



REPUBLIC OF MALAWI

# INQUIRY BY THE OMBUDSMAN

IN THE MATTER

BETWEEN

NDASHE MUSHANI.....COMPLAINANT

AND

MZIMBA DC.....RESPONDENT

INQUIRY NO.: 06/2018

FILE NUMBER - OMB/MZ/C/138/2003

## DETERMINATION

**CORAM:**

<b>MARTHA CHIZUMA-</b>	<b>OMBUDSMAN</b>
Ndashe Mushani -	Complainant
Respondent -	Absent but served

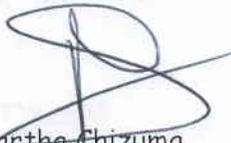
## DETERMINATION

1. The Complainant lodged this claim through a letter dated 14<sup>th</sup> July, 2003 against the Respondents Mzimba DC alleging failure by the Respondents to pay deceased estate.
2. The evidence on the file suggests that the Respondents were not forthcoming in providing feedback and the matter was scheduled for inquiry in 2006 thereafter the inquiry suffered a good number of adjournments due to problems within the office but in other cases due to non-attendance by the parties.
3. One time the Respondents requested our office to pend any inquiry since the Minister of finance was working on the issue. Our officers' efforts to follow up on the matter proved futile.
4. Thus when the matter was recommended for a fresh public inquiry which took place on 27<sup>th</sup> June, 2017. The Respondents did not attend the inquiry despite due service of the notice on them.
5. In his evidence he stated that his brother who was working with Malawi Police Service died in 1995. His employer prepared his benefits and sent them to Chitipa DC and the DC distributed the funds to the deceased's 3 children and his sister.
6. Since the Complainant was working he did not give it much attention until he got an advice from a friend. He withdrew the money and put it in a fixed account. On first maturity he went to oversee the second deposit in fixed account.
7. One day when the Complainant was working at the Prison service he saw policemen coming with Lembemu who was the guy handling the account at Chitipa DC in handcuffs.
8. On the Complainant's transfer before the above incident he had transferred the kids' books from Chitipa to Mzimba Dc. He went to Mzimba DC to check on the kids' funds where he discovered that the accounts appeared completely drawn and closed. Thus when he brought the matter to this office.
9. At one point the Respondents advised him that his cheque was ready but when he went there to check he found out that it was not in his name. The money that belonged to the kids was MK6, 336.56 this was as of 2003. The money was in fixed account and by now it should have been more than this.
10. Based on the above evidence I am convicted that the Respondents herein had a duty to remit the funds which were misappropriated by their employee to the Complainant. Their failure to do that amounted to unfair and unjust omission of duty. It was maladministration.
11. In as far as remedy is concerned what needs to be done to repair the injustice is to pay the sum of MK6, 336.56. This should be paid at the current value of kwacha in order to ensure that value for money is obtained.
12. In view of this I make the following directives:
  - a) The Respondents should pay the Complainant the sum of MK6, 336.56 taking into consideration the devaluation of the kwacha.
  - b) The above payment should be made by 30<sup>th</sup> November, 2018.

**13. 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> OCTOBER 2018

  
Martha Chizuma  
OMBUDSMAN

NIDASHI WYSHANE

COMPLAINANT

AND

ALIMBA DC

RESPONDENT

INQUIRY NO - 08/2018

FILE NUMBER - OMB/M/C/136/2018

DETERMINATION

BY  
MARTHA CHIZUMA  
OMBUDSMAN

COMPLAINANT  
ALIMBA DC