

**IN THE COURT OF APPEAL OF ZAMBIA  
HOLDEN AT KABWE**

**APPEAL 176/2022  
CAZ/08/075/2022**

*(Civil Jurisdiction)*

**BETWEEN:**

**BRIGHT JANGAZYA**



**APPELLANT**

**AND**

**FIRST NATIONAL BANK ZAMBIA LIMITED**

**RESPONDENT**

**CORAM: KONDOLO SC, MAKUNGU & BANDA-BOBO, JJA**

***On 23<sup>rd</sup> May, 2024 and 31<sup>st</sup> December, 2025.***

*For the Appellant: Mr. D. Mtonga of Messrs. Paul Norah  
Advocates*

*For the Respondent: Ms. M. Mayaka with Mr. A. Ng'ambi, In-house  
Counsel*

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## **J U D G M E N T**

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**BANDA-BOBO JA**, delivered the Judgment of the Court.

**Cases referred to:**

- 1. Care International Zambia Limited v Misheck Tembo -  
SCZ Appeal No. 57 of 2016.**

2. **First Quantum Mining and Operation Limited v Obby Yendamoh - SCZ Appeal No. 206 of 2015.**
3. **Supabets Sports Betting v Batuke Kalimukwa - Selected Judgment No. 27 of 2019.**
4. **Zambia Telecommunications Company Limited v Celtel Zambia Limited (2008) ZR. 44 Vol. 2 (SC).**
5. **Chimanga Changa Limited v Stephen Chipango Ngombe SCZ Judgment No. 5 of 2010.**
6. **Attorney General v Richard Jackson Phiri (1988/89) ZR 121.**
7. **Zambia Electricity Supply Corporation v Muyambango (2006) ZR 22.**
8. **Zambia National Provident Fund v Yokweniya Mbiniwa Chirwa (1986) ZR 80 (SC).**
9. **Sarah Aliza Vekhinik v Casa Dei Bambini Montessori Zambia Limited CAZ/129/2017.**
10. **Barclays Bank Limited v Mando Cjhola & Ignatious Mubanga (1995-1997) ZR 212.**
11. **Raphael Katenekwa v Finance Bank of Zambia Limited SCZ Appeal No. 140/2011.**
12. **Kambatika v Zambia Electricity Supplies Corporation Limited - SCZ Appeal No. 186 of 2000.**

- 13. Alistair Logistics (Z) Ltd v Albert Matanda Mwape  
CAZ/154/2020.**
- 14. Zambia National Provident Fund v Y.M. Chirwa: [1986]  
Z.R. 70.**
- 15. Patrick Maguwudge v Mopani Copper Mines PLC  
SCZ/234/2013.**
- 16. Ward v Bradford Corporation Limited (1971) 70 LR 27.**

## **1.0 INTRODUCTION**

1.1 This appeal emanates from the Industrial and Labour Relations Division of the High Court. The Honorable Mr. Justice E. Mwansa presided over the dispute regarding the manner in which the Appellant's employment was terminated. The Judge entered Judgment in favour of the Respondent and concluded that there was no statute that had been breached and there was no unfairness in the manner the Appellant had been discharged. The Appellant being dissatisfied with the decision has approached us urging that we decide on whether or not his discharge from employment was unfair and/or wrongful.

## 2.0 BACKGROUND

- 2.1 The Appellant was employed by the Respondent on 30<sup>th</sup> September, 2013 as a Business Development Officer. He rose through the ranks and was appointed as Head-Vehicle and Asset Finance on 1<sup>st</sup> February, 2015.
- 2.2 There were allegations of failure to follow standard bank procedures, which led to investigations by the Respondent that were conducted through its Group Forensic Services and the Financial Crime Risk Management, which subsequently issued a report.
- 2.3 Following the results from the report, the Appellant was found with a case to answer and was charged with four offences in accordance with the Disciplinary and Grievance Procedure Code. Three of the offences related to failure to comply with established procedures and abuse of motor vehicle, viewing of accounts and restructuring of facilities whilst one count related to forgery.
- 2.4 The Appellant responded to all charges and exculpated himself through exculpatory letters. He subsequently appeared before a disciplinary committee and was eventually

discharged on 12<sup>th</sup> July, 2016 after he was given one-month payment in *lieu* of notice.

- 2.5 The termination of employment is what triggered an immediate challenge in the High Court wherein he sought various reliefs including damages for wrongful and unfair dismissal, compensation for loss of employment and damages for mental anguish.

### **3.0 DECISION OF THE LOWER COURT**

- 3.1 The Court below exercised its mind on the evidence that was before it and came to the conclusion that the termination of employment was fair and lawful. This was due to the fact that there were good reasons to institute proceedings for indiscipline against the Appellant and correct procedures were followed. The lower Court held that the team that was constituted to hear the case had the necessary powers which it exercised in due form.
- 3.2 In a nutshell, the lower Court dismissed all the Appellant's claims.

### **4.0 GROUNDS OF APPEAL**

- 4.1 The Appellant was dissatisfied with the decision of the lower Court and has appealed advancing the following grounds;

- “1. The Honourable trial Court misdirected himself in law and fact when he adjudged that there was no unfairness in the manner in which the Appellant was discharged from employment as he was not alerted to any statute that had been breached and therefore no unfair dismissal.*
- 2. That the Honourable trial Court misdirected himself in law and fact when he found that the procedure was properly followed and that there was no wrongful dismissal despite the disciplinary committee constituted comprising of an interested party to the disciplinary proceedings.*
- 3. That the Honourable trial Court misdirected himself in law and fact when it refused to award the Appellant compensation for unfair and wrongful dismissal, mental anguish and reputational damage.”*

## **5.0 Appellant’s Arguments**

- 5.1 In the Heads of Arguments that were filed on 8<sup>th</sup> August 2022, Counsel argued in respect of ground one that unfair

dismissal generally relates to a situation where an employer dismisses an employee contrary to the provisions of legislation. To reinforce the submission, the case of **Care International Zambia Limited v Misheck Tembo<sup>(1)</sup>** was cited where the apex Court opined that unfair dismissal is a dismissal that is contrary to statute.

5.2 Another case of **First Quantum Mining and Operation Limited v Obby Yendamoh<sup>(2)</sup>** was called in aid for the proposition that unfair dismissal addresses the genuineness of the dismissal of an employee by an employer.

5.3 That the Appellant in this case was unfairly dismissed as he was dismissed on unsubstantiated grounds. It was submitted that in this case, the trial Court ought to have considered the merits or substance of the allegations leveled against him and decide whether they were substantiated. The case of **Supabets Sports Betting v Batuke Kalimukwa<sup>(3)</sup>** was referred to in this regard.

5.4 Pertaining to ground two, Counsel stoutly argued that wrongful dismissal is a claim for breach of contract and a claimant has to prove that the employer breached a contractual provision. Based on the foregoing, learned

Counsel asserted that in the present case, Mr. David Chansa had an interest in the first charge and was also involved in the investigations of the third charge but was allowed to be on the Disciplinary Panel. That the interest he had in the matter was that his account was among those that were viewed by the Appellant.

- 5.5 It was further argued that the evidence on record shows that Mr. David Chansa was present at the deliberations of the cases before the Disciplinary Committee despite having an interest in the charge sheet. It was contended that the failure by David Chansa to declare interest on part of the charges tabled before the disciplinary committee was in direct contravention of the Disciplinary and Grievances Procedure Code particularly clauses 13.1 and 13.2, which formed part of the contract of employment between the Appellant and that of the Respondent.
- 5.6 To fortify the submission on having an impartial tribunal, our attention was drawn to the case of **Zambia Telecommunications Company Limited v Celtel Zambia Limited**<sup>(4)</sup> where it was held that public policy demands that a person ought to be tried by an impartial tribunal. It was

therefore, submitted that the tribunal was wrongly constituted in contravention of the disciplinary code.

## 6.0 Respondent's Arguments

6.1 The Respondent filed its Heads of Argument on 15<sup>th</sup> May, 2024 after it obtained leave to file the same out of time. The thrust of the Respondent's arguments in respect of ground one, was that the trial Judge was on firm ground when he aligned the Appellant's claim for unfair dismissal with breach of statute. Unfairness being statutory is linked to the protection of the right of employment and promotion of fair labour practices. It was further argued that in unfair dismissal, the employer does not have to prove that an offence took place or satisfy himself beyond reasonable doubt that the employee committed the act in question. That an employer's function is to act reasonably in coming to a decision. The case of **Chimanga Changa Limited v Stephen Chipango Ngombe** <sup>(5)</sup> was cited as authority. That in this case the Respondent acted reasonably when it assigned an independent third party to conduct thorough investigations and thereafter issue a report.

- 6.2 The Respondent went on to submit that regarding claims for unfair dismissal, the Court will generally not interpose itself as an Appellate tribunal to review the merits and look at the reasons for the dismissal, but will examine whether the disciplinary authority had the necessary power and that the same was properly exercised.
- 6.3 We were referred to the cases of the ***Attorney General v Richard Jackson Phiri*** <sup>(6)</sup> and ***Zambia Electricity Supply Corporation v Muyambango*** <sup>(7)</sup> where this principle of law was extensively discussed by the Supreme Court.
- 6.4 In addition, the Respondent's Counsel highlighted the fact that the Respondent followed the process set out in the Disciplinary and Grievance Procedure Code which resulted in discharging the Appellant. With the preceding submissions, we were urged to dismiss ground one.
- 6.5 As regards ground two, learned Counsel noted that the Appellant was accorded an opportunity to be heard on the charges leveled against him that were generated from the disciplinary code. Concerning the allegation that Mr. David Chansa was a member of the panel, learned Counsel submitted that Mr. Chansa was simply appearing as a

representative from the Risk and Compliance Management Department and was not a member. That there was therefore no wrongful dismissal as the contract was complied with.

6.6 In the alternative, the Respondent's Counsel submitted that where an offence is admitted or there is sufficient evidence that the employee committed a dismissible offence, an employer's failure to abide by procedure would be immaterial. That this is so in a case like this one where the rules of natural justice are observed. As fortification for this proposition we were referred to the case of **Zambia National Provident Fund v Yokweniya Mbiniwa Chirwa**<sup>(8)</sup>.

6.7 We were accordingly implored to dismiss the Appeal.

## **7.0 Reply**

7.1 It was argued in reply that the lower Court was wrong in restricting unfair dismissal as being applicable only where there was a breach of statute. It was submitted that there was sufficient authority to show that an employer had to substantiate the reason for terminating an employee's employment. The cases of **Sarah Aliza Vekhinik v Casa Dei Bambini Montessori Zambia Limited**<sup>(9)</sup>; **Barclays Bank Limited v Mando Chola & Ignatious Mubanga**<sup>(10)</sup> and

**Attorney General v Phiri** *supra* were cited in support of the proposition.

## 8.0 HEARING

8.1 When the matter came up for hearing, Mr. Mtonga learned Counsel for the Appellant, sought leave to file a reply as they were only served with the Respondent's Heads of Argument on 16<sup>th</sup> May, 2024 after they were filed on 15<sup>th</sup> May, 2024 with leave of a single Judge of this Court. We acceded to the request and directed the Appellant to file into court their reply within 7 days.

8.2 In support of the Appeal, Mr. Mtonga wholly relied on the Appellants Heads of Argument and reply.

8.3 On behalf of the Respondent, Mr. Ngambi and Ms. Mayaka equally relied on their client's Heads of Argument but also made brief oral submissions to augment. Ms. Mayaka referred us to the principle espoused in the case of **Raphael Katenekwa v Finance Bank of Zambia Limited** <sup>(11)</sup> to the effect that accumulation of wrongdoing may merit a dismissal in appropriate cases even when it is not provided for in the contract.

8.4 She emphasized that the Appellant was facing three charges, one for which he was serving a first written warning. Ms. Mayaka argued that it was evident that the Appellant continued to accumulate wrongdoing on his record and that is something that may be considered to merit a dismissal.

8.5 The second point was that at the time of appealing, the Appellant had no issue with the findings of fact by the lower Court with respect to the third charge but only raised concern with the first charge alleging that there was insufficient evidence. Based on the afore-cited **Raphael Katenekwa Case** *supra*, learned Counsel urged us to dismiss the Appeal with costs.

## **9.0 Decision of this Court**

9.1 We have assiduously reflected on the Appeal before us and taken into consideration the arguments that have been advanced by the parties.

### **9.2 Ground 1 - Role of the Court**

9.3 The gist of the Appellant's submission in respect of ground one is that he was unfairly dismissed from employment by the Respondent. He has gone to great lengths to submit that

the charges that were leveled against him were not supported by facts. He has also criticized the lower Court for not delving into the merits or substance of the dismissal to establish whether there was a substratum of facts.

9.4 The resolution of ground one, in our considered view, hinges on answering the question of what the role of a Court is in dealing with matters emanating from internal disciplinary committees. The cases of **Zambia Electricity Supply Corporation Limited v Muyambango** *supra* , **The Attorney-General v Richard Jackson Phiri** *supra* and **Kambatika v Zambia Electricity Supplies Corporation Limited**<sup>(12)</sup> are very clear on what the role of the Court is when it comes to matters involving internal disciplinary committees. The principle aptly enunciated from the cited cases is that the role of the Court is not to interpose itself as an Appellate tribunal within domestic disciplinary procedures to review what others have done. The duty of the Court is to examine whether there was necessary disciplinary power and if it had been exercised in due form.

9.5 The disciplinary committee *in casu* was constituted pursuant to clause 9.9 of the Grievance and Disciplinary Procedure

Code (see page 43 ROA) and it appears to us to have possessed the power and jurisdiction to hear charges leveled against the Appellant.

9.6 The next question for us to consider is whether the disciplinary committee exercised its power in due form. There is no dispute that all the charges leveled against the Appellant were derived from the code following investigations which revealed that he had a case to answer. He was accordingly charged and accorded an opportunity to be heard both at disciplinary and appellate stages. He was thereafter found wanting and discharged from employment.

9.7 It is against this backdrop that the learned trial Judge found that there was nothing unfair or wrongful in the way that the Appellant's employment was terminated. As guided by the authorities highlighted earlier, it is not our role to interpose ourselves as an Appellate tribunal from the Respondent's domestic disciplinary procedures.

9.8 We have however held that even though proceedings for termination of employment are not an appeal designed to test the veracity of the decision taken by the disciplinary committee, the Court is obliged to consider whether there was

a substratum of facts to support the charges levelled against the employee.

9.9 It is therefore not the position that all the Court has to do is satisfy itself that the disciplinary committee had jurisdiction to convene and make decisions. It is equally critical that the charges the employee is faced with emanate from a reasonable foundation tying or connecting the employee to the alleged offences (the *substratum of facts*). The Court is not called upon to dissect the details of the substratum but simply to consider relevant aspects of the facts in order to satisfy itself that the substratum of facts actually exists.

9.10 In the case of **Alistair Logistics (Z) Ltd v Albert Matanda Mwape**<sup>(13)</sup> *supra* we considered the issues regarding the substratum of facts and cited the case of **Attorney General v Richard Jackson Phiri** *supra* where the Supreme Court held as follows;

*“Once the correct procedures have been followed, the only question which can arise for the consideration of the Court, based on the facts of the case, would be whether there were in fact facts established to support the disciplinary measures since any exercise of powers*

*will be regarded as bad if there is no substratum of facts to support the same.”*

9.11 We further weighed-in on the question of considering the existence of a substratum of facts when in the case of **Sarah Aliza Vekhnik v Casa Dei Bambini Montessori Zambia** *supra* we pronounced ourselves on **Section 36 of the Employment Code Act** when we stated as follows;

*“Section 36 of the Act has placed a requirement on an employer to give reasons for terminating an employee's employment. Employers are no longer at liberty to invoke a termination clause and give notice without assigning reasons for the termination. What is of critical importance to note however is that, the reason or reasons given must be substantiated.”*

9.12 It is therefore apparent that the requirement for an existence of a substratum of facts has now been codified. Statute requires that the reasons for terminating employment be substantiated.

9.13 We have considered the charges laid against the Appellant and note that they were very distinct charges which appear to have been thoroughly investigated by the Respondent.

9.14 The Respondents holding company took the matter so seriously that it directed its Financial Crime Risk Management (“FCRM”) to investigate the allegations against the Appellant. The FCRM produced a report which is at p.154 -193 of the Record of Appeal which in its introduction at p.156 states as follows;

**1. Introduction**

**1.1 FirstRand Bank Limited (FirstRand) resolved during a Board Meeting held on 10<sup>th</sup> September, 2002 that the Group Forensic Services (“GFS”), now known as Financial Crime Risk Management (“FCRM”), be mandated to conduct investigations into alleged internal criminal activities and related staff defalcations committed within and outside of the South Africa jurisdiction.**

**1.2 On 31<sup>st</sup> March 2016, FCRM was requested to investigate allegations levelled against Bright Jangazya (“Jangazya”) the current Head of Vehicle Asset Finance (“VAF’), First National Bank Zambia (“FNBZ”), which was received**

**anonymously via email. The allegations were received via email, using an untraceable email address, and emailed to senior staff members of FNBZ.**

9.15 The lower Court was not sitting as an Appellate body to examine every detail of the disciplinary proceedings. We have read the report produced by the FCRM, which explains the very detailed investigations which led to the charges raised against the Appellant. It appears to us that not only did the disciplinary committee have the necessary authority to constitute and make decisions, the substratum of facts behind the charges faced by the Appellant are crystal clear.

9.16 Therefore, we find no merit in ground 1 and it is consequently dismissed.

#### 10.0 **Ground 2 - Composition of Disciplinary Committee**

10.1 The major grievance in the second ground of appeal relates to the composition of the disciplinary committee. It has been contended that the Respondent did not follow its laid down procedures as contained in its Grievance and Disciplinary

Procedure Code which forms part of the Appellants contract of employment.

10.2 The frustration by the Appellant is that Mr. David Chansa, who was the Head – Risk and Compliance Management, had an interest in the first charge as his account was among those that were viewed by the Appellant and in addition, he was allegedly involved in the investigation of the charges specifically charge sheet three albeit indirectly. This, according to the Appellant, was in violation of clauses 13.1 and 13.2 of the Grievance and Disciplinary Procedure Code. It has been argued that David Chansa ought to have excused himself from the deliberations of the committee as he had a very clear interest in the charges tabled before it.

10.3 In this regard it has been asserted that the proceedings of the disciplinary committee were tainted at the very least with perceptions of biasness. Solace for this proposition has been found in the case of **Zambia Telecommunications Limited v Celtel Zambia Limited** *supra* which held that:

*“It is however, public policy that a person ought to be tried by an impartial tribunal. In this case the learned Chairman’s involvement in this case without disclosing*

*his interest in the other arbitral tribunal could easily be perceived as being contrary to public policy because the perceptions from the objective tests, would have been that a likelihood of bias or possible conflict of interest could not be ruled out. It was on this ground that the award was set aside.”*

10.4 Relying on this authority, it has been averred that the disciplinary committee that heard the case was possibly biased on account of the involvement of David Chansa.

10.5 We have ruminated over the arguments before us and we believe our starting point in order to unravel whether indeed the composition of the disciplinary committee violated the Code specifically clauses 13.1 and 13.2 of the same. They provide as follows:

*“13.1 A member who has an interest in any of the cases tabled for hearing shall be required to declare interest and excuse him/herself from the deliberations of such a case.*

*13.2 Similarly, a member who has investigated, served as a charging authority and/or in the case*

*of the Appeals Committee members, heard the case at the Disciplinary Committee level before being appointed to serve on the appeals Committee, shall not take part in the deliberations of such a case.”*

10.6 From where we stand, the two clauses clearly provide for declaration of interest and that an interested person should excuse himself from deliberations of the committee.

10.7 The Minutes of the Disciplinary Hearing of 6<sup>th</sup> June, 2016 show that a tribunal was constituted and convened to investigate allegations levelled against Bright Jangazya as follows (*p. 144 Record of Appeal*);

**Panel**

Kapumpe C. Kaunda - **Chairperson**

Muyendekwa Ngenda - **Member**

Lunda Akayombokwa - **Member**

David Chansa – **Representative from Risk**

Zilase Banda – **Secretary**

**Charging Officer**

Yokoniya Ngoma (Line Manager)

**In Attendance**

Bright Jangazya – Accused

10.8 The preamble of the Minutes at p.144 Record of Appeal reads as follows;

*“The meeting was called to order at 15:20hrs and the Chairperson started by welcoming members of the panel and further introduced them to the accused. She asked the accused if he had any reservations on the composition of the panel to which he did not.”*

10.9 We note that David Chansa’s only recorded contribution to the proceedings is at page 145 of the ROA where he advised that the word “approved” be replaced with the word “recommended” so as to reflect the language in the investigative report. There was no objection by the Appellant.

10.10 We further note that the last page of the minutes shows the names and signatures of the panel members and does not include David Chansa’s name or signature. This appears to support the Respondents submission that David Chansa

was not an actual member of the panel but simply representing the risk department.

10.11 The Record shows that Mr. Chansa was a victim of the Appellants alleged illegal viewing of his colleagues personal accounts. He therefore, to that extent had an interest in the matter. He was however, not there in his capacity as a victim but representing the Risk Department. The investigation was conducted by FCRM who also compiled the investigation report.

10.12 Mr. Chansa was not one of the investigators and as shown by the FCRM report at page 157 ROA, he was merely interviewed by the FCRM. The details of his interview are at pages 166-167 ROA and show that after receiving an email containing allegations against the Appellant, Mr. Chansa instructed Mr. M. Phiri to conduct investigations into the matter. Based on the concerns raised by Mr. Phiri, Mr. Chansa recommended that the Appellant be suspended. The recommendation was supported by the Respondents management and the Appellant was suspended on 1<sup>st</sup> April, 2016.

- 10.13 In an ideal situation, it may have been wise for someone else to represent the Risk Department. We do however note that the Appellant was asked whether he had any reservations about the composition of the panel and he raised no objection at all.
- 10.14 We further observe that the Appellant opted not to ask Mr. Chansa any questions at all to clarify any aspect of the FCRM Report. In the circumstances, Mr. Chansa's presence did not prejudice the Appellant in any way and his objection at this point is clearly an afterthought.
- 10.15 Strictly speaking, having Mr. David Chansa in the meeting and him not having declared an interest and not having excused himself was a procedural error as it was against the clear wording of clause 13.1 of the disciplinary code but that in itself does not exonerate the Appellant. In this regard we call to mind the case of **Zambia National Provident Fund v Y.M. Chirwa**<sup>(14)</sup> where the Supreme Court held as follows;

*“Where it is not in dispute that an employee has committed an offence for which the appropriate punishment is dismissal and he is [so] dismissed, no*

*injustice arises from a failure to comply with the laid down procedure in the contract and the employee has no claim on that ground for wrongful dismissal or a declaration that the dismissal is [a] nullity.”*

10.16 The Supreme Court reiterated this principle in the case of

**Patrick Maguwudge v Mopani Copper Mines PLC** <sup>(15)</sup>

*“The meaning and effect of our holding in Zambia National Provident Fund v Chirwa is that a failure to comply with any laid down disciplinary procedure would not negative the dismissal of an employee who has committed an offence for which such dismissal represents the appropriate punishment”*

10.17 Further on this point, in the case of **Ward v Bradford**

**Corporation Limited**<sup>(16)</sup> Lord Denning, stated that the Courts must not force disciplinary bodies to become introverted in nets of legal procedure so long as they act fairly and justly, their decisions should be supported.

10.18 On the question addressed at the hearing with regard to the warning letters issued to the Appellant by the Respondent, the Record shows that when the Appellant appeared before the disciplinary tribunal on 6<sup>th</sup> June, 2016 facing three

charges, he was already serving a warning for an earlier disciplinary infraction. He was facing the following three separate charges.

1. *Charge 1 - Failure to comply with established procedures and standing instructions in breach of Section 17.1.9 of the Respondents disciplinary and grievance procedure code. The Appellant was found guilty.*
2. *Charge 2 - Forgery, uttering, falsification, alteration, destruction and removal of company documents with the intention to defraud or mislead the Bank for breach of 17.6.1. The Appellant was acquitted.*
3. *Charge 3 - Failure to comply with established procedures and standing instructions in breach of Section 17.1.9 of the Respondents disciplinary and grievance procedure code [different particulars from those in charge 1]. The Appellant was found guilty.*

10.19 In respect of the two Charges the Appellant was found guilty under Section 19.1.9, the penalty for a first offender

is a first warning letter, a second offender receives a final warning letter and a third offender is discharged from employment.

10.20 In our view, since he was already serving under a first warning letter, when he was found guilty of the first charge, it constituted a second offence for which the penalty is a second warning letter. He was then found guilty of the third charge and that constituted a third offence for which the penalty is being discharged from employment.

10.21 The Appellant argues that he was never served with a second warning letter and the Respondent does not dispute the fact. We see this as a procedural infraction because the disciplinary code provides that a second warning letter be issued.

10.22 We however find that despite the procedural infractions of Mr. Chansa not having declared an interest and the Respondent not having issued a final warning letter to the Appellant, the disciplinary committee found overwhelming reason to terminate the Appellants employment.

10.23 In keeping with the Supreme Court decision in **Patrick Maguwudge Case** *supra* and other decisions on procedural errors by employers, we find that the third charge was a dismissible offence and in the circumstances of this case, we would not interfere with the decision of the lower Court. Therefore, ground 2 has no legal leg to stand on and we dismiss it accordingly.

## 11.0 CONCLUSION

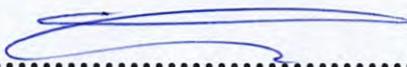
11.1 In a nutshell, we have found ground one which was attacking the finding of the lower Court that there was no unfairness in the manner in which he was discharged to be bereft of merit.

11.2 Pertaining to ground two where the discontent emanated from the composition of the disciplinary panel, we find it equally devoid of merit.

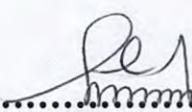
11.3 Ground three which was in relation to the refusal by the Court below to award damages was not addressed in the Heads of Argument and we considered it abandoned. In any event, the success of the ground was entirely dependent on the fate of the first two grounds.

11.4 In light of the foregoing, all three grounds of Appeal are dismissed for want of merit.

11.5 The matter having emanated from the Industrial and Labour Division of the High Court, the parties shall bear their own costs.

  
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**M. M. KONDOLO, SC**  
**COURT OF APPEAL JUDGE**

  
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**C. K. MAKUNGU**  
**COURT OF APPEAL JUDGE**

  
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**A. M. BANDA-BOBO**  
**COURT OF APPEAL JUDGE**