

THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT KAMPALA

CIVIL DIVISION

MISC CAUSE NO.318 OF 2019

**IN THE MATTER OF NATIONAL OBJECTIVES AND DIRECTIVE PRINCIPLES OF STATE
POLICY NUMBER 1 READ TOGETHER WITH OBJECTIVE NUMBER XIV OF THE
CONSTITUTION OF THE REPUBLIC OF UGANDA**

AND

**IN THE MATTER OF ARTICLES 2,21,24,28,40,42 AND 45 OF THE CONSTITUTION OF THE
REPUBLIC OF UGANDA 1995**

AND

**IN THE MATTER OF AN APPLICATION FOR ENFORCEMENT OF THE FUNDAMENTAL
RIGHTS UNDER THE CONSTITUTION OF UGANDA**

BAGUMA CHARLES..... APPLICANT

VERSUS

KAMPALA CAPITAL CITY

AUTHORITY.....RESPONDENT

BEFORE: HON. JUSTICE ESTA NAMBAYO

RULING

Baguma Charles (herein after referred to as the Applicant) brought this application against Kampala Capital City Authority (herein after referred to as the Respondent) under Article 50(1) of the Constitution of the Republic of Uganda, Rules 3 and 7 of the Judicature (Fundamental Rights and freedoms) (Enforcement Procedure) Rules 2008 read together

with Order 52 rules 1,2 and 3 of the CPR Rules, the Public Service Standing Orders, 2010 and S. 29(1) of the Public Service Commission Regulations, 2009 seeking for:

1. A declaration that on the true application of the National Objectives and Directive Principles of State Policy Numbers 1 and XIV of the Constitution of the Republic of Uganda, 1995, the Respondent herein as an organ and/ or agent of Government of Uganda has failed in interpreting laws and implementing policy decisions regarding recruitment of the Applicant, to uphold and protect the Applicant's right to development and Economic rights without any form of discrimination.
2. A declaration that the Respondent's deliberate refusal or failure to communicate its decision of not employing the Applicant within the timeline for issuing the Applicant with a letter of offer was a violation of the Applicant's right to a just and fair treatment in administrative decisions contrary to Article 42 of the Constitution of the Republic of Uganda
3. A declaration that the Respondent's responsible officer's refusal to issue the Applicant with an appointment letter after being given an offer letter within the specified time of 30 days denied him the opportunity to be employed and therefore, denied him a chance to receive salary and other benefits attached to the post of **OFFCER REGSTRATION COLLECTION AND ASSESMENT KCCA 7** for over 6 years which included salary of Ugx. 3,367,050/= per

month, retirement benefits provided for in that scheme, NSSF contributions provided for in that scheme and others thus a violation of his economic rights contrary to Art. 40 of the 1995 Constitution of the Republic of Uganda

4. A declaration that the deliberate refusal of the Respondent to employ the Applicant after giving him the offer letter and chose to employ another person in his position on contract terms whose recruitment was outside the realm of Public Service Commission was not only unjust and unfair to the Applicant, but also a violation of his right to a just and fair treatment and also a right to a fair hearing.
5. A declaration that the deliberate refusal by the Respondent to deploy the Applicant who had sat and passed Public Service Commission interviews and was given an offer and instead chose to deploy another person in his place who never sat for Public Service Commission interviews, was an outright manifestation of discrimination against the Applicant, was inhuman and degrading treatment and therefore a contravention to Articles 21 and 24 of the 1995 Constitution of the Republic of Uganda
6. A declaration that the Respondent's deliberate refusal to carry out its mandatory obligation under rule 29(1) of the Public Service Commission Regulations for over 6 years was high handed, arbitrary and against the National Objectives and Directive Principles of state Policy Particularly No. XIV

7. An Order compelling the Respondent to pay the Applicant general damages, exemplary damages and punitive damages for the infringement of the Applicant's constitutional rights and freedoms
8. Costs of the Application to be provided by the Respondent

The grounds of the application are contained in the affidavit sworn by the Applicant in support of the application but briefly that sometime in 2012, the Public Service Commission advertised for the post of **OFFICER REGISTRATION COLLECTION AND ASSESSMENT KCCA 7** in the New Vision. The Applicant put in his application. He was short listed and sat for the interviews with the Public Service Commission. He passed the interviews. On the 12th/12/2012, the Applicant received a notification of appointment from the Public Service Commission informing him that he was successful in the interviews for the post of **Officer Registration Collection and Assessment**, vide PSC Min. No. 2405.61. The Applicant was then advised to report to the Executive Director of the Respondent for further instruction and that should he fail to report within 30 days from the date of his letter of appointment, his appointment would lapse. The Applicant immediately resigned his job and reported to the Executive Director (responsible officer) of the Respondent. He was referred to the Director Human Resource. He went to the Director Human Resource who, without issuing the Applicant a letter of appointment, advised him to go back home and wait until he is called upon by the Respondent.

The Applicant was not called upon by the Respondent. He kept making routine checks on the Respondent every financial year. He checked with the Respondent in the subsequent years of 2013, 2014, 2015, 2016, 2017, 2018. He was then given the appointment letter in May, 2019.

It is the Applicant's contention that during the period he was waiting and checking on the Respondent, another person on contract was recruited by the Respondent to do the Applicant's designated job outside the knowledge and or arrangement of the Public Service Commission which is the appointing authority for the job.

The Applicant further contends that the Respondent's refusal to give him the appointment letter within the specified 30 days denied him the opportunity to be employed, it also denied him the monthly salary of Ugshs. 3,367,050/= attached to the job and all the related benefits such as NSSF and other retirement benefits provided in the scheme which was a violation of his economic rights contrary to Arts.21,24,28,40, 42 and 45 of the 1995 Constitution. As a result, the Applicant suffered financially and psychologically. He could not go for further studies or apply for another job as he was expectant all the time.

By the Respondent giving the Applicant's job to another person, it was not only discriminative against him, but it was also high handed,

arbitrary, illegal and does not promote a free and democratic society that the constitution of Uganda seeks to create and protect.

In 2019 the Respondent gave the Applicant the appointment letter and deployed him, thereby addressing the issue of deployment.

However, issues relating to compensation by way of damages for psychological torture, mental distress and anguish, loss of means of economic sustenance and great inconvenience were not attended to and therefore, it's in the interest of justice that this application is granted.

Lule Richard, the Director Human Resource of the Respondent, deponed the affidavit in reply opposing the application. He states in paragraph 6 of his affidavit in reply that the Applicant, like many others who were given the letters of recruitment by the PSC were not given the appointment letters by the Respondent due to budgetary constraints because the Government was not able to provide adequate funds for the recruited officers. The Applicant like the rest of the other successful officers were notified in writing about the situation and that the Applicant acknowledges this fact. After securing adequate funds the Applicant was notified, issued with the appointment and deployed.

When the matter came up for hearing, Learned Counsel Kangaho Edward appeared for the Applicant, while Counsel Byarugaba Dennis was for the Respondent.

Counsel observed that there were many cases of this nature pending before this Court and consented that this case be used as a test case to the pending cases before this Court under Order 39 r.1 CPR. Court allowed their consent and ordered that the outcome decision in this case be applied to settle all the similar cases filed in this court. The cases to be settled were identified and listed by consent of Counsel for the parties.

Order 39 r.1 CPR provides that;

“Where two or more persons have instituted suits against the same defendant and those persons under the provisions of rule 1 of Order I of these Rules could have been joined as co-plaintiffs in one suit, upon the application of any of the parties the court may, if satisfied that the issues to be tried in each suit are precisely similar, make an order directing that one of the suits be tried as a test case, and staying all steps in the other suits until the selected suit shall have been determined, or shall have failed to be a real trial of the issues.”

The other cases to be covered by this decision are the cases in:

- i. MISC CAUSES No. 312 – 360 of 2019**
- ii. MC NO. 366 – 368 OF 2019**
- iii. MC NO. 384, 397 & 403 OF 2019 NAMONO MARY & 55 OTHERS VERSUS KAMPALA CAPITAL CITY AUTHORITY.**

Issues:

- 1. Whether the Respondent's responsible officer's refusal to issue the Applicant with a letter of appointment within one month from the date of notification/ offer amounted to a violation of the Applicant's right to a just and fair treatment in administrative decisions contrary to Art. 42 of the Constitution of the Republic of Uganda**
- 2. Whether the refusal by the respondent's responsible officer to issue the Applicant with the appointment letter within 30 days after being given an offer letter was a violation of his economic rights contrary to Article 40 of the 1995 Constitution of the Republic of Uganda**
- 3. Whether the refusal by the Respondent to employ the Applicant after receiving the offer letter from Public Service Commission was in contravention of Arts. 21, 24,28, 40, 42 and 45 of the constitution of the republic of Uganda**
- 4. Whether the Respondent's refusal to carry out its mandatory obligation under the law for over six years was high handed, arbitrary and against the National Objectives and Directive Principles of State policy particularly No. XIV**
- 5. Whether the Applicant is entitled to the remedies sought**

Submissions by Counsel

Counsel for the Applicant informed Court that when the Public Service Commission advertised jobs in the New Vision towards the end of 2012, the Applicant applied for the post of Officer Registration Collections and Assessment KCCA, 7. He sat the interviews. On the 12th December, 2012 he was informed by the PSC that he was successful and he was advised to collection his letter. The PSC gave him a letter of appointment and referred him to the responsible officer of the Respondent for a follow up on the rest of the details. The Applicant resigned his job and reported to the responsible officer of the Respondent. The responsible officer of the Respondent referred him to the Director Human Resource. When he went to the Director Human Resource of the Respondent, he was advised to go and wait pending further communication from the Respondent. The Applicant was never called upon but out of his own initiative he kept checking on the Respondent. Whenever he checked he was advised to check in the following financial year. He did this from 2013 up to 2019 when he was given the appointment. While the Applicant kept checking on the Respondent, his position was illegally filled by someone else on Contract; and by so doing, the Applicant was discriminated against.

Counsel submitted that under Sections A-C 3(6) (b) of the Public Service Standing orders, 2010, appointment to an office is subject to the availability of funds in the budget estimates and that under S. A-C 4 of the PSSO, 2010 any approved post for which funds are provided in the

budget shall be submitted to the relevant Service Commission for filling within one month. He went on to explain that the interpretation of the above provisions leads to the inference and conclusion that before any position is filled, they must have been approved, and funds provided in the budget before names are forwarded to the relevant Service Commission for filling up the post. In this case therefore, it meant that the post was approved basing on available funds in the budget before the vacancies were sent to the PSC for filling. Counsel submitted that the argument of none availability of funds in the circumstances does not arise. He relied on the case of **Nyote Abdalla Mullan versus KCCA MC NO. 38 of 2018.**

Counsel further submitted that under Regulation 29 of the Public Service Commission regulations, **it** is provided that where a vacancy has been filled by the appointing authority, the Secretary shall notify the successful candidate and the responsible officer shall issue a letter of offer of appointment within one month from the date of approval of appointment. He explained that the Respondent was aware that the Applicant's offer expires in 30 days from the time he reported to the Respondent's responsible officer but it deliberately refused to offer the Applicant a letter of appointment within time which was in utter violation of the Applicant's right to a just and fair treatment in administrative decisions as enshrined in Art. 42 of the Constitution and the Applicant was denied the opportunity to be employed and to receive salary of Ushs. 3,367,050/= per month and other benefits

attached to the post of Officer Registration Collection and Assessment KCCA, 7 which included, retirement benefits and contributions from NSSF. All the above according to Counsel, amounted to an unjust and unfair treatment and a violation of Art. 42 of the Constitution.

In reply to the above submissions Counsel for the Respondent denied violations of the Applicant's Rights and Submitted that there was no discrimination against the Applicant under the Constitution. Counsel explained that under Art. 21(3) of the Constitution, discrimination can only be based on race, sex, color, ethnic origin, tribe birth, creed/religion, social or economic standing, political opinion and/or disability. The Applicant has not shown Court how he was discriminated against under Art. 21(3) of the Constitution. The alleged appointment of another officer on contract in preference to the Applicant, according to Counsel for the Respondent, was not substantiated with evidence and is not covered under Art. 21(3) of the Constitution.

On the argument that the Applicant was not given the appointment letter within the 30 days as required by law, Counsel explained that there was formal communication by letter to all successful Applicants that there was a shortage of funds due to the budget short fall to the Respondent from Government and this precluded the Respondent from recruiting all successful parties. Since this was across board there was no discrimination against the Applicant. Indeed, when the Respondent obtained the funds from Government, the Applicant and many other successful parties were given their appointment letters and as such, the

Applicant is currently an employee of the Respondent. Relying on the case of **Thomas Kwoyello alias Latoni versus Uganda, U.C.A Constitutional Petition No. 36/2011**, Counsel submitted that:

"The Rights under Art. 20 and 21 of the Constitution of Uganda are not absolute. They are subject to Limitations and Modifications which must be demonstrably justifiable under a free and democratic society. To justify unequal treatment under the law, there must exist reasonable and objective criteria for such unequal treatment or discrimination. The burden is on the party who is discriminating to explain the reasons for the unequal treatment or discrimination"

Counsel also submitted that the claim that there was infringement of the Applicant's Development and economic Rights under Art. 40 of the Constitution is not sustainable because the salary and benefits that the Applicant claims for are not Human Rights covered under the Constitution or treaties to which Uganda is a signatory. Salary and NSSF benefits flow from an Employer – Employee relationship. In this case there was no such relationship between the Applicant and the Respondent and therefore, the Applicant cannot claim such benefits. Counsel submitted that the Applicant has failed to prove the alleged violations of his fundamental Rights and prayed that this Court finds that the Respondent has not violated the Applicant's Rights at all as alleged.

Resolution of issues

Issue 1: Whether the Respondent's responsible officer's refusal to issue the Applicant with a letter of appointment within one month from the date of notification/ offer amounted to a violation of the Applicant's right to a just and fair treatment in administrative decisions contrary to Art. 42 of the Constitution of the Republic of Uganda.

Art. 42 of the Constitution provides that:

"Any person appearing before any administrative official or body has a right to be treated justly and fairly and shall have a right to apply to a court of law in respect of any administrative decision taken against him or her."

Under this article, the appearance envisaged must be with a view to be heard before the administrative official or body and there must be an administrative decision taken. The decision should be reached after taking into account principles of natural justice. These principals include the right to be heard and absence of bias. Should the person appearing feel that he or she was treated unjustly or unfairly by the administrative body or official, he or she will then have a right to apply to court against the unjust and or unfair treatment leading to the decision.

In this case, after securing the offer of appointment from the Public Service Commission, the Applicant was advised to report to the Respondent's responsible officer for further instructions within 30 days.

Failure to do so, the Applicant's offer of appointment would lapse. The Applicant states in Paragraph 6 of his affidavit in support of the application that he reported to the Respondent's responsible officer, whereupon he was referred to the Director Human Resource. The DHR informed the Applicant that the Respondent was not ready for him at that moment. He was advised to go back and wait until he is called upon. This was towards the end of the year 2012. The Applicant was not called upon in the following year, 2013 and in the subsequent years up to May, 2019. All this time the Applicant kept checking on the Respondent until May 2019 when his offer of appointment came through.

There is no evidence of any physical appearance of the Applicant before the Respondent envisaged under Art. 42 of the Constitution. There is also no evidence of any administrative decision taken by the Respondent regarding the Applicant's appointment. The Respondent simply took no action within the required time of one month from the date of receiving communication from the Secretary Public Service Commission. The Applicant after reporting to the responsible officer of the Respondent as advised by the Secretary of the PSC, he kept checking on the DHR of the Respondent. The Applicant never sought any remedy when the Respondent's responsible officer failed to act within time.

In this case, there was no appearance and no administrative decision taken within the meaning of Article 42 of the Constitution.

I wish to emphasize, however, that the Respondent did not issue the Applicant with the letter of offer or appointment within one month from the date of approval of appointment by the appointing authority and yet the Applicant reported to the Respondent's responsible officer within time as advised by the appointing authority and as required under rule 29(1) of the Public Service Commission Regulations. The Respondent's failure to act contravened the law. This issue will be addressed later on when I'm dealing with issue No. 4.

I will now address my mind to issues 2 and 3 jointly because they deal with violation of Rights under the Constitution.

The Combined issue will now be:

Issue 2: Whether the refusal by the Respondent's responsible officer to issue the Applicant with the appointment letter within 30 days after being given an offer letter was a violation of his economic and other Rights under Articles 21, 24, 28, 40, 42 and 45 of the 1995 Constitution of the Republic of Uganda

Articles 24 and 28 were not implicated given the fact that there was no evidence of any torture, cruel, inhuman or degrading treatment or punishment envisaged under Article 24; and/ or hearing at all initiated by the Applicant under Art. 28. Neither is Article 42 contravened as indicated in the 1st issue above because there was no appearance and no administrative decision is alleged to have been made.

Article 45 relates to emergence of rights not enumerated in Chapter 4 of the Constitution. Counsel has not shown how these rights would apply to this case.

Counsel has also not shown this Court how Art. 40 of the Constitution was violated.

Art. 21(1) provides that all persons are equal before and under the law in all spheres of political, economic, social and cultural life and in every other respect and shall enjoy equal protection of the law.

Under Art. 21(2), it is provided that without prejudice to clause (1) of this article, a person shall not be discriminated against on the ground of sex, race, color, ethnic origin, tribe, birth, creed or religion, social or economic standing, political opinion or disability.

Art. 21 (3) defines the term, "discriminate" to mean –

"to give different treatment to different persons attributable only or mainly to their respective descriptions by sex, race, color, ethnic origin, tribe, birth, creed or religion, social or economic standing, political opinion or disability."

Counsel for the Applicant submitted that when the Secretary PSC gave the Applicant a letter of appointment and referred him to the responsible officer of the Respondent to follow up on the rest of the details, the Applicant resigned his job and reported to the responsible officer of the Respondent. The responsible officer of the Respondent then referred him to the Director Human Resource. When he went to

the Director Human Resource, he was advised to go and wait pending further communication from the Respondent. The Applicant went and waited. He was never called upon but out of his own initiative he kept checking on the Respondent's DHR. Whenever he checked, he was advised to check again the following financial year. He kept checking from 2013 up to 2019 when he was given the appointment. While the Applicant kept checking on the Respondent, his position was illegally filled by someone else on Contract; and by so doing, Counsel submitted that the Applicant was discriminated against.

In reply, Counsel for the Respondent denied violations of the Applicant's Rights and Submitted that there was no discrimination against the Applicant under the Constitution. Counsel explained that under Art. 21(3) of the Constitution, discrimination can only be based on race, sex, color, ethnic origin, tribe birth, creed/religion, social or economic standing, political opinion and/or disability. The Applicant has not shown Court how he was discriminated against under Art. 21(3) of the Constitution. The alleged appointment of another officer on contract in preference to the Applicant, according to Counsel for the Respondent, was not substantiated with evidence and is not covered under Art. 21(3) of the Constitution. He prayed that Court finds in favor of the Respondent.

Under Art. 21(3) of the 1995 Constitution of the Republic of Uganda *"Discriminate" for purposes of Article 21, and indeed for the whole constitution, is to give different treatment to different persons attributable only or mainly to their respective descriptions by sex, race,*

color, ethnic origin, tribe, birth, or religion, social or economic standing, political opinion or disability (see also the case of Carolyne Turyatempa & 4 Ors Vs Attorney General & anor (Constitutional Petition No. 15 Of 2006).

In this case, the Applicant states that when he reported to the Respondent's responsible officer, he was referred to the DHR. The DHR advised him to go back and wait for communication from the Respondent. He went away. However, out of his own initiative he kept checking on the DHR. He did this from 2013 to 2019 when his communication of the offer of appointment came through. The Applicant also states in paragraph 10 of his affidavit in support of the applicant that while he kept checking on the DHR, there was someone else employed on contract to do his job. He feels that this was discriminatory against him.

I agree with Counsel for the Respondent that there was no discrimination against the Applicant within the meaning of Art. 21(3) of the Constitution. No evidence has been brought before this Court in terms of particulars such as the names and address or any identity of any one to show that Respondent recruited another person on contract to do the Applicant's job. Even if the person was identified, that alone would not amount to discrimination under Art. 21(3) of the Constitution. In view of the above, it is my finding that the Respondent's responsible officer's refusal to issue the Applicant with the appointment letter within

30 days after being given an offer letter was not a violation of his economic and other rights under Articles 21,24,28, 40, 42 and 45 of the 1995 Constitution of the Republic of Uganda.

Issue 4: Whether the Respondent's refusal to carry out its mandatory obligation under the law for over six years was high handed, arbitrary and against the National Objectives and Directive Principles of State policy particularly No. XIV

The National Objectives and Directive Principles of State Policy No. XIV Provides that the State shall endeavor to fulfill the fundamental rights of all Ugandans to social justice and economic development and shall, in particular, ensure that—

- (a). All developmental efforts are directed at ensuring the maximum social and cultural well-being of the people; and
- (b). All Ugandans enjoy rights and opportunities and access to education, health services, clean and safe water, work, decent shelter, adequate clothing, food security and pension and retirement benefits.

Counsel for the Applicant submitted that when the Respondent's responsible officer refused to issue the Applicant with the appointment letter, it caused the Applicant to lose the opportunity to be employed and to receive a salary of Ug.shs. 3,367,050 per month for 6 years, retirement benefits and NSSF contribution which violated his economic rights. Counsel submitted that the actions of the Respondent were high

handed, arbitrary and against the national Objectives and Directive Principles of State Policy No. XIV.

In reply, Counsel for the Respondent submitted that the claim that there was infringement of the Applicant's Development and economic Rights is not sustainable because the salary and benefits that the Applicant claims for are not Human Rights covered under the Constitution or treaties to which Uganda is a signatory. Counsel explained that Salary and NSSF benefits flow from an Employer – Employee relationship. In this case, there was no such relationship between the Applicant and the Respondent and therefore, the Applicant cannot claim such benefits.

I have looked at paragraph 19 of the affidavit in reply where Lule Richard, the Director, Administration and Human Resource of the Respondent avers that;

"the Respondent upon securing adequate funding from Government, has issued the appointment letters to the successful Applicants who on 20th March, 2019, agreed to the terms and conditions in the said appointment letter"

In paragraph 21 of the Applicant's affidavit in support of the application, the Applicant states that he has now been deployed by the Respondent.

Paragraph 29(1) of the Public Service Commission Regulations, 2009 provides that:

“where a vacancy has been filled by the Appointing Authority, the Secretary shall notify the successful candidate and the Responsible officer shall issue a letter of offer or appointment within one month from the date of approval of the appointment.”

In this case, the Respondent ought to have communicated in writing to the successful parties their appointments within a period of one month from the date of approval by the Secretary of the PSC. This did not happen. The explanation given by the Respondent for the delay is that the Government had not availed the required funds for the payment of the successful parties' salaries and related allowances. The delay in my view, was a breach of the Respondent's statutory obligation of issuing the letter of offer or appointment to the Applicant as required under the law, the reason given notwithstanding.

Under paragraph 8 and 12 of the Applicant's affidavit in support of the application, the Respondent continued to inform the Applicant to continue making routine checks every financial year without communicating to him its decision not to employ him within the timeline. The Applicant made routine checks for the financial years of 2013, 2014, 2015, 2016 2017, 2018 and part 2019.

Under Paragraph 12 (A-C) of the Public Service Standing Orders, 2010,

“No appointment of any public officer shall be deemed to be effective until the Responsible Permanent Secretary or Responsible Officer has made an offer to the officer and he or she has accepted the offer in writing. It follows therefore, that until the officer has formally accepted the offer in writing and reported to his or her posting duty station, where applicable, the salary attached to the appointment shall not be paid.”

It would follow from the above provision of the law that the appointment of the applicant only became effective after the responsible officer of the Respondent made the offer to the Applicant which he must have accepted in writing before being deployed to his duty station. After deployment, the Applicant must report for duty, so that the responsible officer of the Respondent is notified. It is only after such notification that the Applicant is enrolled on the pay roll. Where the above procedure and requirements have not been fulfilled, the Applicant cannot be qualified to be an employee of the Respondent and cannot therefore, be paid a salary and the related allowances.

In ***C DFCU Bank Ltd –vs- Donna Kamuli CA No. 121 of 2016*** the Court of Appeal observed that:

“Salary is only payable for work done”

In this case the Applicant only qualified for payment of a salary in May 2019, after all the required procedure had been fulfilled. Before that he was not qualifying as he was not an employee of the Respondent and

there was no way he could be paid. He therefore is not entitled to the salary and benefits claimed for the period 2013 to April, 2019.

Compensation for the loss of earnings as a result of the Respondent's responsible officer's failure to communicate the offer or appointment to the Applicant can only be awarded as damages and not salary arrears. For this to succeed, the Applicant ought to have sought redress against the Respondent within the time limit which is within three years after the Respondent's failure to issue the offer or appointment letter in time under ***S.3(1) of the limitation Act***. In this case, the Applicant's letter of notification of appointment from the PSC is dated 12th/12/2012. Thirty days of communication from the Respondent would take the Applicant to January, 2013 and the three years under the limitation Act expired in December, 2016. Therefore, the Applicant having failed to file his claim for compensation within the required time, does not qualify for compensation. In the case of **Odyeki & Anor Vs Yokonani & 4 Ors [Gulu] (CA No. 9 of 2017) pg. 11**. Mubiru, J observed that:

"Statutes of limitation are designed to protect defendants from plaintiffs who fail to diligently pursue their claims. Once the time period limited by The Limitation Act expires, the plaintiff's right of action will be extinguished and becomes unenforceable against a defendant. It will be referred to as having become statute barred."

Therefore, the Applicant has failed to show this court that the Respondent's refusal to carry out its mandatory obligation under the law

for over six years was against the National Objectives and Directive Principles of State Policy No. XIV.

In view of my above findings, this application fails on all issues. The case is accordingly dismissed.

This being a test case under Order 39 r.1 CPR, it follows that all the related cases vide:

- i. **Misc Causes No. 312 – 360 of 2019**
- ii. **Mc No. 366 – 368 of 2019**
- iii. **Mc No. 384, 397 & 403 of 2019 Namono Mary & 55 Others versus Kampala Capital City Authority** are also dismissed

Remedies.

This Court notes the fact that this suit is a test suit for many other cases where the Applicants are now employees of the Respondent. The Applicants after receiving letters of appointment from the appointing authority waited for a number of years before they were given their offer or appointment letters by the Respondent. The responsible officer of the Respondent was supposed to issue the Applicants with the letter of appointment in a period of 30 days from the date of appointment by the appointing authority. The Applicants have not been able to get damages from the Respondent due to their own negligence and or failure to act in time. I find that even though not successful, they do not deserve to be condemned in costs. I accordingly make no order as to costs.

I so order,

**Dated, signed and delivered by email at Kampala this 13th day of
May, 2020.**

Esta Nambayo

JUDGE

13th May, 2020