



the whole matter is res judicata and that she is entitled to have her demands met.

The Attorney General contends otherwise.

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It is the Government's view that the effect of setting aside the dismissal of the applicant restores the parties to their respective positions prior to the dismissal, and that the applicant remains under suspension, and that is open to the Department now to hold the enquiry, the absence of which was the grounds of setting aside of the dismissal. Acting in accordance with the view taken by the Attorney General the Second respondent, (The Civil Service Board) wrote to the applicant through her attorney informing her of a charge of misconduct that was now laid against her and requiring an answer from her by not later than 17th June 1996. The letter and charge sheet are annexed to the founding affidavit marked "K" and "L" respectively. The applicant contends that the second respondent is precluded now from holding the enquiry as the Court of Appeal has finally determined the matter.

The order which the applicant seeks is one which will prevent the second respondent from proceeding with the enquiry and compel the Department to reinstate her to her former position.

It would be inappropriate for me to express any views on the merits of the case, as I am of the view that this Court has no jurisdiction in the matter. Section 5(1) of the Industrial Relations Act No. 1 of 1996 confers exclusive jurisdiction on the Industrial Court in matters of this nature.

As "the Court" is defined as the Industrial Court, by definition the Government is included in the word "employer" (Section 2); the word "dispute" is also defined in Section 2 to include any dispute over the disciplinary act, dismissal, employment, suspension from employment, re-employment or reinstatement of any person or group of persons, it seems clear to me therefore that this is a matter which falls within the ambit of the Industrial Relations Act and should properly be brought before the Industrial Court. The matter is not free from some difficulty, as the wording of Section 5 is not altogether clear. I cannot on this ground however assume jurisdiction as the relief claimed by the Applicant would seem to relate to matters dealt with by the Act.

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In the circumstances I am constrained to dismiss the application with costs, which are to include counsel's fees.

S.W. SAPIRE

ACTING CHIEF JUSTICE