

COMMUNITY COURT OF JUSTICE,

ECOWAS

COUR DE JUSTICE DE LA COMMUNAUTE,

CEDEAO

TRIBUNAL DE JUSTIÇA DA COMUNIDADE,

CEDEAO



No. 10 DAR ES SALAAM CRESCENT,

OFF AMINU KANO CRESCENT,

WUSE II, ABUJA-NIGERIA.

PMB 567 GARKI, ABUJA

TEL/FAX:234-9-6708210/09-5240781

Website: [www.courtecowas.org](http://www.courtecowas.org)

**IN THE COMMUNITY COURT OF JUSTICE OF THE ECONOMIC COMMUNITY  
OF WEST AFRICAN STATES (ECOWAS) HOLDEN AT ABUJA, NIGERIA ON  
THE 04<sup>th</sup> DAY OF MAY 2015**

**SUIT N°: ECW/CCJ/APP/20/13**

**JUDGMENT N°: ECW/CCJ/JUD/11/15**

**BETWEEN:**

**Mohammed El Tayyib Bah – Plaintiff / Applicant**

**AND**

**Republic of Sierra Leone – Defendant / Respondents**

**BEFORE THEIR LORDSHIPS:**

- |  |             |
|--|-------------|
| 1- Hon. Justice Friday Chijioke Nwoke    | – Presiding |
| 2- Hon. Justice Micah Wilkins Wright     | – Member    |
| 3- Hon. Justice Hameye Founé Mahalmadane | – Member    |

**Assisted by Aboubakar Diakité –Registrar**

**Representation to the Parties:**

- 1- Ray Onyegu & Sola Egbeyinka – For the Plaintiff / Applicant
- 2- Defendant Absent and Unrepresented

Delivers the following Judgment:

**1- SUBJECT MATTER OF THE PROCEEDINGS:**

The subject matter of the suit pertains to the unlawful and unfair dismissal of the Plaintiff / Applicant from the Police Force of the Defendant/Respondent, on trumped up charges, and without a hearing thereby violating the Plaintiff/Applicant right to fair hearing guaranteed by Art7 of the African Charter on Human and People's Rights.

**2- SUMMARY OF FACTS AND PROCEDURE:**

By an application lodged before the Court on the 14<sup>th</sup> of October, 2013, the Plaintiff/Applicant (hereinafter called the Applicant) a citizen and a former Superintendent of Police of the State of Defendant (Republic of Sierra Leone) alleged that he was unlawfully and unfairly dismissed from the defendant's Police Force without being afforded a hearing in contravention of the Art 7 of the African Charter on Human and People's Rights.

The Applicant was enlisted in the Sierra Leone Police Force as a Cadet Assistant Superintendent of Police in 1984 and based on his meritorious service to the Force, he was commissioned as an Acting Superintendent of Police (Asp in 1992).

In the course of the performance of his duties and in exercise of his freedom of expression, he had a discussion (apparently a bobby trap) with the then Inspector General of Police, Mr. Walter Nicol who on the basis of the Applicant's statements turned around and accused him (the Applicant) of insubordination. He was also accused of having a link with the Revolutionary United Front (RUF) Rebels who were then engaged in war with the legitimate government of Sierra Leone.

On the basis of these allegations and without being afforded the opportunity to answer to them, the Applicant who had served the Defendant's Police Force diligently for 10 years was dismissed from service.

By a letter dated the 15<sup>th</sup> of March, 2008 the Applicant appealed to the relevant authority for review of his dismissal. The Police authorities found that the dismissal of the Applicant was in blatant violation of his human rights as he was not afforded the opportunity to defend himself (see Annexure A).

Notwithstanding the findings in Annexure A the Defendant refused to reinstate the Applicant and / or pay him his entitlements. By a letter dated 5<sup>th</sup> December, 2012 the Applicant, through his Counsel Tanner Legal Advisory petitioned, the ombudsman (Annexure B), who upon investigation wrote to the Ministry of Internal Affairs of the Defendant for comments and necessary action (Annexure C).

In reply via a letter dated 23<sup>rd</sup> June 2013, the Ministry of Internal Affairs of the Police Council considered the Applicant's dismissal and "decided that there was no justifiable ground to reverse the decision dismissing Mohammed El Tayyib Bah (the Applicant) from the Police Force"(Annexure D).

It was also alleged that following the dismissal, the Applicant was ejected from his apartment in the Police quarters. He could not take care of his family which resulted in desertion by the wife (Mrs Ramatu Bah) and the death for his mother as a result of lack of medical attention.

The Applicant could not secure an alternative employment, on account of his previous record of dismissal from service.

The Applicant also alleged that he lost the parliamentary election contested by him in November, 2012 on account of the said dismissal, as his opponents informed the electorate that a dismissed Police Officer is unfit to rule.

As a result of these acts of the Defendant, the Applicant has been subjected to psychological trauma since 1994 (the date of dismissal).

Neither the Police authorities nor the Police council who reviewed his case gave him opportunity to make a representation when it considered his dismissal from the Force.

The Applicant in consequence of the misfeasance of the Defendant sought from this Court the following reliefs:

**(i)**- A declaration that the dismissal of the Plaintiff from the Police Service of the Defendant in 1994 and further confirmed by a letter dated 3<sup>rd</sup> June 2013 is illegal, null and void as it violates the Plaintiff's right to fair hearing guaranteed by Article 7 of the African Charter on Human and People's Rights.

**(ii)**- An order mandating the Defendant to reinstate the Plaintiff and pay him his outstanding salaries, benefits and entitlements.

**(iii)**- An order awarding the sum of \$25,000,000 (Twenty Five Million Dollars) as general damages for embarrassment, mental and psychological trauma and death of this mother.

It must be stated at this juncture that the Defendant did not file documents in answer to the Applicants claim nor signified intention to defend this suit despite the service of the pleadings on her.

### **3- ARGUMENT OF THE PARTIES**

As stated earlier, the Plaintiff brought this action against the Defendant for the violation of his right to fair hearing as enshrined in Article 7 of the African Charter on Human & People's Rights by dismissing him from the Force without giving him the opportunity to answer to the charges upon which his dismissal was predicated.

He therefore sought three reliefs outlined in the statement of facts (see above).

The Defendant did not respond to any of the allegations against her contained in the Applicant's application.

Pursuant to his action, the Applicant formulated one issue for determination, namely:

Whether the failure of the Defendant to afford the Plaintiff an opportunity to defend himself either personally or by legal representation before dismissing

him has not violated the Plaintiff's human right to fair hearing guaranteed by Article 7 of the African Charter of Human and People's Rights.

In his argument, Counsel to the Applicant submitted that by Art 7 (I) of the African Charter on Human and People's Rights, every individual shall have the right to have his cause heard. He further stated that this Court has in a long line of cases upheld the right to fair hearing as a fundamental principle of Law (see *Ugokwe V. Okeke* (2008) / CCj L.R (P7 1) 149 especially at 164.

He also referred the Court to its decision in *Manneh V Republic of Gambia* (2009) and submitted that the dismissal of the Applicant by the Defendant without affording him the opportunity of being heard is illegal, null and void, having been taken in violation of Article 7 of the African Charter on Human and People's Rights.

He further contended that the Applicant is a Community citizen and that where an act of a member state violates his right, he is entitled to be heard by this Court.

Furthermore, that where an act amounts to the violation of the rights of the Applicant, the Court is empowered to make a consequential order.

He concluded by urging the Court to grant the reliefs sought by the Applicant.

Following the close of pleadings, the Defendant did not take any action in defence of the claim against her by the Applicant.

Pursuant to Article 91 of the Rules of this Court, the Applicant brought a motion on notice seeking for an order of the Honourable Court entering default judgment against the Defendant.

The application was supported by a six paragraphs affidavit as well as an eleven paragraphs affidavit of urgency enlisting facts why the motion should be granted. There was no counter affidavit in contradiction of the depositions.

Accordingly, by law, any uncontroverted evidence is presumed to have been established and the Court so holds. The motion on notice of the Applicant seeking the Court to enter default judgment in his favour is hereby granted as prayed.

However, the granting of the application for default judgment against the Defendant does not automatically mean entering judgment on the substantive suit in favour of the Applicant. The Court must consider issues of competence, admissibility and proof before determining the case on its merit.

#### **4- THE WEIGHT OF EVIDENCE ADDUCED BY THE PLAINTIFF**

As earlier noted in considering the merits of the case, it is necessary to evaluate the evidence adduced by the Applicant so as to determine whether it is sufficient to ground a decision of this Court in his favour.

However, it is appropriate at this stage to recapitulate the facts and circumstances of the cause of action before this Court, namely:

- (i)**- The Applicant was dismissed by the Agents of the Defendant's from her Police Force on grounds of insubordination and membership of the Rebel group, the Revolutionary United Front (RUF).
- (ii)** The Applicant complains that he was not heard before the decision to dismiss him from the Police Force of the Defendant was made.
- (iii)** The Applicant contested his dismissal before the Police Authorities, which set up an investigative Panel, who found that there was no basis for the dismissal of the Applicant. But the Defendants still refused to reinstate him or pay his entitlements.
- (iv)** The Applicant further made representations to the Agents of the Defendants through the Ombudsman following the decision in (iii) above that the dismissal did not follow due process.
- (v)** In answer to the Ombudsman's inquiry, the Minister of Internal Affairs of the Defendant stated that "there was no justifiable ground to reverse the decision dismissing Mr. Mohammed Bah El Tayibb from the Police Force".

It was on the basis of the above facts that the Applicant sought the following reliefs from this Honourable Court in a suit filed against the Defendants:

- A- A declaration that the dismissal of the Applicant from the Police Service of the Defendant in 1994 and confirmed via a letter of 3<sup>rd</sup> June, 2013 is illegal, null and void as it violates the Plaintiffs human right to fair hearing guaranteed by Article 7 of the African Charter on Human and People's Rights.
- B- An order mandating the Defendant to reinstate the Applicant and pay him all his outstanding salaries, benefits and entitlements.
- C- An order, awarding general damages of \$25,000,000.00 (twenty five million dollars) being general damages for the embarrassment, mental and psychological trauma and death of his mother as a result of preventable disease to which the Plaintiff was subjected as a result of his illegal dismissal from the Police Service of Sierra Leone.

Before examining the substance of these requests, the Court must consider whether the case is appropriately before it. In a long line of cases the Court have stated that for an application before it to be entertained it must neither be anonymous or pending before another International Court or Tribunal.

More specifically, Article 11 of the 1991 Protocol A/P.1/7/91 relating to the Court provides that "cases may be brought before the Court on an application addressed to the Court Registry. The Application shall set out the subject matter of the dispute and the parties involved and shall contain a summary of the argument put forward as well as the plea of the Plaintiff.

Similarly, Article 33 of the rules of procedure of the Court, provides that:

An application of the kind referred to in Article 11 of the Protocol shall state:

- a- The name and address of the applicant
- b- The designation of the party against whom the application is made
- c- The subject matter of the proceedings and summary of the pleas in law on which the application is based

- d- The form of the order sought by the Applicant
- e- Where appropriate, the nature of any evidence offered in support.

The Court holds that the Applicant has complied sufficiently with the requirements of Law for seizing the Court. Accordingly, the claim is considered admissible.

As earlier noted, the Defendant did not take any step in defence of this suit; in consequence of which the Applicant applied for default judgment in accordance with Article 90 of the Rules of this Court. For purposes of clarity, Article 90 of the Rules of the Court is hereby reproduced:

- (1) Article 90 (1) if a defendant on whom an application initiating proceedings has been duly served fails to lodge a defense to the application in the proper form within the time prescribed, the applicant may apply for judgment by default.
- (2) The application shall be served on the Defendant
- (3) The Court may decide to open the oral procedure on the application
- (4) Before giving judgment by default, the Court shall, after considering the circumstances of case, consider:
  - a- Whether the initiating application initiating the proceedings is admissible
  - b- Whether the appropriate formalities have been complied with and
  - c- Whether the application appears well founded
  - d- The Court may order preparatory inquiry
  - e- A judgment by default shall be enforceable.

Applying these provisions to the facts, the following deductions can be made.

First, the initiating application was filed by the Applicant on the 14<sup>th</sup> of October, 2013 and entered at the Registry of the Court and certified true copy was served on the Defendant on the 24<sup>th</sup> October, 2013. The Defendant was obliged by the rules of the Court to lodge its defence and/or enter appearance within one month of the service, if it intends to defend the action.



The Defendant refused and /or neglected to lodge a defense or enter appearance if it intended to defend the suit. The Applicant filed a motion for default judgment on the 29<sup>th</sup> of November, 2013. The same motion was served on the defendant on the 6<sup>th</sup> day of December 2013. The Applicant moved his motion for default judgment on the 13<sup>th</sup> day of March, 2015 and till date the Defendant neither filed any answer to the motion or the substantive suit. The Court will have no choice than to grant the Application of the Applicant. Accordingly, the Court rules that the Applicant has complied with the provisions of Article 90 (i) of the rules of this Court. This is more so in view of the fact that the process was served on the Defendant as required by Article 90 (2).

Based on the circumstances of the case, the Court rules that the documentary evidence available in this suit, coupled with the refusal of the Defendant to file any defence, makes the opening of oral application on the suit unnecessary in accordance with Article 90 (3) of the rules.

Similarly, there will be no need to order for a preparatory inquiry.

The crux of these requirements for a successful application for default judgment is Article 90 (4) of the rules. The Court is enjoined before giving judgment in default to consider:

- a- Whether the application initiating the proceedings is admissible
- b- Whether the appropriate formalities have been complied with and
- c- Whether the application appears well founded.

In this direction, the Court holds that the application satisfies conditions (a) and (b) as it was appropriately brought and commenced through required procedure and all the formalities for admissibility were satisfied.

As for third condition, which is to determine whether the application is a well-founded, it is necessary to review the substance thereof.

The Application alleges the violation of his right to fair hearing as provided for by Article 7 of the African Charter on Human and People's Rights to which the Defendant is a party. Article 7 of the said Charter provides as follows:

Every individual shall have the right to have his cause heard. This comprises

- (a) The right to an appeal to competent national organs against acts violating his fundamental rights as recognized and guaranteed by conventions, laws, regulations and customs in force,
- (b) The right to be presumed innocent until proven guilty by a competent Court or Tribunal,
- (c) The right to defense including the right to be defended by counsel of his choice
- (d) The right to be tried within a reasonable time by an impartial Court or Tribunal.

The Court is of the view that the provision relied on by the Applicant is relevant for bringing this action against the Defendant.

Article 1 of the African Charter on Human and People's Rights provides that "The Member States of the of the Organisation of African Unity (now African Union) shall recognize the rights, duties and freedoms enshrined in this Charter and shall undertake to adopt legislative or other measures to give effect to them.

Article 4 reinforces this obligation imposed on State parties to the Charter by providing that Human beings are inviolable.

Every human being shall be entitled to respect for his life, and integrity of his person. No one may be arbitrarily deprived of this right.

The Court holds that the Republic of Sierra Leone, being a party to the African Charter on Human and People's Rights is obliged to preserve and protect the Applicant's right to fair hearing as provided for under Article 7 of the Charter.

Historically, referred to as the rule of natural justice, the rule of fair hearing consists of two basic components, namely,

- (i) The rule against bias (*nemo iudex in causa sua*) or that no man should be a Judge in his own cause and
- (ii) The right to a fair hearing (*audi alteram partem*) or hear the other side.

In fact, the rule of right to a fair hearing is as old as man himself. Thus in *R.V University of Cambridge* (1723) 1 Str. 557, Justice Fortescue captured the import of the need for a hearing in the following words:

I remember to have heard it observed by a very learned man upon such an occasion that even God himself did not pass sentence upon Adam before he was called upon to make a defence. Adam says God, where art thou? Has thou not eaten of the tree, whereof I commanded thou shouldst not eat? And the same question was put to Eve also.

Thus, in *Bentley's* case where the University of Cambridge denied a scholar of his degrees on account of a misconduct in insulting the Vice-Chancellor's Court, the Court reinstated him on a *mandamus* on the ground that deprivation was unjustifiable, because he should have received the notice of the charge against him so that he could make his defence. These principles are encapsulated in Article 7 of the African Charter. In a nutshell, the rule is that an individual should not be penalized by decisions affecting his rights or legitimate expectations without being given prior notice of the case, a fair opportunity to answer and/or the opportunity to present their own case. The fact that a decision affects rights or interests of a person is sufficient to subject the decision to the procedures required by natural justice.

Accordingly, every person has the right to have a hearing and be allowed to present his or her own case. The English cases of *Ridge V. Baldwin* (1964) AC. 40 and *Chief Constable of the Northern Wales Police V. Evans* (1982) 1 WLR 1155 are germane.

Furthermore, the accused must be entitled to a hearing. In doing this, the adjudicator must determine whether the person charged has a proper opportunity to consider, challenge or contradict any evidence and whether he is also fully aware of the nature of the allegations against him or her so as to have a proper opportunity to present his or her own case. This principle has succinctly been summarized in the following words.

The best way of producing a fair trial is to ensure that a party to it has the fullest information of both allegations that are made against him and the evidence relied upon in support of those allegations. Where the evidence is documentary, he should have access to those documents. Where the evidence consists of oral testimony then he should be entitled to cross examine the witnesses who give that testimony, whose identity should be disclosed. (see *Secretary of State of the Home department V. AF* (201) 2 AC. 269) per Philips LJ).

The requirement of impartiality and independence of the authority conducting the hearing is also important.

As it is usually said, the doctrine of impartiality denotes that justice should not only be done, but should manifestly and undoubtedly be seen to be done.

Accordingly the adjudicatory authority should not have a pecuniary and personal interest in the conduct and outcome of the proceedings. This is because in such a case he cannot be expected to exhibit the highest point of impartiality. Justice must be rooted in confidence, and confidence is destroyed when right thinking members of society go about thinking that the Judge was biased. The test as to whether the adjudicatory authority is partial is not the existence of actual bias but the likelihood of it. The appearance of evil should be treated as evil itself.

This brief jurisprudential excursion unto the judgments of fair hearing is undertaken for the purposes of positing Article 7 of the African Charter on Human and People's Rights the fundamental basis of the claim of the

Applicant in proper perspective. In fact, that Article totally encapsulates the principles of fair hearing enumerated above. Juxtaposing those principles with the facts of the case, the question that arises and as formulated by the Applicant is “whether the failure of the Defendant to afford the Plaintiff’s (Applicant’s) the opportunity to defend himself either personally or by legal representation before dismissing him has not violated the Plaintiff’s (Applicant’s) human right to fair hearing guaranteed by Article 7 of the African Charter on Human and People’s Rights.”

In order to answer this question it is necessary to once again review the facts of the case vis a vis the evidence produced by the Applicant in order to arrive at a reasonable conclusion.

First, the Applicant was enlisted in the Defendant’s Police Force sometime in 1984 and subsequently promoted to an Acting Superintendent of Police. During the course of his duty, he had what was termed a “frank discussion” with the then Inspector General of Police, Mr. Walter Nicol who, on the basis of that, accused him of insubordination. He was also accused of having a link with the RUF, a rebel group then fighting the legitimate government of the Defendant. Without being heard, he was dismissed from the Defendant’s Police Force.

In a bid to exhaust local remedies available to him, the Applicant appealed to the Police authorities for a reconsideration of the case. The Authorities found that the dismissal was without a hearing and therefore a flagrant violation of his human rights and termed the dismissal as lacking in legitimacy (see Annexure A).

An analysis of Annexure A, which was made by the agents of the Defendants is very instructive in this regard.

The report noted in part that Mr. Tayyib Bah (the Applicant) ..... expressed frankly certain issues of concern to the Police at that point in time to late Mr. Walter Nicol (The Inspector General at the time) which

did not go down well with him. He later devised insubordination case against Mr. Tayyib Bah (The Applicant).

The said matter coupled with unproven allegation of his link with the RUF Rebels in respect of which he was neither given the opportunity to defend himself nor was investigation conducted as required in all allegations (emphasis ours), led to his immediate dismissal. His appeal against the said dismissal to the Police Council for a review of the case was not countenanced by them”

An analysis of Annexure A suggests and rightly too, that the then Inspector General of Police of the Defendant concocted a discussion in which the Applicant made frank contributions. He used it as a ruse, a basis for the dismissal of the Applicant.

It appears that the said Mr. Nicol (an agent of the Defendant) was the prosecutor and the Judge at the same time. The rudiments of fairness and justice frowns upon such procedure and as well as such high handedness. Granted that the Applicant was queried with regard to the purported acts of insubordination which he answered to, the reasoning of the Court is supported by the findings of fact contained in Annexure A to the effect that:

- 1- That a frank discussion between Mr. Tayyib Bah and late Mr. Walter Nicol was exploited by the latter, as subordination (insubordination) of the former.
- 2- That Mr. Tayyib Bah was queried for insubordination which he accordingly responded to, and such offence by all standards does not carry dismissal as a punishment.

The Court agrees with conclusion arrived at by the investigating authority in Annexure A and holds that the dismissal of the Applicant was a premeditated decision by the agents of the Defendant devoid of any procedure or hearing. The offence or charge which attracts summary dismissal in law must be serious, cogent and proven. A concocted allegation based on a premeditated decision, catalyzed by bad faith and without any known procedure cannot qualify as fair.

In fact, Annexure A succinctly supported the above assertion when it stated that “no procedure as required for any member of the SPL, more so a very Senior Police Officer that had diligently served the SPL for up to a decade was followed.

It follows that the Applicant was never given a hearing both at the initial stage of the purported dismissal as well as with regard to the petition against the Police Council’s decision to dismiss him.

A further examination of Annexures B and C lends credence to the above reasonable conclusion. Specifically the Office of the Ombudsman (Annexure C) in exercise of its powers under the law having received Annexures A and B (a letter from the Applicant’s Counsel) made representations to the Office of the Ministry of Internal Affairs of the Defendant.

Curiously, in answer to the representations, the Defenfants, in a letter dated 3<sup>rd</sup> June 2013 (Annexure D) stated that:

“..... the Police Council considered the above matter at its recent meeting and decided that there was no justifiable ground to reverse the decision dismissing Mr. Mohammed El Tayyib Bah (the Applicant) from the Police Force.”

It appears that the Police Council of the Defendant needed the testimony of spirits or God himself to agree that there were justifiable grounds for a review of a decision arrived at in blatant violation of the fundamental principles of fair hearing.

This Court in *Ugokwe V. Okeke* (2008) / CCJ LR (P1) 149 at 164 had reiterated the principle that parties must be given an opportunity to be heard in any matter affecting their interest, in the following words:

“The right to fair hearing is a human right derived from the concept of fair hearing, in this regard, a fair trial is not only seen as an additional instrument for protection of the rights of defence, *Largo sensu*, but also in a political context, where the legislative and jurisdictional activity, the judicial

organization and even the judicial institutions of the signatory state are subjected to scrutiny as regards requirements of the Community.”

The minimum standards required of all institutions exercising powers that may affect the legitimate interest of the parties or one or more of them is to act fairly. The Court holds that the Defendant and her agents have acted unfairly in not granting the Applicant a hearing before dismissing him from her Police Force.

The Court holds that the Defendant being a state party to the African Charter on Human and People’s Rights, is obliged to guarantee the actual implementation of the stipulated rights under the Charter, more particularly the right of the Applicant to have his cause heard and to prevent all acts and practices which are minimal to those obligations. There are sufficient material evidence lending credence to the accusations levelled by the Applicant against the Defendants. Annexures A, B, C & D are sufficient material evidence to establish the breach of the Applicants right to fair hearing and the Court so hold.

The acts committed by the agents of the Defendant in denying the Applicant the right to a hearing before his dismissal are imputable to the Defendants under the general principles of State responsibility.

In fact as this Court stated in the case of Garba V. Republic of Benin, “to enable the Court find that violations have occurred... the Applicant was expected to file sufficiently convincing evidence and not equivocal evidence.”

The Court holds that evidence adduced by the Applicant (as contained in Annexures A, B, C and D) is sufficient, compelling and convincing to suggest the truth of the alleged violations of the Applicant’s right to fair hearing by the Defendant. This is more so in view of the fact that the Defendant did not take any steps in controverting the cupious allegations of the Applicant against her.

In view of these points, the Court holds that the Applicant has in this proceeding and at any rate, established his claims and there are sufficient grounds for granting the reliefs sought by the Applicant.



Having held that there are sufficient grounds to grant the reliefs sought by the Applicant against the Defendant, the Court is empowered to make consequential orders in that regard.

This is because in general international law, a State that has violated its international obligations is duty bound to make reparation. This Court, in *Karaou V. Republic of Niger* (2010) CCJ LR (Pt 3) 1 at 17, observed that:

”The Applicant has gone through untenable physical, psychological and moral harm, as a result of her nine years of servitude, justifying the award of a relief in reparation for harm thus suffered.”

In the same vein, the Applicant in this case, has suffered, pain, mental, psychological trauma and deprivation. Indeed as expected, dismissal carries with it some measure of infamy and stigma and deprives the individual the right or benefits accorded by the employment and society at large. It is therefore not surprising that having been dismissed, though wrongly. In the Courts view, the Applicant was rightly rejected at the election on the grounds of being unfit for Public Office.

Above all, having been dismissed from employment, the Applicant has remained unemployable because no one is expected to engage a dishonest employee. All these damages suffered by the Applicant are direct as well as foreseeable consequences of his wrongful dismissal in violation of his right to fair hearing as guaranteed by Art 7 (1) of the African Charter on Human and People’s Rights. For the avoidance of doubt, at this stage of development of International Human Rights Law regime, persons, including States, must be careful with regard to the treatment of their nationals or citizens and other individuals within their territorial jurisdictions.

Where their acts or omissions towards such persons violate their rights as enshrined in international instruments, an international tribunal, such as ours, will have no alternative than to hold them answerable for the wrongs. The era of gross impunity by Member States and their Governments in our sub-region shall no longer be tolerated.

In this direction, having regard to Article 4(g) of the Ecowas Revised Treaty which empowers the Court to apply the African Charter on Human and Peoples Right, more particularly Article 7(I) on the Right to fair hearing and having regard to findings of fact made herein, the Court decides that the Plaintiff has established that his dismissal by the Defendant from its Police Force is illegal, null and void and of no effect, having been done without giving the Applicant a hearing in violation of Article 7(I) of the African Charter. Accordingly, the Court DECLARES:

- (I) That the dismissal of the Applicant from the Police Force of the Defendant in 1994 and confirmed on 3<sup>rd</sup> June 2013, is illegal, null, void and of no effect as it violates the Plaintiff's right to fair hearing enshrined in Article 7 of the African Charter on Human and People's Rights.
- (II) Orders the Defendant to reinstate the Applicant in his appropriate position in the Police Force of the Defendants and pay him all outstanding salaries, benefits, entitlements, including promotion.
- (III) Directs the Defendant to pay the Applicant the sum of **Two Hundred Fifty Thousand US. Dollars (\$ 250,000.00)** as general damages for the wrong occasioned by their illegal act.

The Defendant shall bear the costs of this Action and the Chief Registrar is directed to assess the costs, taking into account the relevant provisions of Article 66-69 of the Court's Rules of Procedure.

**This Decision is given in open Court in compliance with Article 61 of the Rules of Procedure at the Seat of the Court in Abuja, this 4<sup>th</sup> day of May 2015 in the Presence of their LORDSHIPS:**

- 1- Hon. Justice Friday Chijioke Nwoke – Presiding
- 2- Hon. Justice Micah Wilkins Wright – Member
- 3- Hon. Justice Hameye Founé Mahalmdane – Member

**Assisted by Aboubakar Diakité**

**- Registrar**