

IN THE HIGH COURT OF LESOTHO

HELD AT MASERU

CIV/APN/272/20

In the matter between:

MOTHABATHE HLALELE

Applicant

And

THE HONOURABLE PRIME MINISTER OF

LESOTHO DR. MOEKETSI MAJORO

1st Respondent

RETS`ILISITSOE MOHALE

2nd Respondent

THE GOVERNMENT SECRETARY

3rd Respondent

THE PUBLIC SERVICE COMMISSION

4th Respondent

THE MINISTER OF PUBLIC WORKS

5th Respondent

**THE PRINCIPAL SECRETARY, MINISTRY
OF FINANCE**

6th Respondent

THE DIRECTOR HUMAN RESOURCE

MINISTRY OF PUBLIC WORKS

7th Respondent

**THE PRINCIPAL SECRETARY, MINISTRY
OF PUBLIC SERVICE**

8th Respondent

**PUBLIC OFFICERS DEFINED CONTRI-
BUTION PENSION FUND**

9th Respondent

**PRINCIPAL OFFICER PUBLIC OFFICER`S
DEFINED CONTRIBUTION PENSION FUND**

10th Respondent

THE ATTORNEY GENERAL

11th Respondent

RULING

Coram	:	Hon. Justice T. E. Monapathi
Date of Hearing	:	10/09/2020
Date of judgement	:	16/09/2020

SUMMARY

Introduction:

1. In dealing with this matter of urgent interim relief is when we discuss issues and principles concerning prima facie apprehensive of harm (if it exists) balance of convenience and existence of adequate remedy all in relation to prayers concerning repossession of Government house and car. These would include other rights which Applicant claims.

2. What I clearly observed was the tendering of Courts to dip into issues belonging to merits while ostensibly addressing the matter of interim relief. I appreciate the difficulty facing Counsel. My attempt which is basically to determine whether interim relief be granted is to try to be as strident as possible, that is, to stick to the brief.

3. My starting point is to point out that the Applicant himself seemed to concede in pleading that they would opt out for alternative relief as prayed in prayers (d) (i) (ii) (iii) (iv) (vii). These in my view pointedly indicate that there are other adequate remedies. Perhaps this intimates the undeniable fact or situation that as Counsel admitted there was someone appointed as incumbent to the position that the Applicant had held which the Prime Minister did appoint and the Public Service Commission did by reason of their statutory powers. This is normally called a fait accompli.

4. Against this background the Applicant had unavoidably conceded that what he seeks is a reinstatement in effect. Namely that for the time being he be reinstated pending finality of this proceedings. This in my view is patently awkward in practice. One would safely say it would be wrong in puerile. See LETSTSI NTSIBOLANE VS TEACHING SERVICE COMMISSION AND 5 ORS, CIV/APN/45/2019 where at page 5 and PARAGRAPH 9, Moahloli J has this to say: “A Court will normally not grant urgent interim relief such as interim reinstatement because such applicant will inwardly have other satisfactory remedies (at conciliation and adjudication). More so it will not correct that reinstatement can ever be considered as being interim.”

5.1 Both Counsels in seeking to ventilate their cases about urgent relief, I repeat clearly touched on the issues of merits. See reference to MOSOTHODAMANE AND ANOTHER VS PRIME MINISTER AND 2 OTHERS CIV/APN/211/2020. I would safely avoid to comment about those issues for another day.

5.2 Secondly as about the merits that the contract of Applicant employment had in any event been terminated.

5.3 That as another issue that the incumbent to the Applicant`s former position had been filled up by another candidate the Applicant contract having expired.

5.4 As another issue that the Applicant purported extensions of his contract was null and void as indication that Applicant had no clear right.

In other words even if those or some of them could conduce to refusal to grant interim relief they had to be discussed fully on the merits. Be that as if may the best reason for refusal of interim relief is to be found as being the futility of granting interim relief which amounts to reinstatement.

6. The application for interim relief is hereby dismissed. Costs are costs in the cause.

T.E. MONAPATHI

JUDGE