

IN THE HIGH COURT OF SWAZILAND

In the matter between:

**EMMANUEL MKHONTA VS
THE CHAIRMAN OF THE CIVIL
SERVICE BOARD**

CASE NO. 1812/06

AND

**THABO SHABANGU VS
THE CHAIRMAN OF THE CIVIL
SERVICE BOARD**

CASE NO. 1813/06

CORAM:

Q.M. MABUZA - AJ

FOR APPLICANTS:

MR. MABILA

FOR RESPONDENT:

MR. P.S. DLAMINI

EX TEMPORE JUDGMENT
1/6/06

My finding is as follows:

[1] The Civil Service Board did not follow the proper procedure in conducting its disciplinary proceedings against the applicants. They failed to take proper cognisance of the rules of natural justice during the hearing of the 12/4/06 vide John Bongwe v Secretary to CSB 482/06 unreported.

[2] They used the judges rules against the applicants during the hearing of the 12th April 2006 viz that if they said anything in response this would be used against them in subsequent disciplinary proceedings and then when the applicants exercised their constitutional right to remain silent, they used their silence against them.

[3] The applicants have a constitutional right to a fair hearing and this right to a fair hearing begins from the time of notification of the complaint to pre-hearing procedures and continues during the hearing and at the conclusion of the hearing. The respondents failed to afford the applicants a fair hearing.

[4] The criminal charges against the appellants have been withdrawn. The charges were withdrawn on the 2nd May 2006 when the matter was struck off the roll of the Nhlanguano Magistrates Court.

I order as follows: -

(a) The respondent's decision suspending the Applicant with half pay from the performance of their duties as driver examiners under the Ministry of Public Works and Transport is hereby set aside.

(b) The Respondent is hereby ordered to pay the costs of this application.

Q.M. MABUZA - AJ