

IN THE HIGH COURT FOR ZAMBIA
HOLDEN AT NDOLA
(Civil Jurisdiction)

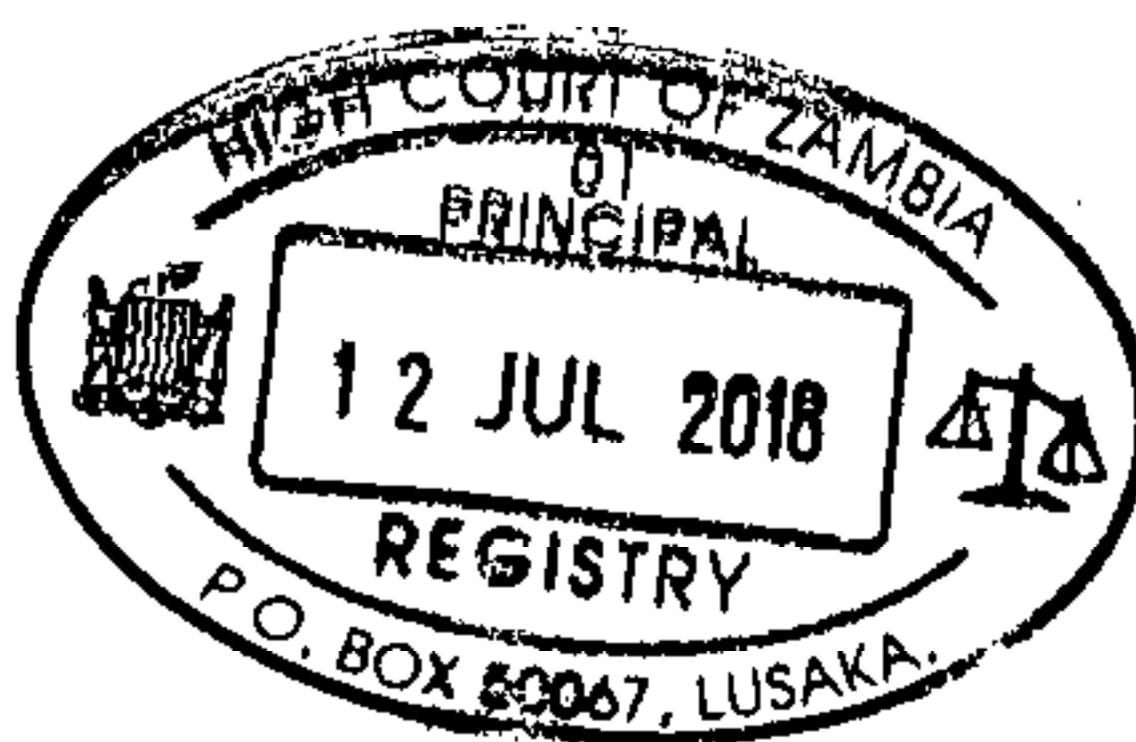
2012/HN/0754

BETWEEN:

ALICK CHINDO

AND

BUKS HAULAGE LIMITED



PLAINTIFF

DEFENDANT

BEFORE HONOURABLE MR. JUSTICE M. M. KONDOLO, SC

For the Plaintiff : Mr. C. Magubbwi, Messrs. Magubwi and Associates

For the Defendant : Mrs. ABF Kunda, Messrs. A. D. Gray & Partners Company

J U D G M E N T

CASES

- 1. Zambia Airways Corporation Limited V Gershom B.B. Mubanga (1992) S.J 24**
- 2. Konkola Copper Mines v Kaleya (Appeal No. 87/2015) (8th June 2018)**
- 3. Barclays Bank Zambia Plc v Weston Lyuwi and Suzgo Ngulube SCZ/8/260/2011 (delivered on 25th May 2015)**
- 4. Swarp Spinning Mills Plc v Chileshe & Others SCZ Judgment No. 6 of 2002**

5. *Chintomfwa v Ndola Lime* (1999) Z.R. 172

6. *Chilanga Cement PLC v Kasote Singogo* (2009) Z.R. 122

The Plaintiff was employed by the Defendant Company as a truck driver and on 3rd October, 2011, he was assigned to go to Kansanshi Mines. On his way there, he stopped over in Chingola to buy himself some food and whilst parked by the side of the road, the Defendant's Operation's Director, Mr. Kanyenda, who happened to be driving by took photographs which showed people standing next to the truck, with one person who appeared to be talking to the Plaintiff whilst the passenger's door was open. The Plaintiff stated that the Director did not speak with him or inquire as to whether or not the bystanders were people he had carried as passengers on the Defendant's truck.

The following day on 4th October, 2011, the Plaintiff was served with a letter of summary dismissal and within the letter, it was averred that the Plaintiff was guilty of carrying unauthorized persons and refusing to carry out instructions (for allowing unauthorized personnel to drive a company vehicle).

The Plaintiff alleged that he was not served with any charge sheet and averred that the Defendant had violated the Disciplinary and Grievance Procedure Code and he also claimed that he was not given an opportunity to exculpate himself. The Plaintiff contends that his dismissal was wrongful, unfair and illegal and that he has suffered loss and damages and seeks the following reliefs:

- i) Damages for wrongful and unfair dismissal;**
- ii) Salary arrears from the date of dismissal to the date of judgment;**
- iii) Housing and other contractual allowances from date of termination to date of judgment;**
- iv) One month's pay in lieu of notice;**
- v) Interest on all sums;**
- vi) Costs; and**
- vii) Other reliefs.**

In defending this action, the Defendant stated that the Plaintiff made a stopover at a lay-by to offload three passengers that he was carrying contrary to the Defendant's Code of Conduct and the Defendant's Director of Operations took photographs of the three

individuals disembarking the vehicle. However, contrary to the Plaintiff's allegation, the Defendant alleged that the Director of Operations spoke to the Plaintiff and expressed disappointment because the Plaintiff had already received a final warning for a similar offence.

In its further defence the Defendant stated that the Plaintiff was accorded an opportunity to respond to the charge of carrying unauthorized personnel. This is evidenced by a letter dated 3rd October, 2011 in which he was given 24 hours within which to respond to the charge. He opted to exculpate himself, verbally, during the disciplinary hearing. Further to his dismissal, the Defendant calculated the Plaintiff's dues which he neglected to collect. The Defendant therefore maintains that the Plaintiff's dismissal was fair and lawful and that he is not entitled to his claims.

At trial, the Plaintiff testified on his own behalf and did not call any witnesses while the Defendant called two witnesses.

PW1 was Alick Chindo, who was in the employ of the Defendant, as a Truck Driver, since 2009 until his dismissal in 2011. He informed the Court that he was accused of carrying some passengers in the company truck as well as allowing a non-employee to drive the company truck. It was his evidence that while on his way to Kansanshi, on 3rd October 2011, he parked the truck at a restaurant in Chingola to have a meal and after his meal, he returned to his truck where he was approached by an individual who asked him where he was headed. The Plaintiff stated that he told the individual to read the sign on his truck door stating that he is not allowed to carry passengers. The Plaintiff testified that while he was speaking to the individual he saw the Director, Mr. Kanyenda, who then took a picture of him in the truck and a picture of the individual that the Plaintiff was speaking to together with other people standing beside the vehicle. He alleged that the Director did not speak to him and when the Plaintiff approached him he drove off.

According to the Plaintiff, he proceeded to Kansanshi where the goods were loaded and at 04:00 hours, on 4th October, 2011, he

departed for Mufulira where he off-loaded the goods. He received a call from the Human Resources Manager requesting him to go to Ndola where he was handed a dismissal letter¹. He stated that Mr. Kanyenda found the vehicle parked and did not endeavour to inquire whether or not the people he photographed were indeed passengers on the truck. It was the Plaintiff's evidence that, contrary to the Defendant's allegation at page 26 and 29 of its Bundle of Documents, he was never asked about the events that transpired on 3rd October neither was he given a charge sheet nor a chance to exculpate himself before being given the dismissal letter on 4th October 2011.

He informed this Court that he was only seeing the pictures², of him and the people near his truck, for the first time in Court. While being referred to the Pictures he stated that he was alone in the cabin of the truck and the other pictures show a person talking to him. He admitted that prior to this incident, on 22nd January, 2011, he was found carrying unauthorized passengers by Mr.

¹ Plaintiff's Bundle of Documents, page 8

² Defendant's Bundle of Documents, pages 23-25

Kanyenda³ for which he was given a warning letter and asked to pay a fine⁴. It was the Plaintiff's testimony that after receiving his dismissal letter, which he took to his lawyers, he suffered sleepless nights on account of having been wrongly dismissed.

In cross examination, the Plaintiff was referred to previous incidences when he carried unauthorized passengers and he said he could only remember the incident which resulted in him being found guilty of that offence in January, 2011 and that he was subsequently punished for it. He maintained his evidence that his truck was parked when the pictures were taken and that he did not carry any unauthorized passengers. He denied having pointed at the Director in the picture at page 25 of the Defendant's Bundle of Documents. He further stated that he went to Ndola on 4th October, 2011 and that the Director neither spoke with him nor requested him to go back to Ndola on 3rd October, 2011.

³ Defendant's Bundle of Documents, pages 15 and 16

⁴ Defendant's Bundle of Documents, page 18

Under further cross examination the Plaintiff denied having been served with the disciplinary charge letter on 3rd October, 2011⁵ and also denied having attended a meeting held in the office of the Human Resources Officer. He told this Court that he was seeing the invitation to a meeting⁶ for the first time. He also stated that there was no case hearing and if there was he was not invited to it.

When asked if he had phoned the Director later on to complain about not having been found giving the truck to an unauthorized person to drive, the Plaintiff agreed and said that he complained to the Director against all the Charges. He further stated that he received another letter of dismissal on 10th October, 2011⁷ of which he was told was correcting an contained in the letter dated 3rd October, 2011, which error hadn't been explained to him. When asked when he was supposed to be paid his salary and terminal benefits according to this letter, the Plaintiff stated that he did not understand which money was being referred to.

⁵ Defendant's Bundle of Documents, page 26

⁶ Defendant's Bundle of Documents, page 29

⁷ Defendant's Bundle of Documents, page 34

PW1 admitted that he had read and understood his conditions of service which are to be read together with the Disciplinary Code. He further agreed that he wasn't hindered from making an appeal and when pressed about why he did not exhaust the disciplinary process, he retorted that considering the manner in which he was dismissed, he could not appeal to the same people. Lastly, the Plaintiff stated that the Disciplinary procedure was not complied with.

In re-examination he stated that his dismissal letter of 10th October 2011 did not notify him of his right to appeal and that he could not appeal to the Human Resources Manager and Operations Director as they were the people that treated him unfairly. Finally, he stated that the pictures did not show any passengers in the vehicle and that was why he was denying the allegation that he carried unauthorized passengers.

The Plaintiff did not call any witness and proceeded to close his case. The Defendant in defending the action called two witnesses, DW1 and DW2.

DW1 was Ackson Kanyenda the Operations Director at the Defendant Company. He informed the Court about the roles he plays at the Defendant Company which include checks on the trucks to ensure that all is well on the road.

It was his evidence that on the 3rd of October 2011, whilst on his way from Solwezi he passed through Chingola and as he approached an area called Mwaiseni he saw one of the Respondent's trucks with passengers in it. He took out his camera so as to capture the scenario but when he got closer, he found the passengers had alighted but the engine was still running and he found two ladies by the side of the truck checking their bags. He took a photo of them checking their bags and another of them walking away as well as a photo of a gentleman who was asking for a lift from the Plaintiff.⁸ DW1 informed the Court that this not the first time he photographed Mr. Chindo and after he had taken the photographs, he approached the Plaintiff to express disappointment and according to DW1, the Plaintiff pleaded for leniency.

⁸ See Defendant's bundle of documents page 23, 24 and 25.

After the conversation DW1 instructed the Plaintiff to drive back to Ndola and see the Human Resources Department for further instructions. He informed the Court that he did not see the Plaintiff buy any food and that the people DW1 took photographs of, were not mere bystanders as he had seen them alighting from the truck. DW1 stated that after instructing the Plaintiff to go back to Ndola, he sent an e-mail to Human Resource in Ndola informing them of the incident and he kept some Managers in copy⁹. Around 14:00 hours, DW1 received a phone call from the Human Resources Manager informing him that they were in a hearing with the Plaintiff and that he, DW1, had been put on a conference call. He was informed that the Plaintiff was disputing the fact that he was found with passengers. DW1 testified that during the conference call, he engaged into a conversation with the Plaintiff who stated that he was not denying the allegation and pleaded for leniency whilst speaking Lamba.

⁹ See page 22 of Defendant's Bundle of Documents

On the 4th October, 2011, the following day, DW1 said that the Plaintiff phoned him complaining that his charge letter wrongly stated that DW1 found him with another person who was driving his truck and DW1 agreed that the charge was wrong and advised the Plaintiff to go back to Human Resources which he did. DW1 denied the assertion that the Plaintiff was seeing the photos for the first time in Court because the photos were not only shown to him but also shared with his lawyers. He told the Court that he had a good relationship with the Plaintiff and aside from his habit of carrying passengers, the Plaintiff was a very good driver.

In cross examination, DW1 stated that the incident occurred between 09:00 to 10:00 hours on 3rd October 2011 and he sent the email around 09:43 hours. He stated that he was not aware as to whether or not the Plaintiff was shown the photos but that he transmitted the photos, via email, to Human Resources that morning before the hearing but admitted that there was no documentary evidence to show that he had transmitted them. DW1 admitted that the record of proceedings did not show that the Plaintiff pleaded for leniency.

With regard to the photos, he admitted that none of them showed passengers on the truck nor disembarking from the truck. DW1 stated that the photos were taken to validate that the Plaintiff was carrying passengers but when referred to the photo on page 24 of the Defendant's Bundle of Documents he admitted that it showed that the ladies were not near the truck and the man was by the door. He further admitted that the minutes of 3rd October, 2011 made no reference to the photos.

DW1 agreed that the Plaintiff's employment was terminated on the basis of his allegations and he also maintained that the allegations were constituted by the photos he brought to Court. Lastly, DW1 stated that he did not recall the Plaintiff saying that he told the bystander to open the door so that he could talk to him.

During reexamination, DW1 told the Court the ladies on the photos came from the truck. He also stated that he was not at the meeting, therefore he was not in a position to know if the photos were

submitted at the meeting but he was informed by Human Resources that they were shown to him.

DW2 was Daniel Musonda the Senior Human Resources Officer for the Respondent Company. He informed the Court of his responsibilities and stated that he did not know the Plaintiff. His testimony was based on the records he had and the information received by virtue of his office. He stated that the Plaintiff was dismissed on account of two offences that he was charged with, namely for carrying unauthorized passengers on the company truck, and for failing to follow company instructions. He stated that the Plaintiff was charged on the basis of a written report from the Director of Operations dated 3rd October, 2011.¹⁰

According to DW2, the record shows that after the charge was raised, the Plaintiff was called to appear before an exculpatory meeting where the charges were read out to him and he denied both of them. DW2 said that during the course of the exculpatory meeting further details were availed to the Plaintiff and that the

¹⁰ See page 22 in the Defendant's bundle of documents (e-mail dated 3rd October 2011)

Director of Operations joined the proceedings via a conference call with and that the record showed that the Plaintiff admitted the charge during the meeting.

DW2 further told the court that a Notice of Disciplinary Case Hearing¹¹ was served on the Plaintiff and the meeting was convened the following day but the Plaintiff did not appear before the disciplinary committee. Despite his non-appearance, the committee proceeded with the hearing according to the disciplinary code. Further to the provisions of the disciplinary code, reference was made to the Plaintiff's disciplinary record on file where it was discovered that the Plaintiff was serving a final warning for a similar offence.¹²

DW2 testified that after the decision to dismiss the Plaintiff was made, a dismissal letter was prepared and served on the Plaintiff except that the initial letter had a mistake which was corrected and he was served with the corrected version¹³. The

¹¹ See page 29 of the Defendant's bundle of documents – Notice of Hearing

¹² See page 17 of the Defendant's bundle of documents – The final warning.

¹³ Page 33 and 34 of the Defendant's Bundle of Documents.

dismissal letter instructed that the Plaintiff clear himself by surrendering company property in his possession but to date this had not been done and the company had not paid him his dues.¹⁴ It was his testimony that the Plaintiff rushed to his lawyers before taking advantage of his right to Appeal to Management. According to DW2, Management had the right to determine who would hear the appeal and that the Plaintiff was not dismissed on fictitious grounds. DW1 stated that the Operations Director saw the Plaintiff with unauthorized passengers and this was not the first time he was being charged with that offence. He further stated that the only item due to the Plaintiff was his salary.

During cross examination, DW2 stated that the Plaintiff's Supervisor, by hierarchy was supposed to be the Fleet Manager and that a defaulting employee is supposed to be charged by his Supervisor¹⁵. However, in this case the charge was raised by the Human Resources Officer who was not the Plaintiff's Supervisor¹⁶ meaning that the charge was raised by the wrong person. DW2 did

¹⁴ See page 35 and page 36 of Defendant's Bundle of Documents – Calculation of the Plaintiffs Dues

¹⁵ See page 2 of the Disciplinary Code (page 2 of Notice of Intention to Produce)

¹⁶ See page 26 of the Defendant's Bundle of Documents

not agree with assertion that the fact that the charge was raised by the wrong person it became irregular. He further denied the assertion that the disciplinary hearing was hurriedly arranged even though Clause 2 of the Disciplinary Code provides a period of 24 hours within which an erring employee must exculpate himself, in writing. DW2 admitted that according to Clause 3 of the Disciplinary Code, after the exculpatory hearing, the matter should have been sent to personnel department for further investigation and a report addressed to the defaulting employee's supervisor but none of this was done.

When pressed further, DW2 stated that the email from DW1 directed what steps should be taken and was not contrary to Clause 3 of the Disciplinary Code. He stated that the letter labeled "Disciplinary Charge Letter¹⁷" and dated 3rd October, 2011 was an investigation. He admitted that the person who meted out the function was Human Resource which was not right.

¹⁷ Defendant's Bundle of Documents, page 26

DW2 was pressed and admitted that the Notice of Disciplinary Hearing¹⁸ was issued barely a day after the wrong charge sheet was raised. He denied the assertion that disciplinary committee acted on the Director Operation's allegations against the Plaintiff without investigating them in accordance with the disciplinary code. According to his record, the exculpatory meeting which was part of the investigation revealed that the Director of Operations was equally queried on the Conference Call and during the same meeting the Plaintiff admitted the offence.

The Defence closed its case and the parties agreed to file written submissions, which, to date I have not had sight of. I shall nonetheless proceed to render Judgment and after considering the evidence on record the following facts are not in dispute: -

- i) The Plaintiff was driving the truck in question on 3rd October, 2011 when he was seen by DW2 and that DW2 took photos of the Plaintiff and unknown persons standing by the truck.

¹⁸ See page 29 of the Defendant's Bundle of Documents

- ii) That the Plaintiff was charged with the offence of carrying unauthorized personnel and refusal to carry out instructions (for allowing passengers on the company truck even after being given a final warning).

The Plaintiff's claim is for damages against wrongful dismissal and determination of that issue shall inform his other claims with respect to what is due to him.

The law on wrongful dismissal is cast in stone and the case of **Zambia Airways Corporation Limited v Gershom B.B. Mubanga** is instructive in this regard. The Supreme Court upheld a decision in which the procedure preceding dismissal was not followed and held that the dismissal was therefore wrongful. In a more recent case of **Konkola Copper Mines v Kaleya** the Supreme Court reiterated the law on wrongful dismissal and noted that:

"It is trite that in proceedings for wrongful termination of employment, the role of the Court is to determine whether the correct procedure was followed when dismissing an employee and where applicable, whether the disciplinary

committee had valid disciplinary powers. The Court may also consider whether there is a substratum of facts to support the disciplinary measures."

The Court went further to recap it's holding in the case of **Chimanga Changa v Stephen Cipango Ngombe** in which they pronounced that an employer does not have to prove that an offence took place or satisfy himself beyond reasonable doubt, he only must act reasonably in coming to a decision. Therefor the onus of proof that the termination was wrongful lies on the Plaintiff.

In the instant case, Clause 1 of the Defendant's Disciplinary and Grievance Procedure Code ("**Disciplinary Code**") provides that a detailed charge sheet must be completed in triplicate by the supervisor, signed by a witness and distributed to the employee, amongst others. Further Clause 2 provides that an employee must be requested to write an exculpatory letter in his defence within 24hours of the charge. Once these procedures are done, the Employer is under an obligation to conduct an investigation into the charge and make a full report on its findings and recommendations

which report must then be addressed to the erring employee's supervisor and copied to the employee amongst others. The Disciplinary Code goes further and specifies that the report must contain the following things;

- a. details of the offence which the employee is charged with and a copy of the charge***
- b. Statements by witnesses to the alleged offence***
- c. Details and copy of offending employee's exculpatory letter***
- d. Findings of the investigations carried out by the personnel department***
- e. Conclusion reached and basis for the said conclusions***
- f. Recommendations by the personnel department on disciplinary action (if any) to be taken.***

The facts on record show that on 3rd October, 2011, DW1 saw the Plaintiff around 9:00 and around 9:43hours he sent an email to Ronald Chipandwe and others, and on the same day Ronald Chipandwe wrote a notice of hearing to the Plaintiff requesting him

to attend a hearing on 4th October, 2011. On record also, are minutes dated 3rd October, 2011 which show that there was an exculpatory meeting between Human Resource officers and the Plaintiff in which it is indicated that the Plaintiff denied the charges leveled against him.

DW2 however admitted that the charge was supposed to be leveled on the plaintiff by his supervisor which was not the case and according to DW2 the Charge letter, was an investigation. The record also reflects that the Plaintiff did not submit an exculpatory letter which ought to have formed part of the investigation report. From the timelines in the disciplinary code, it is clear that a disciplinary hearing could be held within the shortest possible period of time so long as the procedure is followed. The Plaintiff, in cross examination admitted that the charge letter was given to him but he refused to sign it. He however denied having been in a meeting with human resource on 3rd October, 2011 or having been availed with a notice of the hearing on 4th October, 2011.

The Plaintiff stated that he only went to Ndola on 4th October when he approached the human resource department to complain about the charges. DW1 on the other hand stated that at 14:00 on the material day, 3rd October, 2011, the Plaintiff was present at a hearing with human resource management. In the minutes for the said hearing, the Plaintiff is quoted to have said that DW1 was being unfair and that the photos taken did not prove the allegation. Further the Plaintiff in his own evidence admitted to having received a letter dated 3rd October which letter he refused to sign. This supports the Defendants testimony that on 3rd October, 2011 the Plaintiff did not proceed to Kansanshi as he claimed, but proceeded to Ndola where he was served with the charge letter.

I am guided by the holding in the case of **Rabson Sikombe v Access Bank (Zambia) Limited** in which the Supreme Court had the opportunity to discuss the import of **Section 26A of the Employment Act** with regard to an employee being afforded a chance to be heard on the charges leveled against him. In that case, the Court noted, in passing, that Section 26A of the Employment Act, does not state the procedure that ought to be followed and

therefore, the fact that the Appellant therein, though he did not reduce his exculpatory statement into writing, was afforded a chance to ventilate his views on the conduct that led to his termination, in the Court's view, was sufficient compliance with **Section 26A.**

In *casu* the Plaintiff attended the exculpatory meeting where he aired his views and denied the charges meaning that he was heard before he was dismissed. He however claimed that he was not aware of the disciplinary hearing which took place the following day even though the minutes show that he was informed to report to the said meeting on 4th October, 2011.

However, whatever the case, Clause 3 of the Disciplinary Code required the Respondent to conduct an investigation for the purpose of establishing whether or not the Plaintiff committed the offence charged. In his evidence, DW2 attempted to pass off the charge letter as an investigation. I must state that it was a charge letter and not an investigation report at all, and it cannot under any circumstances be mistaken for an investigation, especially given the

fact the Disciplinary Code provides for the contents of an investigation report. The Defendant ignored its own rules and procedures and proceeded to have a disciplinary meeting in the absence of an investigations report.

In **Zambia National Provident Fund v Chirwa** the Supreme Court held that despite failing to follow laid down procedure, an employer cannot be faulted for dismissing an employee who commits a dismissible offence. However, the Supreme Court has however since placed a caveat on its preceding sentiments when in the case of **Sikombe v Access Bank**, Malila J stated as follows:

“Where an employee has not committed any identifiable dismissible wrong, or such wrong cannot be established, the employer shall not be allowed to find comfort in the principle we expounded in the Zambia National Provident Fund v. Chirwa case.”

Even if the defendant had reasonable reason to institute disciplinary procedure on the plaintiff, in the absence of an investigation's report their powers were not valid. It is clear from the

record, that the Plaintiff had been reprimanded on a similar offence in January, 2011, a fact he did not deny and what is obvious is that the Defendant dismissed him based on his past conduct a fact that is evident in DW1's email, dated 3rd October, 2011. The said email shows that DW1 indicated that the Plaintiff *"will not change this habit of carrying passengers. Appropriate disciplinary action should be applied"*.

The only basis of this dismissal and as admitted to by DW1 were the allegations made by DW1. The photos produced by DW1 do not show any passengers aboard nor alighting from the truck driven by the Plaintiff. Had the investigation required by clause 3 of the disciplinary code been conducted, the report might have shed more light as to whether or not the Respondent was carrying passengers illegally. The Respondent also admitted that the charge was laid down by the wrong person. It cannot go without comment that the administration of the disciplinary process was a shamble because, even though I accepted that the Plaintiff attended the exculpatory meeting, the minutes of the meeting produced in the

Defendants Bundle of Documents were not signed and the Notice of Disciplinary Meeting was not acknowledged as received by the Plaintiff and was not endorsed with any comments regarding whether or not it was served on him.

Further, the speed with which the process was executed seemed quite extra-ordinary; charged in the morning, exculpatory meeting in the afternoon, disciplinary meeting the following day. It was no wonder that the Plaintiff felt an appeal would do him no good. It is clear to me that without the investigation report there was no fair basis upon which to conclude that the Plaintiff had carried passengers illegally, as charged. The dismissal was therefore wrongful and the Plaintiff is entitled to damages.

It is trite that the measure of damages in cases of wrongful dismissal, such as in this case, is the notice period. The principle was embraced in the **Barclays Bank Zambia Plc v Weston Lyuwi**

& Suzgo Ngulube¹⁹ where the Supreme Court cited a plethora of cases including **Swarp Spinning Mills PLC v Chileshe & Others** in which it held that the normal measure of damages for wrongful dismissal is the period of notice. It was held that the Court should only depart from the normal measure of damages where the circumstances and justice of the case demand. In the **Swarp Spinning Mills Case** the departure was permissible where the termination was done in a traumatic fashion causing distress and mental suffering. The Supreme Court has on several occasions awarded an amount in excess of the Notice Period and they did so in the case of **Chintomfwa v Ndola Lime** and **Chilanga Cement PLC v Kasote Singogo** but the principle still remains true that the departure can only be resorted to if the case demands.

In *casu*, the Plaintiff has not shown or given evidence to warrant the Court departing from the normal measure of damages. The evidence on record only reveals that the procedure was not

¹⁹ SCZ/8/260/2011 delivered on 25th May 2015

followed as laid down in the Defendant's own disciplinary procedure code.

The Plaintiff also claimed salary arrears, housing and other contractual allowances from the date of termination to the date of judgment which claims are dismissed on the basis that he did not perform any work for the Respondent after the date of dismissal and he is therefore only entitled to damages equivalent to the notice period.

The Plaintiff is entitled to damages equal to the notice period provided in his contract of employment which states as follows;

11. Termination of Employment

Employment may be terminated by; -

a. Either party giving the other one (1) months' notice writing

The Plaintiff is therefore entitled to payment of 1 month's salary which includes all allowances and perks and he is also

entitled to arrears, if any accrued before the Dismissal on 4th October, 2011.

The Plaintiff is awarded interest on the awarded sums at the average short-term bank deposit rate from date of writ to date of Judgment and thereafter until date of payment, at the current bank lending rate as determined by Bank of Zambia.

The costs are for the Plaintiff.

Dated at Lusaka this day of 2018


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M.M. KONDOLO, SC
JUDGE