the Police Force and the Auxiliary Service (Police General Order) 2021, (Hereinafter referred to as "PGO, 2021") which requires that before a charge is prepared against an accused police, a preliminary investigation or inquiry shall be conducted to find out if the allegations are true or not. He argued that this requirement was not observed, hence illegality of procedure. Likewise, the Counsel contended that PGO No. 106(6) was also not complied with as it requires that the record of disciplinary proceedings shall consist of two parts, namely; (a)

criminal inquiry into the alleged offence, the outcome of which leads to preparation of the charge, and (b) it has to show the record of evidence taken during the proceedings of the disciplinary tribunal. According to him, nowhere in the record of proceedings the compliance of part (a) above, is evidenced. For the above illegalities, the Counsel referred to the Ruling of the case of WP 7333 CPL Rebecca Emmanuel vs. Inspector General of Police & Another, Misc. Cause No. 223372 of 2024 [TZHC 9326] (7 November 5 2024), to urge this court to adopt the position taken therein to quash the impugned decision based on ground of illegality of procedure. The learned Counsel also found flaws in the charge preferred against his client. He pointed out that the same was not signed by the authorized officer, hence it was defective. Again, he cited the case of WP 7333 CPL Rebecca's case (supra), to support his contention. He argued that the defective charge impaired the fairness in the disciplinary trial. Secondly, the decision to dismiss the applicant from her employment took into account matters which it ought not to have taken into account. Clarifying the above contention, he submitted that the Presiding Officer in the disciplinary trial must have considered extraneous matters because there was no any witness who testified that the applicant was directly involved in taking the bob bags, save for two witnesses, namely; PW5 G5628 CPL John Stephano and H8342 PC Asaa Iddi Said who adduced a similar testimony that they boarded the same car as the appellant and witnessed two bob bags being dropped at the Double Gate but three bags were not dropped. The learned Counsel submitted reasons to show that the credence of those two witnesses was in tatters and he urged this court not to trust them. Thirdly, the decision to dismiss the applicant from her employment did not take into account matters which it ought to have taken into account. Clarifying, the learned Counsel submitted that in her defence, the applicant testified that she neither went to the area where the bob bags were seized nor saw those five bags, and that the team was operating under a leader, but such defence which was supposed to be considered, was not taken into account. Under the same principle, it was further argued that while the applicant and the other five convicts filed an appeal to the 2nd respondent bearing ten grounds to challenge their dismissal, the decision of the 2nd respondent dated 11/3/2024 did not take those grounds into consideration by analyzing them, rather only a general and brief answer was provided stating that there were no satisfactory grounds to overturn the dismissal decisions. Citing Order 20 Rule 4 of the Civil Procedure Code [Cap 33 RE 2019], the learned Counsel contended that an authority that adjudicates on matters is bound to subscribe reasons for its decision. Fourthly, the conclusion arrived at was so unreasonable that no reasonable authority could ever arrive such a decision. 7 In clarifying the above principle, the learned Counsel submitted that, given the first, second and third grounds above, it was unreasonable for the 2nd respondent to uphold the termination of employment of the applicant. Fifthly and the last, is gross violation of the rule of natural justice in the decision-making process. He amplified, firstly, that the applicant and her colleagues stayed in the remand custody for 12 days without being given bail while, according to PGO 106 appendix A, para 47, the offence she was charged with is bailable. The learned Counsel further contended that PGO 106 para 55, prohibits a Police officer to be remanded for more than 24 hours when charged with a disciplinary offence, save where one is charged with a non-

bailable criminal offence. According to him, the act of remanding his client, denied her to be heard. He added that even the right to call witnesses was denied. Amplifying further on the above contention, the learned Counsel submitted that despite the Station Commander being ordered by the Presiding Officer on 16/01/2023 to facilitate the accused persons to bring their witnesses, until 27/1/2023 when the matter came for defence hearing, his client and her colleagues were not availed with the witnesses they had targeted, and no explanation was given for non-implementation of the Presiding Officer's order. The Counsel was optimistic that if the preferred witnesses were to be availed, the gaps found in the evidence could have been explained. Still on violation of applicant's rights, the Counsel submitted that while records show, the convicted police were six and those who appealed to the 2nd respondent were also six, the decision of the 2nd respondent only allowed the appeal in respect of PC Marco and left out the other appellant. Expressing a feeling of bias against his client and others, the Counsel recalled that all the six police faced the same offence under the same charge, and had put up the same defence as stated by the Presiding Officer on page 48 of the proceedings. He labeled the 2nd respondent's decision a separation of justice. The Counsel cited the decision of the Court of Appeal in *Richard Wambura vs Republic*, Criminal Appeal No. 167 of 2012 (2013 TZCA 453) (19 September 2013), which was cited in the case of *Republic vs Maria Logan Chigwiye and Others*, Criminal Session Case No. 78 of 2023, High Court of Tanzania at Dodoma, where the court stated that it was wrong for prosecution to choose who to sue and who not to sue. 9 Drawing inspiration from the above pronouncement, the Counsel submitted that the pronounced position would equally apply to the matter at hand where the 2nd respondent chose to allow the appeal for one appellant and disallowed the same appeal in respect of the remaining appellants while it was based on the same grounds. Still on the same subject of bias, the learned Counsel submitted that while the charge sheet mentioned PF 22052 A/Inspector Dominic and PF 23929 A/Insp. Hamis, as collaborators in the commission of the charged offence, the duo have never been sued since January 2023 and they are still in office. His contention is that, the act of not charging them implies that the charge against the applicant and the other convicts was a hoax. In supporting the applicant's prayer for an order of mandamus, the learned Counsel referred to *John Mwombeki Biyombalilwa vs The Regional Commissioner and Regional Police Commander Bukoba*, [1987] T.L.R 73, and contended that the criteria sated therein for mandamus to issue, have been satisfied by his client. The learned Counsel further submitted that 2nd respondent, being the appointing authority, has powers to reinstate the applicant under Regulation 10 B (11) of the Police Service Regulations of 1998, read together with section 48(1) (a) of the Interpretation of Laws Act [Cap 1 RE 2019]. He wound up his submission in chief by praying the court to quash the impugned decision and order the 2nd respondent to reinstate the applicant by stating the deadline for such reinstatement as well as ordering that the applicant be paid her employment dues from the date of termination until the date of reinstatement. In his reply, Mr. Nicodemus Agweyo, learned State Attorney, started by adopting the counter affidavit of Danstun Gerald Mkisa and the supplementary counter affidavit of Thomas Kusekwa Shibitali, to be part of his submission. On the contention that the charge was defective and didn't comply with legal requirement by not

having the signature of the authorized officer, he referred to annexure OSG1 to the supplementary counter affidavit, to argue that the Charge was prepared by ASP A.H. Mnacco who, having signed it on 13/1/2024, he read the same to the applicant and her colleagues. On the contention that the evidence adduced during disciplinary hearing didn't connect the applicant directly, Mr. Agweyo argued that in judicial review the court is not called upon to analyze evidence. He said that such analysis of evidence could be done in appeals. He added that there is a plethora of decisions of this court, stating that judicial review is concerned with the procedure and process applied in reaching decisions being challenged. For this reason, he prayed the court to disregard the applicant's contention. Regarding the lamentation that a preliminary inquiry or investigation was not done prior to preparation of the charge, Mr. Agweyo disagreed. He referred to paragraph 5 of the Counter affidavit of Danstun Gerald Mkisa, to argue that the preliminary inquiry was conducted, based on which some of the officers were not charged despite being with the applicant in that operation. On the contention that the impugned decision considered matters which ought not to be considered, he replied that such matters were neither mentioned by his counterpart nor averred in the applicant's affidavit. As for the complaint that witnesses who were preferred by the applicant were not summoned to adduce evidence, he replied that such a complaint was supposed to be raised as a ground of appeal when the applicant and her colleagues appealed to the 2nd respondent. 12 On the contention that the appeal decision made by the 2nd respondent contravenes the provision of Order XX rule 4 of the Civil Procedure Code (CPC) for nor addressing the grounds of appeal, Mr. Agweyo contended that in judicial review, CPC is not the governing law and could only be applicable if there was a lacunae, as stated under rule 17 of GN 324 of 2014. He therefore, argued that before his counterpart could invite the CPC in this type of proceedings, he was supposed to firstly show the lacunae that exists. On the breach of the applicant's right to be heard owing to the reason that she was remanded for 12 days, Mr. Agweyo refereed to paragraph 5 of the counter affidavit to deny that contention. He added that after the investigation was completed, the applicant and her colleagues were released. On the complaint that the applicant was not given opportunity to use her preferred witnesses, Mr. Agweyo replied that his counterpart had not mentioned them for the court to find out if they were not called. As for the complaint that the applicant and all her colleagues gave a similar defence for their charge and shared the grounds of appeal but only one of them had his appeal allowed by the 2nd respondent, Mr. Agweyo 13 replied that similarity in the defence is not the only criteria and should thus not be considered in isolation. On the contention that prosecution was not supposed to be selective as to who to sue and who not to sue, the learned State Attorney conceded to that legal position. He argued, however, that the applicant was charged after investigation was conducted which was the criterion for deciding who to be charged. He emphasized that that decision was not done arbitrarily. On the question that Rule B (11) of Police Force Services Regulation, and section 48(1) (a) of Interpretation of Laws Act [CAP 1 RE 2019] empowers the 2nd respondent to reinstate the applicant, Mr. Agweyo conceded to that position of the law. He added, however, that such powers cannot be invoked arbitrarily but by basing on the dictates of the law. Finally, the learned State Attorney expressed his views that the decision

to terminate the applicant observed the due process and that all her rights were granted during disciplinary hearing. He therefore urged the court to uphold the dismissal decision. In his rejoinder, Mr. Charles Simon, started by reiterating his submission in chief. Then, he conceded that in judicial review the court does not analyze evidence. He clarified, however, that his submission was intended to reveal the irregularities embedded in the evidence adduced during disciplinary hearing. On the reply that investigation was conducted prior to institution of the charge, the Counsel pressed for documentary proof, and despised reliance on the averments made in the counter affidavit. As for the reply that the applicant stayed in custody during investigation only, Mr. Simon dismissed it as a misdirection. According to him, his client and her colleagues stayed in remand custody throughout the hearing, from the date they were arrested on 11/01/2023 until the date they were dismissed from employment on 22/01/2023. On the summoning of the defence witnesses, the Counsel rejoined that save for DW1 CPL Ramadhani, the rest of the witnesses were among the accused. He wondered as to who called him DW1 as it was not stated in the proceedings. He wound up his rejoinder by praying that the application be granted. Having considered the pleadings, the submissions made by the learned counsel for both sides, and the law governing applications for judicial review, I think the following two issues emerge for determination: 15 One; whether the entire disciplinary process which led to the decision of the 1st respondent of dismissing the applicant from her employment with the Police Force, and the appeal decision thereof by the 2nd respondent violated the law and the principles of natural justice, and; Two; whether this application merits the exercise of court's discretion for orders craved by the applicant in her chamber summons to issue. Before embarking on determination of the first issue, I wish to comment on the scope of this court in judicial review. In doing so, I am aided by a quotation from B.D. Chipeta, Administrative Law in Tanzania (A Digest of Cases), Mkuki na Nyota, Redesigned New Edition, Dar es Salaam, 2008, at page 121 where the learned Author in differentiating applications for judicial review from appeals, he says: "In applications for prerogative orders, the court investigates the legality of an action or decision of an inferior tribunal or authority but in an appeal the court considers the merits of the action or decision". [Emphasis added] Therefore, since this is an application for judicial review and not an appeal, I shall desist any invitation to delve into analysis of the evidence adduced during the impugned disciplinary hearing. The call of this court in this matter is to check whether the law was observed in the decision-making process. According to the applicant's affidavit, his statement as well as the submission made by her Counsel before the court, the applicant is aggrieved that the decision to dismiss her from Police employment is marred by illegality of procedure and decision; has taken into account matters it ought not take into account; has not taken into account matters it ought to have taken into account; denial of natural justices; instances of bias, and unreasonable of the conclusion reached by the concerned decision makers. In paragraph 23 of the applicant's affidavit, for example, the applicant describes the decision of the 1st and 2nd respondents dismissing her from work as being full of irregularities, unfair, unreasonable, bias and illogical for which she deems the legal eye of this court necessary. As regards the violations of the law, the applicant laments that there was no thorough investigation before

the applicant was charged; during trial witnesses did not give evidence on oath, the evidence tendered did not connect the applicant with commission of the offence, and the 2nd respondent did not grant the applicant and her colleagues a right to be heard in their appeal to him. All these lamentations have been disputed by the respondents. 17 In investigating the above complaints, the Police Force, Prisons Service, Fire and Rescue Force and Immigration Services Department Commission Act, [Cap 241 R.E 2019], the Police Force Service Regulations of 1998, GN. No. 162 of 1998, the Police General Order, 2021 are the applicable laws which shall be referred to mostly. Now, in the first ground, it has been submitted that there was no thorough investigation before the applicant was charged. This lamentation has been averred by the applicant in paragraph 12 of her affidavit. The complaint was responded to in paragraph 6 of the counter affidavit of Dunstan Gerald Mkisa, who in respect of it, replied that the decision of the 1st respondent to dismiss the applicant was lawful in the eyes of the law pertaining to police disciplinary matters. To determine whether the 1st respondent was obliged by law to initiate preliminary inquiry or investigation before charging the applicant, PGO 106(7) and (8) provide the answers. They state as follows: "7. The preliminary inquiry, however short, must be prepared in order that the apparent truth or falsehood of the complaint or allegation can be assessed and a decision reached as to whether or not a disciplinary charge should be laid against the alleged offender. 18

8. Every complaint and allegation against any Police officer by a member of the public shall be investigated with the greatest care in accordance with the provisions of P.G.O. No. 103, every case will be referred to a Commanding Officer and serious cases requiring disciplinary or court proceedings will be forwarded to the Inspector General with the Commanding Officer's recommendations. Where it is shown that a breach of discipline has occurred, instructions will be given for the defaulters to be charged and the final action against the alleged offender shall be shown in P.F. 32 and Defaulter Charge Sheet Copy P.F. 32A. It is essential, in the interests of the Force, that the truth or falsehood of each allegation is established with the minimum of delay. Ponderous and unnecessary paper work shall be avoided". [Emphasis added]. It is conspicuous in the above quoted provisions that conducting a preliminary investigation is a legally-sanctioned prerequisite for formulating defaulter's charge. On whether the same was conducted, the applicant has categorically denied. In paragraph 12 of her affidavit, she laments that she requested for a copy of the proceedings and decision of the 1st respondent, ostensibly, to find out if this procedure and other legal requirements were observed, but in vain. In their response vide paragraph 6 of the counter affidavit, the 19 respondents deny to have received the applicant's letter requesting for proceedings and decision of the 1st respondent. I have painstakingly read the entire proceedings, decisions of the 1st and 2nd respondents and the counter affidavit but I could not see any proof of a preliminary investigation having been conducted. The significance of conducting such an inquiry is to uphold justice and fairness in the disciplinary proceedings, and certainly to discourage unfounded allegations against members of the Police Force. And, as correctly argued by Mr. Simon, even when seized with

an opportunity to file a supplementary counter affidavit, the respondents still could not furnish documentary proof. Obviously, since there was a specific negative assertion by the applicant in her affidavit that a preliminary investigation was not done, and the respondents want the court to believe that it was done, the latter have a duty to furnish documentary proof thereof. In this respect, Section 112 of the Evidence Act, [Cap 6 R.E 2022] provides: "112. The burden of proof as to any particular fact lies on that person who wishes the court to believe in its existence, unless it is provided by law that the proof of that fact shall lie on any other person" 20 Based on the above deliberations, I agree with the applicant's Counsel that there was no preliminary inquiry conducted prior to framing the charges against the applicant and her colleagues, in contravention of the law. Connected to the above, is the applicant's lamentation that the charge was not signed, hence defective and the resultant decision is defective too. Mr. Agweyo denied this assertion. Referring to annexure OSG1 to the supplementary counter affidavit, he argued that the charge was prepared by ASP A.H. Mnacco who, having signed it on 13/1/2024, he read the same before the applicant. I have carefully examined annexure OSG1 and the entire pleadings but I could find a charge that was signed as the learned State Attorney submitted. Both the name of A.H. Mnacco, and the date he was supposed to have signed are written on the charge but no signature was affixed. Under such circumstance, I fully agree with the Counsel for the applicant that the charge that was read to the applicant and her colleagues during disciplinary hearing was not signed as required by law, hence defective. A Defaulters' Charge is an authorized form created under PGO 2021 as Police Form No.32 or "PF. 32". It requires certain important details to be indicated on it. Among them are the names and signature of the authorized officer as well as the date of signing the charge. It is trite law that failure to sign the charge renders it defective. In WP 7333 CPL Rebecca Emmanuel vs. Inspector General of Police & Another (supra), it was stated that the signature on the charge serves to validate it and to ensure that the officer responsible for initiating the charge is made accountable for its contents. I fully subscribe to this position. For the above reasons, I agree with the Counsel for the applicant that the charge was defective and consequently rendered the decision to dismiss the applicant from employment that ensued therefrom bad in law. The above determination is capable of disposing this application. However, I wish to make brief comments on some of the remaining grounds as hereunder. Learned counsel deliberated on whether the applicant was denied her right to be heard. According to paragraph 10 of the affidavit, the applicant averred that she was not afforded a right to be heard and a fair trial. She cited several impediments including the trial being conducted while she was in an unlawful custody. It was explained that the applicant and her colleagues were put under custody throughout the trial. Despite denial by the respondents' side, I think the disciplinary proceedings, which I have carefully perused, can confirm the applicant's lamentation. Nowhere in the records of proceedings is shown that the applicant was ever released on bail since her arrest. And, it has not been disputed that the offence she was charged with was bailable. In my view, by doing this, the disciplinary process did not only infringe the applicant's right to liberty but also impaired her right to a fair trial as she could not seek legal service and make other essential arrangements for her defence while in custody.

Turning to the second ground, the applicant lamented that the Presiding Officer took into consideration matters which he ought not take into consideration. In this ground, the Counsel for the applicant basically challenged the evidence of PW5 and PW6 for not being trustworthy despite being relied upon by the disciplinary tribunal. In my opinion, determination of this ground necessarily calls for review and analysis of the evidence adduced before the tribunal to see if the applicant was not linked with the offence as she asserts. As intimated above, such a call is not placed in this court when conducting judicial review, rather in determination of appeals. It is for this reason that I resist to consider this ground any further. In the third ground, the appellant laments that the decision did not take into consideration what it ought to have taken consideration. The specific point of contention by the applicant is that, the decision of the 23 disciplinary tribunal did not consider her evidence. Like in the previous ground, this complaint cannot be properly addressed in judicial review. The same is therefore disregarded on similar reasons as above. However, there was another complaint that the 2nd respondent did not take into account the ten grounds of appeal filed by the applicant and her colleagues. I think this lamentation can validly be considered as it is discernable from the face of the record that the decision on appeal did not provide answers to as many grounds of appeal as were raised. Despite the validity of the applicant's concern, I agree with Mr. Agweyo that Order XX Rule 4 of the Civil Procedure Code, which Mr. Simon cited to support his argument, does not automatically apply to judicial review reliefs. The fourth ground supporting the applicant's application for judicial review is the unreasonableness of the conclusion arrived at by the respondents, which is to dismissal decision. It was contended by Mr. Simon that upon considering the previous grounds, no authority could ever reach such a conclusion. The grounds or principles governing judicial review of administrative bodies as per the decision in famous case of *Senai Murumbe and another vs Muhere Chacha* (supra) are; illegality, violation of principles of natural justice, irrationality, and proportionality or reasonableness. 24 In the first ground, we have deliberated on the illegality involved in the impugned decision, which are non-conducting of a preliminary inquiry, however short, in consonance with PGO 106(6); the use of a defective charge that was not signed, and holding the applicant in remand custody throughout their disciplinary trial, thereby denying them a fair trial, while the offence they were facing is bailable. Looking at the ramifications of these infringements to the trial itself and administration of justice at large, I agree with the applicant's contention that the decision reached shouldn't reasonably be made. In fifth and the last ground the applicant lamented about gross violation of the rule of natural justice in the decision-making process. Several other contentions were made by the Counsel for the applicant including bias in sorting out who was to be charged as well as in determination of the appeal by the 2nd respondent. I have read the submissions by Counsel on those contentions. My humble opinion is that while the nature of underground operations of any Police Force need be appreciated, the different treatment afforded to the Police Officers involved in this matter leave much to be desired. Be what it may be, a *prima facie* case of bias has been made out by the Counsel for the applicant. 25 Considering the deliberations above on legality of procedure and decision, the first issue as to whether the disciplinary

proceedings which led to dismissal of the applicant from employment and subsequent appeal thereof violated the law and the principles of natural justice as alleged, is answered in the affirmative. Since the dismissal decision was lidden by illegality and impairment of a fair trial, it follows that the applicant has made out her case for the reliefs sought in the chamber summons to be granted. Hence, the second issue as to whether this application merits the exercise of court's discretion for orders craved in the chamber summons to issue, is also answered in the affirmative. In the end, the application is granted in its entirety. Accordingly, by way of certiorari, the decision to dismiss the applicant from her employment with the Tanzania Police Force is hereby quashed and set aside. Also, an order of mandamus compelling the 2nd respondent herein, to reinstate the applicant, as prayed, is hereby granted. As there has been no prayer for costs, I make no order as to costs. Dated at Dodoma this 17th day of December, 2024. ABDI S. KAGOMBA JUDGE 26

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