

IN THE INDUSTRIAL RELATIONS COURT OF MALAWI

MZUZU REGISTRY

MATTER NO. IRC 26 OF 2006

BETWEEN

MVULA..... APPLICANT

AND

AGED SUPPORT SOCIETY OF MALAWI.....RESPONDENT

CORAM: **R. Zibelu Banda (Ms) Chairperson**
Applicant; present
Respondent, absent without excuse
Kahonge; Official Interpreter

RULING

Background

The applicant signed a contract to work as a Volunteer for an organization which is now the respondent in this matter. The conditions among others were that this was not a contract of employment as there was no salary and other terms associated with an employment contract like leave, terminal benefits among others. The contract however provided for an allowance which was yet to be agreed upon. The applicant brought this action claiming that he was not paid allowances for a period from March to December 2005. He also claimed traveling allowances, telephone allowances and postage bills.

The Law

On assessing the facts the court did not find a contract of employment but voluntary work. The Industrial Relations Court's (IRC) mandate is to hear and determine labour matters. The matter must arise out of the employment or non employment of a party. The Employment Act, section 3, defines an employee, see also: **Chisowa V Ibrahim Cash and Carry** [Matter Number IRC 3/2003 (unreported)]. The applicant did not fit in this definition as he was not under the control of the respondent. He could decide to leave anytime without notice and he was not under any legal obligation to work for the respondent as he was not under any employment contract. Perhaps it is time that relevant State agencies sensitized the general population on Voluntary work and its effects. The court appreciates though that the applicant did some work and was promised an allowance. This claim may be pursued out of court or through the relevant institutions like the Civil Courts, District Commissioners Office or some such State institution. The IRC has no jurisdiction in this matter.

Any party aggrieved by this decision is at liberty to appeal to the High Court within 30 days of this date. Appeal lies in matters of law or jurisdiction, see, section 65 (2) Labour Relations Act 1996.

Pronounced this 26th day of January 2007 at **MZUZU**.

Rachel Zibelu Banda
CHAIRPERSON.