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IN THE HIGH COURT OF MALAWI

PRINCIPAL REGISTRY

JUDICIAL REVIEW CASE NUMBER 72 OF 2017

BETWEEN:

PETER CHAKANZA

APPLICANT

AND

**THE SECRETARY FOR LANDS AND URBAN
DEVELOPMENT**

RESPONDENT

CORAM: JUSTICE M.A. TEMBO

Pearson, Counsel for the Applicant
Mankhambera, Court clerk

ORDER

This is an order of this Court on the applicant's application, under Order 19 rule 20 (3) Courts (High Court) (Civil Procedure) Rules, for an order for permission to apply for judicial review of the respondent's decision, namely, the decision and order of the respondent conclusively made on 15th September 2017 in so far as he has decided to keep mute regarding the applicant's consideration for promotion, by way of interviews following the vacancy advertisement which was carried in the Nation Newspaper dated 14th February 2006, without due regard to the applicant's right to fair labour practices, reasonableness of the decision, manifest bad faith and inconsistent with the applicant's legitimate expectations.

TR
7/2/2011
7/2/2011

If granted permission, the applicant seeks that the decision of the respondent be quashed.

The application was heard on notice to the respondent who did not attend the hearing.

The names of the parties should have read claimant and defendant respectively but for the fact that the application was filed when the issue of nomenclature of the parties in proceedings for judicial review was not yet settled in view of the current rules of civil procedure.

The case of the applicant, as presented in his application for permission to apply for judicial review, is as follows.

He is a public servant. He is an Assistant Lithographer (Grade K) with effect from 7th January 2008 having been promoted to that position by letter dated 9th April 2008.

He was first employed as permanent Lithographic Assistant (TA) on 1st February 1983.

From 1983 to 2008 he was never promoted to any senior post despite his hard work and performance of duties for a P8 position without any consideration for additional pay.

He indicated some important works that he has produced such as a Presidential Portrait he produced in 1980, National Atlas of Malawi that he produced in 1983, Kapichila Falls diagram which he produced in 1985 and the Zambia-Malawi boarder map.

Since 1999 he had been requesting the respondent to consider him for a promotion but it was all in vain and he has never been considered for a senior position.

On 27th September 2000 he decided to lodge a complaint with the Ombudsman on grounds that he was a victim of oppression by being denied career advancement and being subjected to unfair labour practices.

Upon a full inquiry, the Ombudsman made a determination that the applicant was a victim of injustice due to the respondent's failure to fill vacant positions timely and directed the respondent to take appropriate administrative action to create new positions in the Lithographic section.

