

CIV/APN/333/95
 IN THE HIGH COURT OF LESOTHO
 In the Application of:

DAVID MOHOLO	Applicant
vs	
COMMISSIONER OF POLICE	1st Respondent
ATTORNEY - GENERAL	2nd Respondent

JUDGMENT

Delivered by Hon Mr Justice MX. Lehohla on the 29th day of November 2000.

This is a judgment in CIV/APN/333/95 in the case of David Moholo vs Commissioner of Police and the Attorney General. The applicant approached this Court by way of notice of motion asking the Court to issue an order against the respondents in the following terms :

1. The first respondent be directed to pay to the applicant his salary from September 1991 to November 1994, together with its interest thereon, at the rate of 18.25% per annum from November 1994 to date of payment.

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- 2) That the first respondent be directed to pay to the applicant gratuity and other benefits from 1980 to November 1994.
- 3) Further and finally that the first respondent be ordered to pay costs of this application.

The applicant relied on his Founding Affidavit more especially on paragraph 7, where he indicates that in 1990. This is what he says - 'I had left for further training overseas from the then Commissioner of Police, Major General Dingiswayo who referred me to the present COMPOL who was then Brigadier Pinda. The Brigadier informed me that at that time there were no scholarships, but however later on, I learned that there were scholarships being offered for the Police Force. I then applied and my application was approved on behalf of the COMPOL by the then Major Lesita. I annex hereto a copy of my application submitted to the Scholarship Fund by the said Mr Lesita marked Annexure "DM2" for ease of reference

"DM2" is definitely before me and it encompasses the following: first, that the trainee's name is Mohlouoa David Moholo; next, his immediate superior/sponsor is E.S. Lesita whose rank at that time was Major in the organisation of the police force/service. Among things which this course would facilitate or help broaden the

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horizon of the applicant on following his educational programme to be pursued in

Canada were the following :

- a) Lesotho Government has no officers being trained in this field, i.e. qualification in Criminology at an MA level.
- b) The request for this training will improve the law enforcement personnel in Lesotho and in the Commonwealth.
- c) The training in this field of study will introduce me to more advanced methods of administration of criminal justice.

The above are very commendable things indeed, and in response to these which have been of course approved by Lesita in his affidavit, he states as follows in support of the Answering Affidavit by Mpopo - Lesita says, 'I have read the affidavit of the application and correctly understood it. I have also read and correctly understood the answering affidavit of Moloi Mpopo and wish to confirm the contents thereof as true and correct in so far as they relate to me'.

It is to be found in Mpopo's affidavit that in response to paragraph 7 of the applicant's affidavit Mpopo at paragraph 9 says : "I have no knowledge of the contents hereof and put applicant to the proof thereof. I was informed by Mr Lesita

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and I verily believe same to be true when he told me that the applicant asked him to complete and sign forms which applicant was to submit to the BLSM Scholarship fund programme because he was his supervisor. The forms have been attached to the affidavit of applicant and they speak for themselves".

Indeed they speak for themselves and they are very impressive and what's more what can be said about them is that nowhere does Lesita oppose them. Instead he actually supports them, therefore from this can be read the fact that the Commissioner of Police of the then time approved through his subordinate officers the search and pursuit for scholarship and training overseas by the applicant.

Having said this therefor I find that this application before this Court was well conceived. I can only express my regret that because of lack of understanding; training in the Police Force then, and perhaps even to date, assets such as the present applicant are lost to countries nearby - our loses are their gains.

In the circumstances I made the following order granting the application as prayed in terms of prayers 1,2, and 3 to the effect

- 1) that the respondents pay the applicant his salary from September 1991

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to November 1994;

- 2) that the 1st respondent pay the applicant gratuity from 1980 to November 1994;
- 3) that the 1st respondent pay costs of this application.

(Three minutes after granting the above order the Court reconvened to place on record the following which it should have started with right at the beginning) :-After this Court had

convened this morning, the Court observed that Mr Mda was appearing for the applicant on instruction from Du Preez Liebetrau and Co; however there was no appearance on the respondents' side.

In consequence thereof the Court Orderly shouted the two respondents' names on the public address system three times each and his report was that there was no response. In consequence thereof the Court was persuaded to proceed with the matter by Mr Mda, and it duly did so.

JUDGE
29th November, 2000

For Applicant: Mr Mda
For Respondents : No Appearance

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CIV/T/358/91
IN THE HIGH COURT OF LESOTHO

In the matter of:

LESOTHO NATION GROUP INSURANCE	Plaintiff
vs	
MRS MERIAM MATLOSA	1st Defendant
MR HLOMPHO RAMOTHAMO	2nd Defendant

JUDGMENT

Delivered by Hon. Mr Justice M.L. Lehohla on the 24th day of November 2000.

The first defendant prepared transfer of ownership forms on the 23rd of October 1986, the accident occurred on the 7th of March, 1987 and ratification by the second defendant, through defendant's wife, who in this respect would be taken to have been acting as agent of the second defendant in view of the fact that the agreement to sell the vehicle was between the first and second defendants, and this is not denied. Then the ratification was on the 13th of November, 1987 giving effect to what occurred on

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the 23rd of October, 1986 and in this event it would appear in my view that when the accident occurred on the 7th of March 1987 change of ownership had effectively been made prior to this date.

On this basis therefore I find that the second defendant is liable to the plaintiff for the sums set out in the summons and as prayed.

JUDGE
24th November, 2000

For Plaintiff: Mr Grundlingh
For Defendant: Mr Nathane