

INQUIRY BY THE OMBUDSMAN

IN THE MATTER

BETWEEN

JAMESON BWANALI..... COMPLAINANT

AND

MINISTRY OF TRANSPORT & WORKS..... 1<sup>ST</sup> RESPONDENT

MINISTRY OF WATER & IRRIGATION.....2<sup>ND</sup> RESPONDENT

INQUIRY NUMBER: 62/2018

FILE NUMBER- OMB/BT/C/1293/2001

CORAM

Martha Chizuma	-	Ombudsman
Jameson Bwanali	-	Present
Tabo Maulidi	-	for the Respondent
Rabson Chawinga		

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## DETERMINATION

1. The Complainant started working for the Ministry of Works in 1957 as a Water Plant Operator. However the documentation available shows that he started work in 1960. The Complainant does not have any evidence to show that he started working in 1957.
2. He was arrested in 1972 on allegations of fuel misappropriation but was later acquitted and reinstated in his job.
3. He was arrested again in 1974 on suspicion that he was in possession of seditious material from his father who was working in Tanzania and was released in 1975.
4. After the establishment of the National Compensation Tribunal, he lodged his complaint there and was given an interim payment of MK20, 000.00 as compensation for unlawful detention.
5. His claim is now for unpaid pension as he worked for 19 years and when he was arrested.
6. The Respondent did not testify as they did not have access to the facts before the time inquiry (20<sup>th</sup> June, 2017) such that I allowed them to go back and to present their position by 7<sup>th</sup> July, 2017. The Respondent never came back to me with feedback. Looking at the time gone by I proceeded to do my determination based on the evidence on file. After all, they were present at the Inquiry.
7. I have to mention that my Office started investigating this matter in 2009 and the Complainant has been pushed from Ministry of Works and Transport and Ministry of Water. None of the officials in these two Ministries want to take responsibility to assist the Complainant. This is in spite of the government circular that was released on 28<sup>th</sup> July, 1996 that all those who were arrested on political grounds and subsequently lost their jobs should be retired and be given their dues.

8. It is clear that the Complainant was working as a Water Plant Operator. However, I note from the correspondence on file that the Complainant was later referred to the Ministry of Water as his position had moved with the unmerging of Government Ministries.
9. The Complainant should not be victimized by the Respondents pushing him from one Ministry to another. As they are both Government Ministries, I direct the Ministry that is presently responsible for the position the Complainant was working should be the one to process his pension. Hence Ministry of Water should be the one to process the pension of the Complainant and this should be done by 30<sup>th</sup> June, 2018.

#### 10. RIGHT OF REVIEW

Any party dissatisfied with this determination and with sufficient interest in the matter is at liberty 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.

Dated this 23<sup>rd</sup> day of April, 2018

  
Martha Chizuma  
OMBUDSMAN