

SERGEANT MUTORE 046052 F
versus
THE CHIEF STAFF OFFICER
(ZIMBABWE REPUBLIC POLICE)
and
THE COMMISSIONER GENERAL OF POLICE

HIGH COURT OF ZIMBABWE
ZHOU J
HARARE, 21 March 2017 & 28 July 2017

Opposed Application

N Mugiya, for the applicant
T S Musangwa, for the respondents

ZHOU J: The applicant, former member of the Zimbabwe Republic Police (ZRP), is seeking an order to be reinstated into the ZRP and for payment of costs on the attorney-client scale. The application is opposed by the respondents.

The basis of the application is as follows. The applicant was charged for contravening the provisions of the Police Act. He was found guilty as charged, and sentenced to 10 days imprisonment at Chikurubi Barracks. He duly served his sentence. His appeal to the second respondent was dismissed. He was subsequently discharged from the Zimbabwe Republic Police on 30 October 2014.

He states that he only became aware of his discharge on 3 January 2015 whereupon he filed his notice of intention to appeal. He then filed his grounds of appeal on 7 November 2014. A reading of the documents attached to the applicant's papers which are not even marked shows that a letter headed "Appeal Against Discharge By No 0460542 F Sgt Mutore" was delivered at

the Civil Service Commission on 3 November 2014 and not on the date stated in the applicant's affidavit.

The applicant in his affidavit states that after filing the notice of appeal he expected to be reinstated.

The respondents, in opposing the application, have objected to the citation of the second respondent on the basis that there are many Chief Staff Officers in the Zimbabwe Republic Police. The objection has merit, and is upheld on the basis that the applicant ought to have cited the particular officer who dealt with his case by name and indicate that the citation was in his official capacity. See *JDM Agro-Consult & Marketing (Pvt) Ltd v The Editor, The Herald & Anor* 2007 (2) ZLR 71 (H).

On the merits the respondents contend that the applicant was discharged from the ZRP following recommendation of the Board of Inquiry set up to determine his suitability to remain in the ZRP. The Board of Inquiry was convened on 17 September 2014. The applicant has not challenged his discharge from the force. The instant application is not for the setting aside of the decision to discharge him. Instead, it is an application for reinstatement which is being sought in the face of an extant discharge from the ZRP which remains effective. That relief cannot be sustained on the papers filed in this application.

In the result,

IT IS ORDERED THAT:

1. The application be and is hereby dismissed.
2. The applicant is to pay the costs.

Mugiya & Macharaga, applicant's legal practitioners
Civil Division of the Attorney General's Office, respondents' legal practitioners