



It is alleged that on the 15th March 1995 the applicant was appointed to the Swaziland Government Civil Service in the capacity of Roads Overseer. His salary was on Grade 8 which meant that he was in receipt of an annual salary of E1 8 196, payable in monthly instalments of E1 525.50. The appointment was for a probationary period of 2 years which probationary period came to an end in March 1997.

As at July 1997 the applicant's salary had increased to an annual figure of E22 086 payable in instalments of E1 840.50.

The applicant alleges that since August 1997 the 2nd respondent has not paid his salary and he has received no explanation therefor. Although it is denied by the respondents, the applicant states that he was transferred by word of mouth during July 1997 to the Headquarters of the Ministry of Works in Mbabane. He reported for work there but found no responsible official aware of the transfer and the duties he was expected to perform at the Headquarters of the Ministry of Works. The 3rd respondent has testified to an answering affidavit which has been filed on behalf of the respondents in which he denies that the applicant was transferred as alleged by him.

The respondents filed an affidavit as I have stated in which it is sought to justify the withholding of the salary.

In paragraph 7 of the answering affidavit it is stated that the respondents are aware that the applicant has not been paid his salary for the stated period because he absented himself from duty without the necessary permission. During the stated period, so it is said, the applicant was neither on approved leave nor was he certified by a medical practitioner to be unfit for work. I do not find any allegation in the answering affidavit that any disciplinary proceedings had been taken or that the applicant has been called upon to answer any specific charges made against him. In other words there is nothing in the affidavit which suggests the reason for withholding the salary for the period in respect of which it is claimed. Certainly the fact that it is alleged that he was absent without leave for two weeks is no justification for the total non-payment of the salary for three months.

All that has been suggested that the respondents were entitled to terminate the

a:Vuminkosi

3

applicant's employment That such termination took place in a lawful manner or at all has not been averred.

For these reasons there is no defence to the applicant's claims and an order is made directing the 2nd respondent to pay the applicant his salary arising from employment with 1st respondent for the months of August, September and October 1997. The prayer in the notice of motion is so vague in other respects, in respect of further relief claim that it is not possible to make an order as prayed.

It is also ordered that the respondents permit the applicant to perform his duties as Roads Overseer until such time as he has properly and lawfully been suspended, transferred or dismissed from his position as such. The costs of this application are to be paid by the respondents

S. W. SAPIRE

ACTING CHIEF JUSTICE