



REFERENCE NO.2/2001

**IN THE COMESA COURT OF JUSTICE
LUSAKA, ZAMBIA**

**Cram: Akiwumi, Lord President, Kalaile, Sakala, Ogoola and Mutsinzi LJJ.
Delivered in Open Court on Monday the 22nd day of October, 2001.**

Registrar: S.H. Zwane, Esq.

KABETA MULEYA.....APPLICANT

Versus

**COMMON MARKET FOR EASTERN
AND SOUTHERN AFRICA.....1ST RESPONDENT
ERASTUS MWENCHA.....2ND RESPONDENT**

**For the Applicant.....Masauso Ndhlovu, Esq. – Chifumu Banda &
Associates**

**For the Respondents.....John Sangwa, Esq. – Simeza, Sangwa and
Associates
Brian Chigawa, Esq. – COMESA**

JUDGMENT OF THE COURT

Lord President Akiwumi delivered the Judgment of the Court.

The present application by the Applicant is made under Rule 40 of the Rules of this Court, to call in addition to himself, two witnesses namely Shimaili Mpamba and Ntibarekerwa Jerome. Counsel for the Applicant has, however, abandoned the application in respect of Jerome.


Certified as true copy
of the original
Sipho H. Zwane
Registrar
Comesa Court of Justice

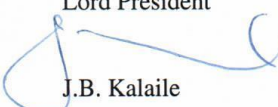
As regards Mpamba,, his affidavit in our view, indicates as required under Rule 40 “the facts about which he is to be examined” and which do not only, relate to the alleged illegality of the procedural steps not to renew the Applicant’s contract of service with COMESA, which is the course of action of the Applicant’s Reference, but also, to the ill motive behind the non-renewal of the Applicant’s contract of service.


The Applicant and Mpamba shall be summoned as provided for under Rule 40, and the appropriate orders served by the Registrar as also provided thereunder. These witnesses will be heard at the next Session of this Court to which the hearing of the Reference, because of lack of funding, is hereby adjourned.

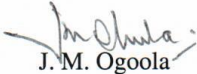
It is so ordered.

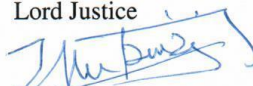
Dated and delivered at Lusaka this 22nd day of October, 2001.


A.M. Akiwumi
Lord President


J.B. Kalaile
Lord Justice


E.L. Sakala
Lord Justice


J.M. Ogoola
Lord Justice


J. Mutsinzi
Lord Justice

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Comesa Court of Justice