

**SAMUEL KUFANDADA**

**Versus**

**THE COMMISSIONER GENERAL OF POLICE N.O.**

**And**

**CHIEF SUPERINTENDENT MUTSONHI**

**And**

**INSPECTOR MAGARA N.O.**

IN THE HIGH COURT OF ZIMBABWE  
KAMOCHA J  
BULAWAYO 13 MARCH 2012

Applicant in person  
*B. Mlauzi* for respondents

Urgent Chamber Application

**KAMOCHA J:** This court granted an order in the following terms on 24 November 2011:

“It is ordered that:

1. The proceedings and the recommendations of the board held on 5 March 2011 whose members were the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> respondents be and are hereby set aside;
2. The confirmation by the Commissioner General Police of the said recommendation made by the said board be and is hereby set aside;
3. The matter be remitted to the police force to be heard by a board comprising new members; and
4. The respondents shall bear proved costs, if any, incurred by the applicant.”

On 20 February 2012 the applicant received a notice of board of inquiry: (Suitability) which was going to be held at Bulawayo Camps District Headquarters at 0900 hours on 12 March 2012. The board was going to inquire into his suitability or fitness to remain in the police force. The notice prompted the applicant to file this application on a certificate of urgency.

At the hearing the respondents' representative conceded that such a board of inquiry to inquire into the applicant's suitability or fitness to remain in the force should be premised on the applicant's conviction of some misdemeanour. The respondents could not rely on the convictions that were set aside on review.

The respondents further conceded they would not persist with the allegations that the applicant was absent from duty without official leave. The applicant has not been convicted of any new charges. There is, therefore, no basis for wanting him to appear before a board of inquiry. It was on that basis that the respondents were interdicted from convening the intended board of inquiry (suitability) to inquire into the suitability or fitness of the applicant to remain in the police force.

*Civil Division of the Attorney-General's Office respondents' legal practitioners*