

**IN THE LABOUR COURT OF ZIMBABWE
LC/H/19/2014**

**HARARE, 06 & 17 JANUARY 2014
H/496/13**

JUDGMENT NO.

CASE NO. LC/

In the matter between:-

KURAUONE CHOKUONA

And

HEALTH SERVICES BOARD

Applicant

Respondent

Before The Honourable F.C. Maxwell, Judge

(IN CHAMBERS)

MAXWELL J.;

On the 3 July 2013 Applicant noted an appeal against the determination of the Respondent's Appeals Officer confirming the penalty of discharge imposed by the Disciplinary Authority. The matter was set down for hearing on 26 September 2013. On the 26 September 2013 the parties appeared before Honourable Justice L. Kudya who gave the following order

"IT IS ORDERED

That, the record of proceedings being incomplete, matter be and is hereby postponed to 7th October 2013; 2.15 pm to allow Respondent a chance to regularize same."

Applicant was appearing in person and Respondent was represented by the Board Legal Advisor, Mr C. Gutu. On 7 October 2013 both parties were in default. Honourable Justice L. Kudya made the following order

"IT IS ORDERED THAT

*No appearance for either party despite warning in court on 26 September 2013.
Matter struck off the roll.”*

(Underlining for emphasis)

On 14 November 2013 Applicant made t his Chamber Application for rescission of default judgment. In the founding affidavit he states that:-

“On the 26th of September 2013 the parties were advised by the Court that the matter was postponed sine die to enable the Respondent to file its Heads of Arguments and parties had to arrange for a set down date with the registrar.”

Clearly this is not borne by the record. The parties were advised that the matter had been postponed to the 7th of October 2013 at 2.15 pm. Applicant is not being honest with the court and therefore does not deserve any sympathy. Consequently the application fails for lack of merit.

Wherefore the application is accordingly dismissed.