

IN THE SUPERIOR COURT OF JUDICATURE
IN THE HIGH COURT OF JUSTICE
GENERAL JURISDICTION DIVISION
ACCRA-2025

Filed on

26/3/25

2:40

ACCRA

SUIT NO:

CV 10624/2025

IN THE MATTER OF AN APPLICATION FOR JUDICIAL REVIEW:
ARTICLES 141, 23 & 296 OF THE CONSTITUTION, 1992 AND ORDER 55
OF C.I. 47

Between

1. MABEL APPERTEY
SSNIT Flats
Borteyman-Accra

APPLICANTS

2. YAMUSAH MOHAMMED YASON
B358 Nakum Avenue
Tishigu-Tamale

3. RICHARD OTOO SWATSON
Abasraba Winneba

4. JOSEPH BOATENG
Plot 2 Block G, Fumesua

5. KOFI GYASI BRUCE ANNAN
No. 37/6 Chapel Hill
Sekondi-Takoradi

6. RIDDICK KWAME AFRANE ANTWI
H/No. 11, Spanner Street
Mallam-Gbawe Zero

7. YAW BAWUAH BANDO
No. 2 Akeyaako Lane
Odorkor-Accra

8. DANIEL ELVIS SUNU
Ho

9. YUSSIF YAKUBU
C719/4, Kussia Street
Kokomlemle

- EMMANUEL ADU**
Winneba
12. **PHILIP ADU**
Sefwi-Brekrom
13. **NELSON ADU**
Sefwi Kantankubo
14. **DERRICK OSEI**
Kwadaso, Kumasi
15. **FRANCIS JAGRI**
147 O Section, Tatale
16. **GENEVIEVE GLADYS AMOAKO**
Abelemkpe, Accra
17. **ABUBAKARI ABDUL MALIK**
Katariga, Tamale
18. **ABDUL HAKIM YAHAYA**
Sabonjida, Tamale
19. **AMIN MOHAMMED**
No. K 83, Katariga West
Tamale
20. **JEMIMA KUJMI SAAH**
Assin-Fosu
21. **MOHAMMED AMIN YAKUBU**
Ejura
22. **JOSEPH OBENG**
Accra
23. **CLEMENT ANANE**
Seventh-Day Adventist Church
Dunkwa On Offin
24. **GLADYS NAANA WONTWUWAA CUDJOE**
Tema Newtown

26. **ARIBA ELOM GLAVEE**
Valco Flats
Ashaiman
27. **HENRIETTA LEEKAI OPINTAN**
14 Lantana Avenue
Omanjor.
28. **RHODA TSOTSOO OKAI**
Community 14 Annex
Lashibi-Accra
29. **RICHARD APPIANING YEBOAH**
GPHA Quarters
Community 5, Tema
30. **PEARL AYINSUGYA AMIKE**
Nungua Salem
31. **MAGDALENE AMPONSAH MPOMAH**
Community 11, Tema
32. **MIRIAM HAMMOND**
49 Kokrobite Street
Mamprobi
33. **SHARON BENTIL**
34 New Road, Trinity Avenue
East Legon
34. **BOAKYE MICHAEL**
ATC 50/2 Area 1
Sunyani
35. **LYDIA AGYAKWA**
Livingstone Junction
Dansoman
36. **GIFTY ASIEDUAA OSEI**
Adweso, Koforidua

37. **BERNARD ADJEI SARFO**
Kwabinya, Accra
38. **GILBERT ADOTEY ALLOTEY**
1 Asafoatse Street, La, Accra.
39. **SAEED ABDUL GHANEE**
H/No. AC 0056
Acherensua
40. **WILLIAMS KOFI FRIMPONG**
N.T
Dormaa Ahenkro

And

- | | ----- | RESPONDENTS |
|---|-------|--------------------|
| 1. THE ATTORNEY GENERAL | | |
| Office of the Attorney General and Ministry of Justice
Ministries, Accra-Ghana | | |
| 2. GHANA REVENUE AUTHORITY | | |
| Ministries, Accra-Ghana | | |
| 3. GHANA SHIPPERS AUTHORITY | | |
| Accra-Ghana | | |
| 4. GHANA PORTS AND HARBOUR AUTHORITY | | |
| Tema-Ghana | | |
| 5. NATIONAL LOTTERY AUTHORITY | | |
| Hilla Limann Highway
Accra-Ghana | | |
| 6. DRIVER AND VEHICLE LICENSING AUTHORITY | | |
| Jawaharlal Nehru Road,
Accra | | |
| 7. NATIONAL HEALTH INSURANCE AUTHORITY | | |
| 36 Sekou Toure Street
Ridge Residential Area | | |

**NOTICE OF MOTION
APPLICATION FOR JUDICIAL REVIEW**

Mon. 5th May 25

TAKE NOTICE that this Honourable Court will be moved by Counsel for and on behalf of the Applicants herein, for the following reliefs:

- i. A declaration that neither the President of the Republic nor the Chief of Staff of the President has the power to remove a member of the public services from office save and except on the grounds specified in article 191(b) of the Constitution;
- ii. a declaration that the directive of the Chief of Staff of the President of the Republic dated 10th February, 2025 requesting all heads of government institutions *"to take the necessary steps to annul any appointments or recruitments"* after 7th December, 2024 is unlawful, null, void and of no effect;
- iii. a declaration that the decisions of the 2nd, 3rd, 4th, 5th, 6th and 7th Respondents implementing the directive of the President's Chief of Staff are unlawful, null, void and of no effect;
- iv. an order of certiorari to bring in the decision of the Chief of Staff of the President complained of in (ii) above and quash same as being in violation of due process, particularly, article 191(b) of the Constitution, and the relevant laws and disciplinary regulations for the public service of the Republic of Ghana;
- v. an order of certiorari to bring in the decision of the 2nd, 3rd, 4th, 5th, 6th and 7th Respondents complained of in (iii) above, purportedly carrying out the Chief of Staff's directives referred to in (ii) above, and quash same as without basis, unlawful and in gross violation of due process.
- vi. an order of mandamus compelling the 2nd, 3rd, 4th, 5th, 6th and 7th Respondents to allow the applicants to resume normal duties as members of the public services or the respondents herein;
- vii. an order prohibiting the 2nd, 3rd, 4th, 5th, 6th and 7th Respondents from dismissing or removing the applicants from the office except in accordance with article 191 of the Constitution.
- viii. Damages for the harm, inconvenience and hardship caused the applicants.
- ix. Costs of litigation including lawyer's fees.
- x. Any other order(s) as to this Honourable Court may seem meet.

GROUND FOR RELIEFS SOUGHT:

- (a) Illegality and want of power under the **Constitution, 1992**, the **Presidential Offices Act, 1993, Act 465** (under which the Chief of Staff of the President is appointed) and relevant laws governing the public services of Ghana.
- (b) Arbitrariness, capriciousness, unreasonableness and unfairness on the part of the Respondents.

NAMES AND ADDRESSES OF PERSONS DIRECTLY AFFECTED BY THE APPLICATION.

- 1. The Chief of Staff of the Office of the President.
Office of the President
Accra-Ghana
- 2. The Attorney-General
Office of the Attorney General and Ministry of Justice
Ministries, Accra
- 3. Ghana Revenue Authority
Ministries, Accra
- 4. Ghana Shippers Authority
Accra-Ghana
- 5. Ghana Ports and Harbour Authority
Tema-Ghana
- 6. National Lottery Authority
Hilla-Limann Highway
Accra-Ghana
- 7. Driver and Vehicle Licensing Authority
Jawaharlal Nehru Road,
Accra
- 8. National Health Insurance Authority
36 Sekou Toure Street
Ridge Residential Area

DATED AT DAME & PARTNERS, CANTONMENTS, ACCRA THIS 20TH DAY OF
MARCH, 2025

YAA KOBI FRIMPOMAAH, ESQ.

Solicitor's Licence No: eGAR04772/25

DAME & PARTNERS UNLIMITED

55A Kakroddu Link

Cantonments, Accra

Chamber Reg. Licence No: ePP09893/25

LAWYER FOR APPLICANTS

BP/16/300084036



THE REGISTRAR
HIGH COURT
GENERAL JURISDICTION DIVISION,
ACCRA

AND FOR SERVICE ON THE RESPONDENTS HEREIN

IN THE SUPERIOR COURT OF JUDICATURE
IN THE HIGH COURT OF JUSTICE
GENERAL JURISDICTION DIVISION
ACCRA-2025

26/3/25
2:40
SUIT NO:

IN THE MATTER OF AN APPLICATION FOR JUDICIAL REVIEW:
ARTICLES 141, 23 & 296 OF THE CONSTITUTION, 1992 AND ORDER 55
OF C.I. 47

Between

MABEL APPERTEY & 39 OTHERS

APPLICANTS

And

- | | | |
|---|-------|-------------|
| 1. THE ATTORNEY GENERAL | ----- | RESPONDENTS |
| Office of the Attorney General and Ministry of Justice
Ministries, Accra-Ghana | | |
| 2. GHANA REVENUE AUTHORITY | | |
| Ministries, Accra-Ghana | | |
| 3. GHANA SHIPPERS AUTHORITY | | |
| Accra-Ghana | | |
| 4. GHANA PORTS AND HARBOUR AUTHORITY | | |
| Tema-Ghana | | |
| 5. NATIONAL LOTTERY AUTHORITY | | |
| Hilla Limann Highway
Accra-Ghana | | |
| 6. DRIVER AND VEHICLE LICENSING AUTHORITY | | |
| Jawaharlal Nehru Road,
Accra | | |
| 7. NATIONAL HEALTH INSURANCE AUTHORITY | | |
| 36 Sekou Toure Street
Ridge Residential Area | | |

AFFIDAVIT OF MABEL APPERTEY IN SUPPORT

I, MABEL APPERTEY of SSNIT Flat, Gologo 5, Borteyman, Accra, do make
oath and say as follows:

1. That I am the deponent hereto and have the authority of the other applicants herein to depose to this affidavit in respect of matters within my knowledge, information and belief.
2. That I am a citizen of Ghana and until 13th February 2025, lawfully employed by the Ghana Revenue Authority.
3. The 1st Respondent is the principal legal adviser to the Government in accordance with article 88(1) of the Constitution of Ghana.
4. The 2nd, 3rd, 4th, 5th, 6th and 7th Respondents are established and exist as part of the Public Service of Ghana.
5. That sometime in December 2024, the 1st to 23rd Applicants and the 32nd to 38th Applicants herein, including my humble self, were employed by the Public Services of the Republic of Ghana after going through due recruitment process.
6. That sometime in January 2025, the 24th to 31st Applicants herein were employed by the Public Services of the Republic of Ghana after going through due and thorough recruitment process. The 39th and 40th Applicants herein were also employed by the Public Services of the Republic of Ghana sometime in October 2024 after going through due process.
7. That I was employed by the Ghana Revenue Authority by dint of a letter dated 3rd December, 2024. The 2nd to 21st Applicants were also employed by the Ghana Revenue Authority by dint of a letters dated 2nd and 3rd December, and the 22nd and 23rd Applicants were employed by the Ghana Shippers Authority by letters dated 2nd December 2024.
8. That the 24th to 31st Applicants were employed by the Ghana Ports and Harbour Authority by dint of letters dated 2nd and 3rd January, 2025. The 32nd to 36th Applicants were employed by the National Lottery Authority by letters dated December, 2025. The 37th and 38th Applicants were also employed by the Driver and Vehicle Licensing Authority by dint of letters dated December, 2025. The 39th and 40th Applicants were employed by the National Health Insurance Authority by dint of letters dated 4th October, 2024. Attached herewith and marked as Exhibits A, A1 to A35 are copies of our respective letters of appointment.
9. That I say, respectfully, that the appointments of Applicants herein, including myself, were in line with the duty imposed on the State to take all necessary action to secure the maximum welfare, freedom and happiness of every person in Ghana and to provide adequate means of

livelihood and suitable employment and public assistance to the needy in accordance with Article 36(1) of the Constitution.

10. That the appointments were also in line with the duty imposed on the state to safeguard the health, safety and welfare of all persons in employment, and establish the basis for the full deployment of the creative potential of all Ghanaians, in accordance with Article 36(7) of the Constitution.
11. That all the Applicants went through an extensive interview process, with some institutions like the Ghana Revenue Authority even conducting Aptitude tests for the Applicants.
12. That after our official appointment, quite bizarrely on 10th February, 2025, the Chief of Staff of the President, Mr. Julius Debrah, issued a directive requesting all heads of government institutions to take steps to annul the appointment of all persons who were employed after 7th December, 2024 and submit a comprehensive report on the actions taken to the Office of the President by 17th February, 2025. Attached herewith and marked as Exhibit "B" is a copy of the said directive.
13. That the Chief of Staff cited as the basis for his directive a claim that, same is consistent with Government "*pronouncement in relation to near end of tenure appointments and recruitments made in the Public Services of Ghana after 7th December, 2024*". The notice stated further that, the said recruitments or appointments are "*not in compliance with established good governance practices and principles*".
14. That in purported compliance with the directive of the Chief of Staff, the 2nd, 3rd, 4th, 5th, 6th and 7th Respondents issued various letters to the applicants herein removing the applicants from the respective public service institutions in which we had been lawfully employed. Attached herewith and marked as Exhibits "C, C1, C2 to C39" are copies of the letters issued to the applicants.
15. That it is factually incorrect that we were employed after the conduct of the presidential election on 7th December, 2024, since as can be discerned from the record, most of the applicants herein were recruited before the said date with some being employed as far back as October, 2024.
16. That in any event, I am advised by counsel and verily believe same to be true that the directive of the Chief of Staff of the President dated the 10th day of February, 2025 is arbitrary, a gross abuse of his powers and in contravention of accepted principles of fairness, natural justice and the rule of law.

17. That I am further advised by counsel and verily believe same to be true that the reliance by the 2nd to 7th respondents on the directive of the Chief of Staff to remove the applicants herein from the public service is manifestly unlawful and in flagrant violation of the provisions of the laws of Ghana regulating the employment of members of the public services of Ghana.
18. That I am advised by counsel and verily believe same to be true that the term of the Akufo-Addo led Government in which we were employed was valid under **article 58** of the Constitution and thus, our appointment was in due exercise of the powers of the President conferred by the Constitution of Ghana.
19. That as is borne out by Exhibit B, the sole basis for the directive by the Chief of Staff of the President for us to be removed from office was the contention that we were employed in the public services of Ghana after 7th December, 2024.
20. That I am advised by counsel and verily believe same to be true that no rule of law or procedure mandates the removal of public servants simply on the holding of an election or on the election of a new political party on 7th December of a particular year to assume the reins of executive power in Ghana after the 7th of January of the following year.
21. That I am further advised by counsel and verily believe same to be true that the directive of the Office of the President complained of amounts to an attempt to politicise the public services of Ghana, an act prohibited by **article 191(a)** of the Constitution.
22. That I am again advised by Counsel and verily believe same to be true that the actions of the President and the Chief of Staff are in gross violation of the injunction imposed on them by **articles 23 and 296** of the Constitution of the Republic of Ghana to act fairly, reasonably and in compliance with the requirements imposed on them by law.
23. That I am further advised by counsel and verily believe same to be true that the Chief of Staff of the President lacks power under the **Presidential Offices Act, 1993, Act 465**, the law under which he is appointed as a public officer, to take the action he did, and his decision rather sinned against the principles of good governance and permissible principles of rule of law.
24. That our purported removal from the public services is an affront to the constitutional provisions safeguarding the security of employment and tenure of public servants in the country and constitutes a grave breach of our human rights.

25. That as a result of our unlawful removal from the public services, we have suffered serious hardship, injury and inconvenience since we have been deprived of our means of livelihood.

26. That some of us were also posted outside the places of our ordinary residence and had to expend considerable financial resources on accommodation and related expenses.

WHEREFORE I swear to this affidavit in support of the instant application.

Sworn at Accra, this 26th Day of March, 2025



.....
DEPONENT

BEFORE ME



Filed on 26/3/15
at 2:40
Registrar
HIGH COURT
ACCRA

CERTIFICATE OF EXHIBIT
ORDER 20 RULE 14(1)(2) OF HIGH COURT CIVIL PROCEDURE
RULES ,C.I 47

JUSTINA CLOTTEY

I, hereby certify that the under-listed documents
have been exhibited to the affidavit sworn before me:

1. "EXHIBIT A SERIES" Appointment letters of Applicants
2. "EXHIBIT B" Directive of the Chief of Staff
3. "EXHIBIT C SERIES" Series Revocation letters issued to all Applicants

And referred to by the 1st Applicant in her Affidavit in Support



WILLIAMS KOFI FRIMPONG
Ahenkro

THE ATTORNEY GENERAL
Office of the Attorney General and Ministry of Justice
Service drive, Ministries, Accra-Ghana

==

RESPONDENTS

2. GHANA REVENUE AUTHORITY
Ministries, Accra-Ghana
3. GHANA SHIPPERS AUTHORITY
Accra-Ghana
4. GHANA PORTS AND HARBOUR AUTHORITY
Tema-Ghana
5. NATIONAL LOTTERY AUTHORITY
Hilla Limann Highway
Accra-Ghana
6. DRIVER AND VEHICLE LICENSING AUTHORITY
Jawaharlal Nehru Road,
Accra
7. NATIONAL HEALTH INSURANCE AUTHORITY
36 Sekou Toure Street
Ridge Residential Area

STATEMENT OF CASE IN SUPPORT OF APPLICATION FOR JUDICIAL REVIEW

INTRODUCTION

Respectfully, the Applicants are citizens of Ghana and were lawfully employed by various institutions, specified in the motion paper and affidavit in support, which exist as part of the public services of the Republic of Ghana per Article 190(1) of the Constitution. Thus, applicants, until their purported removal, were members of the public service.

The 1st Respondent is the principal legal adviser to the Government of Ghana. 2nd, 3rd, 4th, 5th, 6th and 7th Respondents are established as part of the Public Services of Ghana.

the applicants have instituted this action for the following reliefs:

- i. A declaration that neither the President of the Republic nor the Chief of Staff of the President has the power to remove a member of the public services from office save and except on the grounds specified in article 191(b) of the Constitution;
- ii. a declaration that the directive of the Chief of Staff of the President of the Republic dated 10th February, 2025 requesting all heads of government institutions *"to take the necessary steps to annul any appointments or recruitments"* after 7th December, 2024 is unlawful, null, void and of no effect;
- iii. a declaration that the decisions of the 2nd, 3rd, 4th, 5th, 6th and 7th Respondents implementing the directive of the President's Chief of Staff are unlawful, null, void and of no effect;
- iv. an order of certiorari to bring in the decision of the Chief of Staff of the President complained of in (ii) above and quash same as being in violation of due process, particularly, article 191(b) of the Constitution, the relevant laws and disciplinary regulations for the public services of the Republic of Ghana.
- v. an order of certiorari to bring in the decision of the 2nd, 3rd, 4th, 5th, 6th and 7th Respondents complained of in (iii) above, purportedly carrying out the Chief of Staff's directives referred to in (ii) above, and quash same as without basis, unlawful and in gross violation of due process.
- vi. an order of mandamus compelling the 2nd, 3rd, 4th, 5th, 6th and 7th Respondents to allow the applicants to resume normal duties as members of the public services of the 2nd, 3rd, 4th, 5th, 6th and 7th Respondents herein;
- vii. an order prohibiting the 2nd, 3rd, 4th, 5th, 6th and 7th Respondents from dismissing or removing the applicants from the office except in accordance with article 191 of the Constitution.
- viii. Damages for the harm, inconvenience and hardship caused the applicants.
- ix. Costs of litigation including lawyer's fees.
- x. Any other order(s) as to this Honourable Court may seem meet.

FACTS OF CASE

Respectfully, the facts of this matter are as set out in Applicant's affidavit in support and the various Exhibits attached thereto. We shall rely on all the

depositions in the affidavit in support together with the Exhibits attached thereto.

It is the Applicants' case that they sought jobs with the public service institutions duly specified in the affidavit in support. 1st applicant was employed by the Ghana Revenue Authority by dint of a letter dated 3rd December, 2024, the 2nd to 21st Applicants were employed by the Ghana Revenue Authority by dint of a letters dated 2nd and 3rd December, the 22nd and 23rd Applicants were employed by the Ghana Shippers Authority by letters dated 2nd December 2024, the 24th to 31st Applicants were employed by the Ghana Ports and Harbour Authority by dint of letters dated 2nd January, 2025. The 32nd to 36th Applicants were appointed by the National Lottery Authority by letters dated December, 2025. The 37th and 38th Applicants were also employed by the Driver and Vehicle Licensing Authority by dint of letters dated December, 2025. The 39th and 40th Applicants were employed by the National Health Insurance Authority by dint of letters dated October, 2024.

All the Applicants went through an extensive interview process, with some institutions like the 2nd Respondent conducting aptitude tests for its Applicants.

Applicants aver that, out of the blue, on 10th February, 2025, the Chief of Staff of the President, Mr. Julius Debrah, quite bizarrely, issued a directive for all heads of government institutions to take steps to annul the appointment of all persons who were employed after 7th December, 2024 and submit a comprehensive report on the actions taken to the Office of the President by 17th February, 2025. The Chief of Staff cited as the basis a claim that, his directive is consistent with Government *"pronouncement in relation to near end of tenure appointments and recruitments made in the Public Services of Ghana after 7th December, 2024"*. The notice stated further that, the said recruitments or appointments are *"not in compliance with established good governance practices and principles"*. This directive has been attached to the affidavit and marked as Exhibit B.

In purported compliance with the directive of the Chief of Staff, the 2nd, 3rd, 4th, 5th and 6th Respondents issued various letters to the applicants herein removing the applicants from the respective public service institutions in which they had been lawfully employed. Attached to the affidavit and marked as Exhibits "C, C1 to C38" are the letters issued to the applicants.

Applicants assert that it is not true that they were employed after the conduct of the December 7, 2024 presidential election.

Applicants are before this Honourable Court because the directive of the Chief of Staff dated the 10th day of February, 2025 is arbitrary, a gross abuse of his powers and contravenes accepted principles of fairness, natural justice and the rule of law. Applicants contend that that the reliance by the

2nd to 7th respondents on the directive of the Chief of Staff to remove them from the public service is manifestly unlawful and in flagrant violation of relevant provisions of Ghanaian law regulating the employment of members of the public services of Ghana.

THE LAW AND PRINCIPLES OF JUDICIAL REVIEW

Article 141 of the Constitution provides the broad strokes of the jurisdiction of this Honourable Court for the grant of judicial review of administrative actions and decisions. It provides as follows:

"The High Court shall have supervisory jurisdiction over all lower courts and any lower adjudicating authority, and may in the exercise of that jurisdiction, issue orders and directions for the purpose of enforcing or securing the enforcement of its supervisory powers."

Order 55 Rule 1 of the High Court (Civil Procedure) Rules, C.I. 47 provides the following:

- "1. An application for
 - (a) For an order in the nature of mandamus, prohibition, certiorari or quo warranto, or
 - (b) An injunction restraining a person from acting in any public office in which the person is not entitled to act;
 - (c) Any injunction shall be by way of an application for judicial review to the High Court".

Order 55 Rule 2 provides as follows:

- "2(1) On the hearing of an application for judicial review the High Court may make any of the following orders as the circumstances require:
 - (a) An order for prohibition, certiorari or mandamus;
 - (b) An order restraining a person from action in any public office in which that person is not entitled to act;
 - (c) any other injunction;
 - (d) a declaration;
 - (e) payment of damages."

By virtue of Order 55 rule 3(1), an application for judicial review shall be made not later than six months from the date of the occurrence of the event giving grounds for the making of the application.

Article 23 of the Constitution, 1992 provides as follows:

- "23. Administrative bodies and administrative officials shall act fairly and reasonably and comply with the requirements imposed on them by law and persons aggrieved by the exercise of such acts and decisions shall have the right to seek redress before a court or other tribunal"

Finally, Article 296 of the Constitution provides thus:

- "296 Where in this Constitution or in any other law, discretionary power is vested in any person or authority,
(a) that discretionary power shall be deemed to imply a duty to be fair and candid;

(b) the exercise of the discretionary power shall not be arbitrary capricious or biased either by resentment, prejudice or personal dislike and shall be in accordance with due process of law."

It is our respectful submission that Articles 23 and 296 of the Constitution reinforce each other and place the imprimatur of constitutional necessity and injunction on the need for administrative bodies to act fairly and reasonably, without caprice or ill-will when taking decision, especially where such decisions affect the rights, interests and legitimate expectations of third parties.

As the Supreme Court held in *TDC & Musah v. Atta Baffour*, [2005 -2006] SCGLR, *holdings (1 & (2))*:

- "(1): to qualify or be susceptible to judicial review the decision-maker must be empowered by public law (and not merely, as in arbitration, by agreement between the parties) to make decisions that, if validly made, would lead to administrative action or abstention from action by an authority endowed by law with executive powers, having one or the other of the following consequences, either (a) by altering the rights or obligations of that person which were enforceable against him in private law; or (b) by depriving him of some benefit or advantage which (i) he had in the past been permitted by the decision-maker to enjoy and which he could legitimately expect to be permitted to continue to do until there has been communicated to him some rational grounds for withdrawing it on which he has been given an opportunity to comment or (ii) he had received assurances from the decision-maker that it would not be withdrawn without giving him first an opportunity of advancing reasons for contending that they should not be withdrawn"

- (ii) The grounds upon which an administrative action would be subject to judicial review were illegality, irrationality and procedural impropriety. By "illegality" was meant the decision-maker must understand correctly the law regulating his decision-making power, "Irrationality" could be succinctly referred to as *Wednesbury* unreasonableness - applicable to a decision which was so outrageous in its defiance of logic or of accepted moral standards that no sensible person, applying his mind to the question to be decided, could have arrived at it. By "procedural impropriety" was meant not only failure to observe the rules of natural justice or failure to act with procedural fairness towards the person who could be affected by the decision but also failure by an administrative tribunal to observe procedural rules expressly laid down in legislation by which its jurisdiction was conferred, even where such failure did not involve any denial of natural justice"

Again *Sophia Akuffo JSC* in the case of *Awuni v. West African Examinations Council (WAEC)* [2003 - 2004] SCGLR 471 at 514 expatiated on the meaning and implications of Article 23 in these words:

"Thus by this article (i.e. Article 23) the right to administrative justice is given constitutional force, the objective being the assurance to all persons the due observance and application of the principles of natural justice which foster due process and the sated qualities, in the performance of administrative activities that affect them. In my view, the scope of article 23 is such that, there is no distinction made between acts done in exercise of ordinary administrative functions and quasi-administrative functions. Where a body or officer has an administrative function to perform, the activity must be conducted with, and reflect the qualities of fairness, reasonableness and legal compliance. I will not venture to give a comprehensive definition of what is fair and reasonable, since these qualities are dictated by the circumstances in which the administrative function. At the very least however it includes probity, transparency, objectivity, opportunity to be heard, legal competence, absence of bias, caprice or ill-will."

It is clear from the decisions of the Supreme Court in *TDC & Musa* and the *Awuni* cases supra that in Ghana the applicable principles of judicial review, as affected by Article 23 and 296 of the Constitution 1992 are the same or at least similar to the change of approach with regard to principles that currently govern judicial review under English law. *De Smith, Woolf and Jowell*, the learned authors of *Judicial Review of Administrative Action, Fifth Edition* make the following observations at page 15 paragraph 1'-026:

"As we shall see, English law now recognizes three principal 'grounds' of judicial review known as 'procedural propriety', 'rationality' and

illegality. These grounds are not isolated requirements of a discrete area of the law. They refer and attempt to impose upon all decision-makers standards that are inherent in a democracy. Procedural propriety imposes fair decision-making procedures necessary to the degree of participation which democracy requires. Rationality seeks the accuracy of decision and prohibits excessive burdens being imposed on individuals. The ground of legality involves the application both of the sovereignty of Parliament and the rule of law, by requiring that Parliament's will be respected and official action to be congruent with legislative purpose".

Georgina Wood JSC (as she then was) in the TDC & Musah case supra at page 150 to 151 cited with approval the reformulation of the Wednesbury Principles by Lord Diplock in the celebrated case of **Council of Civil Service Unions v. Minister for Civil Service** [1984] 3 All ER 953 HL as follows:

"The first ground I would call 'illegality', the second 'irrationality' and the third 'procedural impropriety'.

By 'illegality' as a ground for judicial review I mean that the decision-maker must understand correctly the law that regulates his decision-making power and must give effect to it. Whether he has or not is par excellence, a justiciable question to be decided in the event of a dispute, by those persons, the judges, by whom judicial power of the state is exercisable.

*By 'irrationality', I mean what can now be succinctly referred to us 'Wednesbury' unreasonableness (see **Associated Provincial Picture Houses Ltd v. Wednesbury Corporation** [1947] 2 ALL ER 689, [1948] 1KB 223). It applies to a decision which is so outrageous in its defiance of logic or of accepted moral standards that no sensible person who had applied his mind to the question to be decided could arrive at it. Whether a decision falls within this category is a question which judges by their training and experience should be well equipped to answer, or else there would be something badly wrong with our judicial system ...*

Lord Diplock continues:

"I have described the third head as 'procedural impropriety' rather than failure to observe basic rules of natural justice or failure to act with procedural fairness towards the person who will be affected by the decision. This is because susceptibility to judicial review under this head covers also failure by an administrative tribunal to observe procedural rules that are expressly laid down in the legislative instrument by which its jurisdiction is conferred, even where such failure does not involve a denial of natural justice".

We wish to state that both the above dictum of Lord Diplock and the earlier statement by the authors of *Judicial Review of Administrative Action* (supra), apply fully to Ghanaian law, with the following important qualification, namely that, in Ghana even legislation enacted by Parliament is itself subject to the test of reasonableness, fairness, the absence of arbitrariness, caprice and ill-will by virtue of Articles 23 and 296 of the Constitution, 1992. In other words, therefore, all public bodies and officials that exercise administrative functions that may affect or impinge on the rights and interest of persons are subject to the test of reasonableness, fairness, absence of arbitrariness, legality and rationality. Thus, in Ghana even where the words of a particular law seek to give a person who exercises public functions an unfettered discretion, such unfettered discretion will be subject to Article 23, 295(8) and 296 by virtue of the authoritative injunction of Article 1(2) which pronounces the supremacy of the Constitution and makes any other law that is inconsistent with any provision of the Constitution, to that extent void.

See also *Atuguba JSC* in the *TDC & Musah* case at page 147 thereof citing with approval Lord Upjohn's dictum in the famous *Padfield v. Minister of Agriculture Fisheries and Food* [1968] AC 1030 case:

"My lords I believe that the introduction of the adjective 'unfettered' and its reliance thereon as an answer to the appellants' claim is one of the fundamental matters confounding the Minister's attitude, bona fide though it may be. First, the adjective nowhere appears in section 19, it is an unauthorized gloss by the Minister. Secondly, even if the section did contain that adjective I doubt if it would make any difference in law to his powers, save to emphasise what he has already, namely that acting lawfully he has a power of decision which cannot be controlled by the courts; it is unfettered. But the use of that adjective, even an Act of parliament, can do nothing to unfetter the control which the judiciary have over the executive, namely that in exercising their powers the latter must act lawfully and that is a matter to be determined by looking at the Act and its scope and object in conferring a discretion upon the Minister other than by the use of adjectives".

It is pertinent to indicate that in determining the activities which are subject to the High Court's supervisory jurisdiction of judicial review, the present approach in determining whether an exercise of power or decision making may be subject to judicial review is *the type of function performed by the decision maker*. In the past the question of whether an exercise of power or decision making may be amenable to judicial review was resolved by simply asking what was the *source of the power* being exercised by the decision maker whose action was impugned. As authoritatively stated by the learned authors, *De Smith, Woolf and Jowell* in *Judicial Review of Administrative Action*, Fifth Edition @ 167

"Today, the courts recognize such an approach is too restrictive and they are now influenced by the type of function performed by the decision maker whose action is challenged. Where a body is carrying out a public function (such as that undertaken by a non-government regulatory organization in relation to the area of activity which is subject to its control), the courts will consider intervening to require compliance with the principles of judicial review.

This is the case even if the body is non-statutory, exercising powers which are not derived either from legislation or the prerogative.

A body is performing a "public function" when it seeks to achieve some collective benefit for the public or a section of the public and is accepted by the public as having authority to do so. Bodies therefore exercise public functions when they intervene or participate in social or economic affairs in the public interest."

Taking account of the foregoing, there is no shred of doubt that the types of functions exercised by His Excellency the President, the Chief of Staff of the President and the heads of the relevant public service institutions are public functions and to that extent, amenable to the supervisory jurisdiction of the High Court by way of judicial review. The President is the Head of State of Ghana and the Head of Government under Article 57 of the Constitution, 1992. In view of the public nature of the functions that he exercises on behalf of the people of Ghana, before assuming office, the President subscribes to an oath to uphold and defend the Constitution as well as the general laws of the land. The President is also vested with executive authority by Article 58 (1) of the Constitution, 1992 and exercises this executive authority through various public officers including his Chief of Staff, Mr. Julius Debrah. The Chief of Staff of the President is in fact appointed under public law, the Presidential Offices Act, 1993, (Act 465). It goes without saying that the core of functions exercised by the Chief of Staff of the President are discharged for and on behalf of the people of Ghana. They are clearly public functions and in the public interest.

Indeed, the public nature of the impugned decision the subject matter of the instant application is thrown beyond doubt when account is taken of the fact that in taking the impugned decisions, the President's Chief of Staff communicated same to the public through a press release to the general public. A copy of the Chief of Staff's directive is attached to the affidavit in support of the instant application. In our submission, the communication of the Chief of Staff's directive for all heads of public institutions to remove persons employed in the public service after 7th December, 2024, was made to the public because the Chief of Staff himself knew that the matter was in the public interest. It cannot be gainsaid that decisions, directives or orders of the Office of the President, communicated under the hand of the Chief of Staff, such as the one the subject matter of this application, are susceptible to judicial review.

It also cannot be disputed that when public service institutions, such as the 2nd to 7th Respondents hereto, purport to act on the said decisions, directives or orders of the Office of the President and the livelihood, employment and source of income of citizens of the country are unjustifiably affected, the actions 2nd to 7th Respondents herein are also susceptible to judicial review.

The 2nd to 7th Respondents also exercise public functions. In fact, they are created by the primary law of the land, the Constitution, 1992 and various statutes enacted by Parliament pursuant thereto. Their respective heads are also public officers. Civil servants discharge public functions, i.e. functions which assist in the functioning of government machinery. This undoubtedly, is a matter of public interest. Other public service institutions perform functions which augment the machinery of the State. They are, in point of fact, agents by which the State delivers essential services to the people. If this is the case, it is indisputable that decisions and actions by the 2nd to 7th respondents are amenable to this Honourable Court's issuance of the prerogative writs.

Further, it should be noted that the employment of the applicants herein by the Government was in line with the constitutional duty imposed on the State by Article 36(1) of the Constitution to take all necessary action to secure the maximum welfare, freedom and happiness of every person in Ghana and to provide adequate means of livelihood and suitable employment and public assistance to the needy. Their appointments were also consistent with the State's duty to safeguard the health, safety and welfare of all persons in employment, and establish the basis for the full deployment of the creative potential of all Ghanalans, as enshrined in Article 36(7) of the 1992 Constitution. It is thus submitted, respectfully, that any administrative decision of the Respondents herein which is excessive of the powers conferred on them by the Constitution or other legislation, will fall for scrutiny by way of judicial review under Article 23, 141, 295(8) and 296 of the Constitution by virtue of the authoritative injunction of Article 1(2). The supervisory jurisdiction of the High Court under Article 141 of the Constitution, 1992 can at any time be invoked to scrutinise any administrative decision by any person or body that is of public interest.

APPLICATION OF THE PRINCIPLES OF JUDICIAL REVIEW TO THE FACTS OF THE CASE.

The gravamen of Applicant's case is that the purported decision of the Chief of Staff of the President is contrary to the laws regulating the public service, particularly, the security of tenure and protection from undue politicisation of the public service assured by Article 191 of the Constitution. The applicants contend that their removal from the public service violates all accepted principles of fairness as they were not given any hearing whatsoever. In point of fact, contrary to the Chief of Staff's assertion, a careful examination by this Court of the manner in which the applicants

were removed from the public service would show that the Chief of Staff's directive rather sinned against the principles of good governance and permissible principles of rule of law.

Applying the principles on judicial review, we submit that the first consideration the Court has to advert its mind to, is the law affecting the subject matter in issue, i.e. the decision complained of, and whether same was violated by the public officer in question. In our submission, the employment of members of the public services of Ghana is governed by the provisions of **Chapter Fourteen of the Constitution**. Chapter Fourteen of the Constitution, in anticipation of the misconstruction of the import of the power conferred on the President to appoint public officers, has set out a regime for the protection of public servants. Thus, **Article 191** contains provisions to protect members of the public service. It stipulates thus:

"A member of the public services shall not be -

(a) victimised or discriminated against for having discharged his duties faithfully in accordance with this Constitution; or

(b) dismissed or removed from office or reduced in rank or otherwise punished without just cause".

Respectfully, the meaning of this provision is clear and admits no interpretation. The Constitution has been in force since 7th January, 1993. This provision has been observed and understood by all administrations which take office since 1993, as its meaning is clear. Thus, Ghana has not experienced a phenomenon of mass sacking, dismissal, termination or removal from office of public servants who were employed by a previous political administration, following the swearing-in of a new President.

Further, whenever a President either by himself or through a subordinate orders the removal from office or punishment of a member of the public service without recourse to the procedure for such action prescribed by law, the High Court has been bold and quick to intervene by the grant of the prerogative writs of certiorari, mandamus, etc. to quash the decision and restore the public servants to their former office.

Please see the decisions of the High Court, Accra in:

Albert Anthony Among v. 1. Attorney-General 2. The Head of Civil Service per Asiedu J (as he then was) High Court judgment dated 2nd December, 2009.

Adim Odoom v. 1. Attorney-General 2. The Head of Civil Service per Norvisi Aryene J (as she then was) High Court judgment dated November, 2009.

In our submission, **article 191(b)** of the Constitution is clear and places a duty on all public officers in an administrative capacity not to dismiss or

remove a public servant from office without just cause. Taking into account the principles of reasonableness, rationality and fairness, it is submitted that removing a member of the public service from office simply because that public servant was employed by a previous government either on or after the holding of a presidential election, violates the constitutional concern conveyed by article 191 not to politicise the public service or victimize public servants. The declaration of the Chief of Staff that his directive for the removal of the public servants was consistent with Government *"pronouncement in relation to near end of tenure appointments and recruitments made in the Public Services of Ghana after 7th December, 2024"*, was most unfortunate and clearly showed an inclination to politicise the public service. Merely because the incoming Government had churned a certain rhetoric or *"pronouncement in relation to near end of tenure appointments and recruitments in the Public Services of Ghana"* does not competently justify a directive that such appointments should be annulled and the applicants herein together with other persons affected should be removed. This is because, as stated above, the Constitution has provided the basis and circumstances in which a member of the public service may be removed from office.

The compliance by the relevant public service institution with the directive of the Chief of Staff was clearly unwarranted as the basis for the removal of the officers in question did not satisfy the constitutional standard stipulated in article 191 of the Constitution. Both decisions ought to be quashed by this Honourable Court as being flagrantly unlawful.

It goes without saying that the patently unlawful decisions by the Chief of Staff and the heads of the public institutions in question affected the livelihood of the public officers in question. They lost their jobs in consequence thereof and their source of income. Clearly, being affected by these adverse and unlawful decisions, the applicants herein are competently before this Honourable Court for the reliefs stated in the motion paper and this statement of case.

In our contention, the two decisions complained of - the directive of the Chief of Staff and the purported reliance on same by the public institutions to remove the applicants herein based on the Chief of Staff's directive - are deeply laden with all the elements of actions susceptible to judicial review. They are fraught with the characteristics of decisions by public officers which are liable to be checked by this court's supervisory jurisdiction under article 141 of the Constitution and Order 55 of the High Court (Civil Procedure) Rules, 2004, C. I. 47. The decisions are so manifestly illegal and as the Supreme Court noted in *TDC & Musah v. Atta Baffour* (supra), will have to be quashed by way of judicial review.

They are also plainly irrational and fall within the class of decisions and actions caught within the oft-cited or so-called "Wednesbury unreasonableness" as held in *Associated Provincial Picture Houses Ltd v. Wednesbury Corporation* [1947] 2 ALL ER 689. As stated above, the

decisions defy logic and accepted moral standards. It is not expected that every new government which takes office will lay off workers or some groups of workers employed by the previous government. The irrationality of the decisions is demonstrated by the fact that since 1993, when the Constitution entered into force, this has not happened. Every new government which takes office works with the full compliment of the public services as existing before the President was sworn into office. The public service cannot be politicised by a victimisation or stigmatisation of *"near end of tenure appointments and recruitments in the Public Services of Ghana"*, as is discernible from the directive of the Chief of Staff of the Office of the President and the consequent actions of the 2nd to 7th respondents herein.

In our submission, it does not matter whether the workers were employed in December, 2024 or any month in which elections were held. Once they have been employed, they assume the full status of members of the Public Services of Ghana with full rights and protection under the Constitution of Ghana. It ought to be noted that until the office of President becomes vacant under article 66(3) of the Constitution, the President is vested with full executive authority of the State which extends to the power to hire members of the public services under article 195 of the Constitution. The life of every government continues until a new President, who has been duly elected at a general election in December of a specific year, is sworn into office on 7th January of the following year. It goes without saying that every decision by the Incumbent President until lawfully set aside in accordance with due process, is valid. Article 66(1) stipulates thus:

"A person elected as President shall, subject to clause (3) of this article, hold office for a term of four years beginning from the date on which he is sworn in President."

It is quite apparent that the President of the Republic in December, 2024, was well within his constitutional mandate in making appointments and employing citizens of Ghana into the public services. The rhetoric and *"pronouncement in relation to near end of tenure appointments and recruitments made in the Public Services of Ghana after 7th December, 2024"*, by the Government which took office on 7th January, 2025, as stated in the directive of the Chief of Staff, is with the greatest of respect, without basis. The appointments of the applicants herein were valid and could only be determined through due process as enshrined in article 191 of the Constitution. It is our respectful submission that the impugned decisions militate against the well acknowledged principle that government is a continuum. They are so irrational that this Honourable Court should exercise its powers of judicial review and correct same by quashing and ordering the applicants herein to resume their normal duties in the institutions in question.

CONCLUSION

We humbly submit that the decisions being challenged have far-reaching implications for the nation. This Court owes a duty to exercise its supervisory jurisdiction and protect the security of tenure of members of the Public Services of Ghana from undue victimisation and discrimination, as stipulated in article 191(a) of the Constitution, merely on account of when they were employed by a particular government. A decision by this Court granting the reliefs sought by the applicants herein will have the consequence of protecting the sanctity of the public service, safeguarding it against unnecessary politicisation and ensuring that it continues as that neutral and uncoloured organ of State empowered to contribute to nation building, and not susceptible to changes following a change of government or the holding of general elections in the country. Indeed, the decisions, if not checked by this Honourable Court, are not only outrageously unlawful but also have the real potential to wreak chaos into the public services of Ghana.

We respectfully pray for the grant of the reliefs sought by applicants herein.

DATED AT DAME & PARTNERS, CANTONMENTS, ACCRA THIS 20TH DAY
OF MARCH, 2025

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THE REGISTRAR
HIGH COURT
GENERAL JURISDICTION DIVISION,
ACCRA

AND FOR SERVICE ON THE RESPONDENTS HEREIN