

RICHARD CHAYIKOSA
v
THE CITY OF HARARE

SUPREME COURT OF ZIMBABWE
HARARE, MARCH 20, 2014

Applicant in person

C Kwaramba, for the respondent

Before **MALABA DCJ**, in chambers.

I have carefully examined the contents of the documents filed of record. The first point to note is that, whilst the applicant complains of having been dismissed by a disciplinary body constituted by employees of the Council, he does not allege that they wrongfully found him guilty of the misconduct charged. An examination of the documents containing the alleged misconduct shows that anyone would have found him guilty of the misconduct. Even on the allegation that the disciplinary committee was not properly constituted, the applicant relied on the case of *Zvobgo* which was based on different facts. There is no gainsaying the fact that the disciplinary body that dealt with his case was constituted in terms of S.I. 66/92.

After dismissal, the applicant went home and for many years did nothing about the matter. In the meantime, the respondent hired other people, on the belief that the applicant had accepted the outcome of the disciplinary proceedings.

More importantly, the applicant took the matter of the alleged wrongful dismissal to the Labour Court in 2011. Judgment was made against him. He applied for leave to appeal which was refused on 11 May 2012.

The applicant did not make an application for leave to appeal to a judge of this Court until 20 December 2013. A period of 1 year and a half lapsed before this application was made. There is no doubt that this is an inordinate delay requiring an acceptable explanation to be advanced by the applicant. He alleged that his legal practitioners let him down in that they did not advise him that leave to appeal had been refused. It is obvious that for an explanation of the delay to be acceptable there had to be an explanation from the legal practitioner concerned.

The applicant was warned by the respondent in the opposing affidavit of the need to obtain an explanation from the legal practitioner. In the answering affidavit he rebuffed the advice. There is therefore no reasonable explanation for the delay.

There are no prospects of success. In the light of the absence of a reasonable explanation for the delay, there had to be good prospects of success on appeal. Apart from seeking to rely on the alleged procedural irregularities, there is clear evidence of his having committed the misconduct charged. The allegations of procedural irregularities are unfounded.

The application is dismissed with costs.

Mbidzo, Muchadehama & Makoni, respondent's legal practitioners