



REPUBLIC OF MALAWI

# INQUIRY BY THE OMBUDSMAN

IN THE MATTER

BETWEEN

LLOYD MVULA.....COMPLAINANT

AND

MZIMBA DC.....RESPONDENT

INQUIRY NO.: 04/2018

FILE NUMBER - OMB/MZ/C/36/2010

## DETERMINATION

**CORAM:**

<b>MARTHA CHIZUMA-</b>		<b>OMBUDSMAN</b>
Lloyd Mvula	-	Complainant
Respondent	-	Absent but served

## DETERMINATION

1. The Complainant lodged this claim against the Respondents Mzimba DC alleging failure by the Respondents to pay his compensation. The letter of complaint was received by our office in Mzuzu on 23<sup>rd</sup> February, 2010.
2. The evidence on the file suggests that the Respondents were not forthcoming in providing feedback. However, during an on spot investigation in November, 2016 the Respondents' Mr. Munthali promised to remind the DC to make payment herein but nothing positive came out from this.
3. Thus when the matter was recommended for public inquiry which took place on 14<sup>th</sup> December, 2017. The Respondents did not attend the inquiry despite due service of the notice on them.
4. In his evidence he stated that in 2007 ESCOM was putting an electric line between Chibavi and Msona. In the process they destroyed the Complainant's 18 blue gum trees and promised to compensate him through the Respondents' office.
5. Evidence on the file suggest that ESCOM paid the Complainant's compensation through the Respondents but the Respondents failed to remit the same to the Complainant since the money was misappropriated by one of their official who fled to South Africa.
6. The information on the file is that the Complainant does not know how much was paid to the Respondents as compensation for his trees. However he stated that in 2008 a tree was at MK500.00
7. Based on the above evidence I am convicted that the Respondents herein had a duty to remit the compensation sum to the Complainant. Their failure to do that amounted to unfair and unjust omission of duty. It was maladministration.
8. In as far as remedy is concerned what needs to be done is to pay the stated compensation at the current value of a tree. According to the second schedule in the Forestry (Amendment) Rules, 2010 price of a blue gum tree is at K10, 000.00 per cubic metre. I assume that the Complainant's trees were mature as such I will put them at 2 cubic metres each. Therefore each tree should be K20, 000.00 which translates to K360, 000.00 for 18 trees.
9. In view of this I make the following directives:
  - a) The Respondents pay the Complainant the sum of K360, 000.00 being compensation for 18 blue gum trees.
  - b) The above payment should be made by 30<sup>th</sup> November, 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 hereof.

DATED THIS 4<sup>TH</sup> DAY OF OCTOBER, 2018

  
Martha Chizuma  
**OMBUDSMAN**

UJIBU WAJILU

COMPLAINANT

AND

WAZIMBA WA

RESPONDENT

INQUIRY NO: 04/2018

FILE NUMBER: 04/0002/07/010

**DETERMINATION**

ASAMU

MARTHA CHIZUMA

OMBUDSMAN

WAZIMBA WA

OMBUDSMAN

RESPONDENT

UJIBU WAJILU