IN THE HIGH COURT OF SWAZILAND

Paul Mbingo	Plaintiff
V	
The University of Swaziland	Defendant
Case No 2494/97	
Coram	Sapire A C J
For Plaintiff	Mr. Mnisi
For Defendant	Mr. Masuku
Judgment	

10 September 1997

The Applicant, a student at the Respondent University has applied to the Court for an order that the Respondent register him in the second year of study for the Bachelor of Engineering course. The Respondent opposes the application.

The requirements for the entitlement of students to embark upon and to be registered for the several courses offered by the Respondent are specified in the University Calendar. It is common cause that the Applicant has not passed or completed those courses which are prerequisites for the registration he seeks. He nevertheless seeks admission to the course on the basis that the respondent's communication to him of the results of the examinations written by him at the end of last academic year, is culpably vague and misleading.

The argument of the Applicant advanced in support of his application, reveals that the Applicant and his advisors have failed to read or understand the specifications in the calendar.

In the first place the Applicant states that he enrolled at the University for the

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Bachelor of Engineering. In support of this a copy of a document is attached which has nothing to do with the respondent. It is a communication by the Under Secretary (Manpower Planning and Development) to the Principal Secretary in the Ministry of Transport and Communication. He was in fact enrolled and registered in the Programme of Study B. Se First year of Study 1 as appears from the letter sent to him by the Respondent advising him of his results.

The requirements for proceeding from one year of study to the succeeding year are to be found at page 154 of the calendar, a copy of which has been available nor only to the court but to the applicant. The copy of letter advising the applicant of his results is annexe "B" to the founding affidavit.. In it the Respondent advised the Applicant that the Senate at a meeting held on 1lth June 1997 approved the results which are then detailed. Then follows the following paragraph

"OVERALL AVERAGE D RESULTS: PROCEED. May supplement MI 15 to major in Mathematics.

May supplement C101 and MI 15 to major in Chemistry or Mathematics.

On receipt of this letter the applicant, to use his own words,

"Did not bother preparing for the supplementary examination as there was no comment that I had to supplement any course to enable me to pursue the bachelor of Engineering course"

Neither the calendar nor the letter is a model of clarity. For a proper understanding of what is meant some, application, close attention, and even guidance may be required. But this does not excuse the Applicant's conduct and attitude. On receipt of the letter if he was unsure of what was required of him, enquiries should have been made from the Respondent itself. It is not necessary for the purposes of this application to enquire what other redress the applicant may or may not have arising out of the wording of the letter

The correct approach is to be found in an earlier decision of this court, Siphiwe Tsabedze v The University of Swaziland Case No 2505/95. In that case, dealing with an application by a student for an order requiring the University to register her for a course of study for which she did not qualify Dunn J said

"The respondent has a specific regulation dealing with the standard to be attained for transfer from the diploma to the degree programme. That regulation must be applied uniformly and equally to all students completing the diploma programme. Students who do not satisfy the requirements of the regulation have no right to transfer to (he fourth year of study. The error on the part of the Respondent can never cloak the applicant with the necessary qualification for transfer."

In that case the Judge found that the Respondent had indeed been grossly negligent in relation to the error which had resulted in the applicant in that case being ineligible for registration, but despite this he refused to make and order similar to that now sought by the present applicant.

A similar conclusion arrived at by similar reasoning is to be found in

TYATYA v UNIVERSITY OF BOPHUTHATSWANA 1994 (2) SA 375 (B)

The facts, logic, and authority are all against the Applicant. The application is therefore dismissed with costs

S W Sapire

ACTING CHIEF JUSTICE