

attendant of the new Minister so that he could put in some furniture. Shortly thereafter, while she was in her colleague's office, the Permanent Secretary, Mrs. Geraldine Ssali (hereinafter called "the PS"), came with her armed body guard and ordered her to vacate the office in the next one hour because she needed it.

[3] The deponent stated that she heeded to the demand and started packing up her official documents, but the PS started shouting at her on top of her voice asking why she was not responding to her. She replied to the PS in a polite tone but the latter instead ordered her male body guard to forcefully throw the deponent out of the office. The body guard roughed her up and dragged her towards the corridor in an inhumane and shameful manner under the encouragement of the PS who slapped her, threw out her official documents into the corridor where other officers were already gathered. While the deponent was being dragged through the corridors, one of Hon. Gen. Mbadi's body guards and a female police lady at the Ministry swung into action to save her from the PS's male body guard. The deponent was taken to a small room by Gen. Mbadi's body guard to calm the situation and cool her down. After calming down, the deponent requested a colleague to pick up her documents from the corridor where they had been thrown and went to report the matter to Central Police Station (CPS) Kampala and the complaint was entered under case file No. 84/05/04/2024. The deponent subsequently underwent a medical examination that confirmed the bodily harm inflicted upon her by the PS and the male body guard.

[4] The deponent further stated that the PS in a bid to cover up the situation issued a biased interdiction letter suspending her from work. She averred that the Respondent's servant offended her constitutional right to be heard, did not follow procedure before issuing the interdiction. The deponent has since challenged the interdiction in this Court by way of judicial review and has also

filed a substantive application for a temporary injunction which has merit and high chances of success. She concluded that if this application is not granted, the main application for a temporary injunction will be rendered nugatory.

[5] The Respondent opposed the application through an affidavit in reply deposed by **Mrs. Geraldine Ssali**, the Permanent Secretary Ministry of Trade, Industry and Cooperatives. She averred that the instant application is premature before the court having been filed on 17th April 2024 way after the Applicant had been interdicted on 5th April, 2024. She stated that a hearing has already been conducted before the Public Service Commission on 25th April 2024 and is only pending a decision. She further stated that an interdiction is not a punishment and to construe it as such would be to stretch the interpretation of the Uganda Public Service Standing Orders 2021 so wide and it would mean that interdictions would only be issued after a hearing. She stated that the decision to interdict is within the statutory mandate of the responsible officer on behalf of the Respondent; was based on the Applicant's gross misconduct contrary to the Uganda Public Service Standing Orders 2021 and the Laws of Uganda; and was undertaken with a full legal justification under the Uganda Public Service Standing Orders 2021 by the responsible officer to facilitate a full and impartial investigation.

[6] The deponent further averred that on 5th April 2024, the management of the Ministry, while trying to optimize space, required that various officers transfer their office space to create more room for additional officers, project staff, and the Minister of State for Trade who were due to assume duty at the Ministry. She stated that the affected officers included the entire legal unit of the Ministry wherein the Applicant seats. She stated that the management led by herself (the deponent) and the Head of Human Resources, while trying to identify additional space and create a space plan, approached Room 313 wherein new seating arrangements were being prepared and established that

the Applicant had allocated herself space despite attempts to first draw seating plans and then allocate space to everyone. The Applicant was informed that room 313 was required to allocate office to some project staff of JICA and the support team of the Hon. Minister of State for Trade and that the legal unit would be allocated office space in room 316.

[7] The deponent stated that the Applicant rejected the plans and instead opted to use abusive language, intimidation, personal verbal attacks, insults, and throwing items at her and was only restrained by a security team officer. The deponent reported a criminal case vide SD REF 05/05/04/2024 for the damage and the disobedience created by the Applicant that warrants a comprehensive investigation in the matter. The deponent concluded that the application has been brought in bad faith with the intention of frustrating the responsible officer from carrying out her statutory and administrative duty and the circumstances do not necessitate the grant of the reliefs sought.

Representation and Hearing

[8] At the hearing, the Applicant was represented by **Mr. Kamukama David** and **Wamala Samuel** from M/s Byamugisha Gabriel & Co. Advocates while the Respondent was represented by **Mr. Ochol Sahid Kiwanuka** and **Ms. Amucu Daniella** from the Chambers of the Attorney General. Counsel made oral submissions before the Court which I have taken into consideration in determining the matter before Court.

Issue for Determination by the Court

[9] One issue is up for determination by the Court, namely; *Whether the application discloses sufficient grounds for grant of an interim injunction order?*

Submissions by Counsel for the Applicant

[10] Counsel for the Applicant relied on the case of *Hwang Sung Industries v Tajdin Hussein & 2 Others*, SC Civil Application No. 19 of 2008 for the position of the law on the conditions under which an interim order may be granted by the Court. Counsel submitted that the Applicant was interdicted by the Permanent Secretary (PS) and she is to be subjected to a disciplinary hearing where the person who interdicted her is the complainant. The Applicant has filed an application for judicial review challenging the interdiction on grounds of illegality, irrationality and procedural impropriety and has also filed an application for a temporary injunction. Counsel stated that the application is intended to preserve the Applicant's constitutional right to be heard and the Respondent will not suffer any harm if the application is allowed. Counsel prayed that the Respondent be restrained from taking any disciplinary action against the Applicant pending the hearing of the application for a temporary injunction.

Submissions by Counsel for the Respondent

[11] In reply, it was submitted by Counsel for the Respondent that the purpose of grant of an interim order is to preserve the status quo and that in the instant case there is no status quo to be preserved. Counsel cited the case of *Alcohol Association of Uganda & Anor v Attorney General & Anor HCMA No. 744 of 2019* to the effect that the court should be reluctant to restrain a public body in the execution of its lawful mandate. Counsel argued that the Respondent is executing its public duties and will be prejudiced by issuance of an interim order. Counsel further stated that there is no evidence of any pending threat against the Applicant. Counsel also stated that the Applicant was lawfully interdicted and forwarded to the Public Service Commission for a hearing which is only pending a decision. Counsel concluded that the application does not pass the test for grant of an interim order.

Determination by the Court

[12] The law is that the purpose for grant of an interim injunction order is to preserve the status quo until the hearing and determination of the substantive application for a temporary injunction. *Order 50 rule 3A (3) of the Civil Procedure Rules, as amended 2019*, provides as follows;

“The court shall only consider the hearing of an application for interim relief where there is a pending substantive application with a likelihood of success.”

[13] The considerations for grant of an interim relief, be it an injunction or an order for stay of execution, were subject of consideration by the Supreme Court in *Hwang Sung Industries v Tajdin Hussein & 2 Others [2008] UGSC 17* wherein it was held by the Court that for an application for an interim relief to be granted, the court has to be satisfied that a substantive application is pending and that there is a serious threat of execution before the hearing of the pending substantive application. The Court went on to hold that, at this stage, *“... it is not necessary to pre-empt consideration of matters necessary in deciding whether or not to grant the substantive application ...”* In *Souna Cosmetics Ltd v Commissioner Customs URA & Anor, HCMA No. 424 of 2021*, it was held that the purpose of granting an interim measure is to preserve the right of being heard on the substantive application. At this stage, the Court should not delve into the merits of the substantive application.

[14] On the case before me, the Applicant’s contention is that there is a looming threat of an accelerated disciplinary hearing against her despite the fact that she has challenged her interdiction by way of an action in judicial review. The Court’s attention was drawn to a letter on record attached as Annexure B to the Respondent’s affidavit in reply which mentions that the Applicant is to be subjected to a disciplinary hearing. As it is, therefore, the status quo is that the Applicant has been interdicted and is subject to a pending disciplinary hearing. The claim by the Respondent that the Applicant has already been subjected to

a disciplinary hearing by the Public Service Commission is not supported by any evidence on record. Indeed, it is clear from the document referred to by the Respondent's Counsel, Annexure D to the affidavit in reply, that the person that was being summoned by the Public Service Commission was the Permanent Secretary and not the Applicant. As such, the averment in paragraph 5 of the affidavit in reply constitutes a false averment. As such, contrary to the averments and submission for the Respondent, there is a status quo to be preserved.

[15] It has further been shown by the Applicant that she has filed an application for judicial review challenging the lawfulness of her interdiction. She has also filed an application for a temporary injunction. Both matters are pending hearing by the Court and there is nothing to show that the matters are frivolous or baseless. In the circumstances, the Applicant has satisfied the Court on a balance of probabilities that sufficient grounds exist for grant of an interim injunction order.

[16] In the premises, this application is allowed with orders that;

- a) An interim injunction order doth issue restraining the Respondent, its servants or agents from conducting any disciplinary proceedings against the Applicant pending the hearing and determination of the main application for temporary injunction.
- b) The costs of the application shall be in the cause.

It is so ordered.

Dated, signed and delivered by email this 17th day of May, 2024.



Boniface Wamala

JUDGE