

Application 003/2011

Urban Mkandawire v. the Republic of Malawi

Summary of facts

1. The application is submitted by Mr. Urban Mkandawire, a citizen of Malawi, against the Republic of Malawi.
2. The applicant submits that in 1998 he was employed by the University of Malawi as Staff Associate in the French Department at the Chancellor College. He avers that in December 1999 his services were terminated without being accused of incompetence, and neither was he given a chance to defend himself against the allegations that led to his dismissal.
3. The Complainant submits that the fact that students complained about his teaching methods is not enough ground for the University to dismiss him, and that the recommendations from the Disciplinary Committee to dismiss him amounts to unfair labour practices.
4. He adds that he was dismissed without good cause and the procedure followed by the University was unconstitutional because, according to him, it was in breach of Sections 31 and 43 of the Constitution of Malawi, as well as the conditions of service contained in Papers No. 6083A – 6086A of the University Act (Cap. 30:02 of the Laws of Malawi).

Relief sought

5. The applicant is seeking the following relief:
 - Reinstatement – according to the applicant, he should be reinstated because ‘I consider it unlikely that I will easily find alternative employment as an academician in Malawi. Secondly, I have not been able to find employment or employment at the same level at which I was remunerated by the University, and lastly, the State had not placed any evidence before the Commission to displace the inference that fairness demanded reinstatement’.
 - Payment of two months salary in lieu of notice to the tune of MK 56,813.40, including professional and housing allowances, as well as devaluation since 1999.
 - Payment of remuneration that he would have received during the counseling period. (From 2/12/1999 to 31/8/2000) to the tune of Mk 1,350,000.00.

- Payment of immediate loss to the tune of MK 3,416,845.60.
- Payment of damages and legal costs to the tune of MK 8,000,000.00.
- Refund of the sum of MK 15, 400.00 being the balance of rental paid to Mrs. Eurita Ibrahim Khofi.

Procedure

6. The application was received at the Registry of the Court on 13 March 2011. The Registry acknowledged receipt of the application on 18 March 2011 and registered it on the same date.
7. By letter dated 28 March 2011, the Registry wrote to the African Commission to ascertain whether the matter, which was before the latter, has been formally withdrawn.
8. By letter of 19 May 2011, the Executive Secretary of the African Commission confirmed that the applicant has made a formal request to the Commission to have his communication withdrawn and the Commission has granted that request.
9. Pursuant to Rule 35 (2) (a) of the Rules of Court, the application was served on the Respondent State by letter, dated 18 June 2011. The Respondent was also advised to acknowledge receipt of the application, communicate the names of its representatives within 30 days and respond to the application within sixty (60) days.
10. Pursuant to Rule 35 (3) of the Rules of Court, by letter dated 17 June 2011 addressed to the Chairperson of the AUC, the application was notified to the Executive Council of the AU and State Parties to the Protocol Establishing the Court.

For further information, please contact:

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