

**HH 152-03**

**HC 40605/00**

DUGMORE CHIMBOZA

**versus**

THE INQUIRIES COMMITTEE OF THE CITY OF HARARE

**and**

THE HUMAN RESOURCES AND MANAGEMENT SYSTEMS

COMMITTEE OF THE CITY OF HARARE

**and**

THE CITY OF HARARE

HIGH COURT OF ZIMBABWE

MUNGWIRA J,

**HARARE, 13 November, 2001 and 12 August, 2003**

Opposed Application

*O Matizanadzo* , for applicant

*Adv P Nherere*, for respondents

**MUNGWIRA J:** The applicant an employee of 2<sup>nd</sup> respondent was in a letter dated 13<sup>th</sup> April, 2000, Annexure "A" suspended from employment on the grounds that he had contravened Clause 18 (K) of S.I. 66 of 1992 (General Conditions of Service Agreement). In that he had been convicted by the magistrate at Harare on charges of theft of council property resulting in his being sentenced to imprisonment without the option of a fine.

A reading of the summary jurisdiction form reveals that the sentence of imprisonment was suspended partially on condition that the applicant performed community service and partially on the usual conditions of good behaviour. A disciplinary inquiry was conducted on 13 June 2000 which inquiry resulted in a unanimous recommendation that the applicant be dismissed from council service with effect from the date of suspension. The record of the Inquiry is Annexure "B" to the founding papers.

Consequent upon this recommendation the Town Clerk on 14 July, 2000 prepared a report for the consideration of the Human Resources and Management System Committee, Annexure C. That Committee having considered the confidential report of the Town Clerk on 24 July 2000 resolved to recommend -

"That in terms of Section 141 (6)(b) of the Urban Councils Act of 1996 (Chapter 29:15) as read with Clause 18 of the General Conditions of Service Agreement (S.I. 66 of 1992) the employee named in paragraph 5.1 of the

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confidential report (14 July 2000) by the Chamber Secretary be dismissed from Council service with effect from 13 April 2000". (Annexure D)

The decision of the Committee was communication to the applicant by way of a letter from the Chamber Secretary dated 8<sup>th</sup> August, 2000, Annexure E. This letter was retracted in another letter dated 17 August, Annexure F to which was attached what is referred to as the correct letter, Annexure F2.

On 21 August, 2000 applicants' legal practitioners wrote to the Chamber Secretary requesting that all correspondence pertaining to the matter be addressed to them and further that they be furnished with the record of proceedings. The requested details were furnished.

In the present application the applicant seeks a review of the decision of the 1st and 2<sup>nd</sup> respondents to terminate his employment on the following grounds -

- (a) that the procedure followed in effecting his dismissal was grossly irregular as it did not comply with the provisions of the Urban Councils Act (Chapter 29:15);
- (b) that 1st and 2<sup>nd</sup> respondents' had no power to institute the disciplinary proceedings and or such the action taken by them is *ultra vires* the Urban Council's Act (Chapter 27:15).
- (c) That on the merits, the decision reached was grossly unreasonable and defies logic to such an extent that no reasonable person applying his or her mind to the facts of this case would have reached such a decision;
- (d) That 1st respondent's decision is illegal in that in arriving at the decision it arrived at, 1st respondent is guilty of an error of law.

Third respondent also takes issue with the applicant's failure to comply with Rule 257 of the High Court Rules in that the application does not clearly and concisely state the grounds for review.