

INQUIRY BY THE OMBUDSMAN

IN THE MATTER

BETWEEN

ANNIE MWASINGA.....COMPLAINANT

AND

MALAWI POLICE.....RESPONDENT

INQUIRY NO: 08/2016

FILE NUMBER – OMB-MZ-C-126-2009

DETERMINATION

CORAM

Hon. Martha Chizuma-Mwangonde	-	Ombudsman
Complainant	-	Present
Respondent	-	Absent

DETERMINATION

The Complainant's daughter wrote the office in February 2009 seeking help over underpaid death gratuity following her father's death. The file shows that there were several attempts by the office to communicate with the Respondents herein. However no response was received from the Respondents until it was decided to simply dispose the matter by way of Public Inquiry which was held in Mzuzu on 26th February 2016. The Respondents never made it for the inquiry despite sufficient evidence that they were duly served. I thus proceeded to hear the Complainant's evidence.

In her evidence the Complainant stated that her husband died as a constable in November 1993. She received less than K40, 000 in death benefits. She visited the police again in 1998 to follow up but they simply told her that they would revert to her. They never did till 2009 when she lodged a complaint with our office. When asked if she had any evidence that would show that she was underpaid gratuity she could not produce any but stated that it was for the reason that her children were many that she was convinced that her gratuity was very little. Moreover when she had inquired from Police in the 90's they confirmed with her verbally that the gratuity she received was not enough.

The office of the Ombudsman is a creation of the constitution with a specific mandate of monitoring how public institutions discharge their functions. In short it is a mirror that reflects the operations of Government. It is thus important that the Public Institutions conduct their functions in such a manner that they would not be ashamed of the reflection they would get when a complaint is lodged against them in this office. Or if indeed they are incapable of shame for their actions, they should still conduct themselves in a manner that does not cause outrage in the people that they are supposed to serve. Otherwise they would be found to be guilty of maladministration.

One of the major misconduct by public institutions in this country is lack of responsiveness as it happened in this case. As per the evidence it was after she had noticed that her gratuity was not enough that she inquired from the Respondents about it in 1998. The Respondents simply promised to revert to her but never did.


When she lodged the complaint still the Respondents never responded to any of the letters that this office wrote. The climax of this 'couldn't care less' attitude showed its ugly head even during this inquiry where without proffering good reasons the Respondents simply sent a message that they would not attend the inquiry. All that is required in this complaint is for the Respondent to demonstrate that the gratuity that was given to the Complainant was enough or not. Their failure to do that amounts to maladministration and has resulted in the Complainant herein suffering an injustice of being unnecessarily kept in suspense for too long.

In as far as the appropriate remedy is concerned in this case, section 126 (a) gives me powers to direct that an appropriate administration action be taken to redress the grievance. The proper administrative action herein in my view is for the Respondents to respond to the query by the Complainant on how they arrived at her gratuity amount. To this end I direct that the Respondents through this office provides the Complainant with the calculations of her late husband's death gratuity within the next 21 days from the date of this determination. If indeed the calculations show that she was underpaid, the Respondents should clearly mention the figure by which they underpaid her and I will then proceed make another order based on such disclosure.

RIGHT OF REVIEW

Any Party dissatisfied by this determination and with sufficient interest in the matter has a right to apply for review to the High Court in accordance with section 123 (2) of the Constitution within 90 days from the date of this determination.

Made this 11TH Day of April 2016.


Martha Chizuma Mwangonde

OMBUDSMAN

