

SHATCO INCORPORATED, by and thru its General Manager, GEORGE SHANHEEN, Petitioner/Appellee, v. **THE MINISTRY OF JUSTICE**, by and thru its official head, HONOURABLE JENKINS K. Z. B. SCOTT, his Deputies, Officers, Police or otherwise, JEAN A. CHAHINE, and the General Manager of CITIBANK, et al., Respondents/Appellants.

APPEAL FROM THE RULING OF THE CHAMBERS JUSTICE GRANTING
THE WRIT OF PROHIBITION.

Heard: June 16, 1986. Decided: July 31, 1986.

- 1 A party who submits himself to the jurisdiction of a tribunal by appearing before the tribunal and contesting issues cannot properly thereafter object to the jurisdiction of the tribunal over his person with respect to any issues so contested.
- 2 A writ of prohibition will not lie to prohibit acts already completed.
- 3 Decisions, regulations or decrees made under a military government supercedes the local law when deemed desirable or expedient.
- 4 Administrative decisions made during the period of military administration will not be made subject to judicial review unless such decisions are cruel, and against the laws of God and humanity.
- 5 No executive, legislative, judicial or administrative action taken by the People's Redemption Council or by any persons, whether military or civilian in the name of that Council pursuant to any of its decrees shall be questioned in any proceedings whatsoever, and, accordingly, shall not be lawful for any court or order tribunal to make any other or grant any remedy or relief in respect of an such act."

Co-appellant Chahine filed a complaint to the Head of State and President of the Interim National Assembly against the appellee, his former employer for wrongfully dismissing him. The Head of State referred the matter to the Minister of Justice, who

upon investigation of the matter awarded damages to the coappellant in the amount of \$25,000.00, which was to be paid in installments. The appellee thereafter requested the Deputy Head of State and Speaker of the Interim National Assembly to review the decision of the Minister of Justice. When the Deputy Vice Head of State and Speaker upheld the decision of the Minister of Justice, the appellee filed a petition for a writ of prohibition to stop payment of outstanding amount and to have the co-appellant refund the amounts already paid. The Chambers Justice ruled in favor of the appellee, holding that the Minister of Justice had no jurisdiction over the matter and that the matter should be transferred to the Ministry of Labour.

The Court *en banc* reversed the ruling of the Chambers Justice holding, *inter alia*, that the Government at the time was a military one and therefore its decision cannot be reviewed "except such decisions are cruel and against the laws of God and humanity." *Ruling reversed*

The Ministry of Justice, assisted by *M Fabnulleh Jones* of the Wakolo Law Office, appeared for the appellant. *The Pan African Law Associates* represented the appellees.

MR. CHIEF JUSTICE NAGBE delivered the opinion of the Court.

Jean A. Chahine, one of the appellants, on January 18, 1985, filed a complaint with Dr. Samuel K. Doe, then Head of State and President of the Interim National Assembly, the substance of which as contained in a letter reads, in part, as follows:

"Mr. Head of State:

I have the honor to bring to your attention a matter which has caused great embarrassment to me and my family. While I was in the employ of City Pharmacy, Mr. George M. Shaheen of Shatco Company persuaded me to leave my job to accept employment with his company in August, 1982. However, to my surprise, my documents were given to me by Mr. John M. Shaheen at my residence on front street, informing me of my dismissal without any reasons. Claiming for my back pay, Mr. John M. Shaheen said that his father, Mr. Milad G. Shaheen, will not agree to give

anything as back pay.

Thereafter, I was re-employed by City Pharmacy. Again to my dismay, I was picked up by a CID agent; Captain Allison, on the charge of property theft instituted against me by Mr. Milad Shaheen, Manager of Shatco Company.

Following investigation, I was acquitted of the charge . . ."

It may be mentioned that co-appellant Chahine had earlier filed an action of damages in the Civil Law Court for the Sixth Judicial Circuit, Montserrado County, which he withdrew while pursuing his efforts for redress at the Executive Mansion.

Following receipt of the complaint by the Head of State, the following letter was addressed to the Minister of Justice: "Mr. Minister:

By directive of the Head of State and President of the Interim National Assembly, CIC Dr. Samuel K. Doe, I hereby forward you a document from Mr. Jean A. Chahine, appealing for his intervention in a matter in which he alleged of being wrongfully dismissed and of receiving no compensation.

In this connection, the Head of State directs that you review the matter and submit your recommendation on a solution to this matter.

IN THE CAUSE OF THE PEOPLE, THE STRUGGLE CONTINUES! Cordially yours, Major J. Bernard Blamo MINISTER OF STATE"

Whereupon the Minister of Justice, Honourable Jenkins K. Z. B. Scott, instituted an investigation into said matter. The investigation was chaired by Assistant Minister of Justice, Honourable Karmo G. Soko-Sackor. All parties were present and took part in said investigation which lasted for four days. It was confirmed, according to the records, that co-appellant Chahine was indeed arrested by agents of the Criminal Investigation Division (C.I.D.) on the charge of property theft upon the complaint of

Shatco Inc., appellee, and that after thorough investigation at the C.I.D. headquarters the co-appellant was exonerated and discharged.

It was brought out that at the time the co-appellant Chahine was arrested by the C. I. D., he was about to be re-employed at a salary of \$2,000.00 per month with the City Pharmacy, from whence he was previously induced by the appellee to work for it. Following conclusion of the investigation, it was recommended in the report thereof that:

"Since it appears that respondent has employed tricks and deceitful acts with the sole intention to embarrass complainant and deprive him of getting back pay by criminally and falsely accusing him of theft, as a result of which he was made the subject of disgrace, humiliation in the public gaze and suffered mental anguish during his arrest and detention, and further caused him to lose his job at the City Pharmacy, thereby placing him in destitute circumstance, the respondent company should be made to compensate complainant in the amount within the vicinity of \$25,000.00, instead of \$50,000.00 as claimed by complainant."

The Minister of Justice having communicated this recommendation to the Head of State, the Minister of State was directed to instruct the Minister of Justice as follows:

"Mr. Minister:

Reference is made to the investigation conducted by your Ministry between Mr. Jean A. Chahine, and Messrs John M. Shaheen and Milad G. Shaheen of City Pharmacy, in which you recommended that Mr. Chahine, the complainant, be paid the amount of \$25,000.00 (Twenty-Five Thousand Dollars) as compensation for unfair acts against him. The Head of State directs that you implement said recommendation and have the matter closed.

IN THE CAUSE OF THE PEOPLE, THE STRUGGLE CONTINUES!

Cordially yours, Major Jenkins Scott Minister of Justice Ministry of Justice Monrovia,
Liberia & Major J. Bernard Blamo MINISTER OF STATE

Upon receipt of the above quoted communication, the Minister of Justice invited the parties to the Ministry of Justice where the appellee was informed of the approval of the Ministry's recommendation by the Head of State. Payment of the \$25,000,00 was made by four (4) checks to be presented between March 25th to May 23, 1986 and a receipt evidencing said payment was signed by the appellant.

After this settlement which apparently closed the matter, two of the checks amounting to \$13,000,00 were subsequently en-cashed with the balance of \$12,000,00 covered by the remaining two checks to be later en-cashed.

Meanwhile, the appellee, who did not inform the Head of State as to his dissatisfaction with the decision in the matter, appealed to the Deputy Vice Head of State and the Speaker of the Interim National Assembly to look into said matter. Both the Deputy Vice Head of State and the Speaker reviewed the matter and upheld the decision therein . The appellee then filed before the Chambers Justice a petition for a writ of prohibition to not only stop payment of the balance amount of \$12,000,00, but to also make co-appellant Chahine refund the \$13,000.00 already paid.

Appellants filed their returns in which they maintained that administrative decisions are not illegal but are valid and that the appellee should have appealed to the Head of State if it was not satisfied with the recommendation of the Ministry of Justice, which the Head of State approved and ordered implemented. Having submitted to administrative adjudication of the matter and participated in the investigation conducted by the Ministry of Justice as directed by the Head of State, the appellee is now estopped from applying for a writ of prohibition to stop payment of an amount in satisfaction of a decision which he already complied with by the tendering of the checks, and acceptance of a settlement receipt from appellant.

The Chambers Justice having heard arguments on both sides, ruled in favor of appellee, holding that the Ministry of Justice has no jurisdiction over the matter, and

that the same be transferred to the Ministry of Labour. The petition was therefore granted and the peremptory writ was ordered issued to restrain the Ministry of Justice from payment of the balance of the checks and to prevent Citibank from honoring said checks whenever they were presented. It was from said ruling that appellant appealed and brought this matter before us. From the foregoing analysis of this case, the questions now requiring our attention and review are as follows:

a) Can Prohibition lie in this case?

b) Was compliance with the decision to pay the amount of \$25,000.00 complete by the tendering of the checks and the issuance of the receipt evidencing payment be considered a completed act, which makes the petition for a writ of prohibition inapplicable?

c) Did suspension of the Constitution at the time of the controversy have any effect with respect to decisions made as relate to separation of powers and functions of the three branches of Government?

As already mentioned according to the records, following approval by the Head of State of the Ministry of Justice's recommendation, satisfaction or payment of the amount of \$25,000.00 involved was made by the tendering of four checks and a receipt issued to the appellee thereby bringing the matter to a close. See *Coleman et. al. v. Cooper et. al*, 12 LLR 226 (1955), which read:

"1. A party who submits himself to the jurisdiction of a tribunal by appearing before the tribunal and contesting issues cannot properly thereafter object to the jurisdiction of the tribunal over his person with respect to any issues so contested.

2. A writ of prohibition will not lie to prohibit acts already completed."

Two of those checks amounting to \$13,000.00 were en-cashed. It cannot be said that the administrative decision by the Executive Branch approving the recommendation

after full investigation, in which all parties took part and produced witnesses, was illegal. Satisfaction having been made by tendering the checks and the decision out of which the payment was made not being illegal, prohibition cannot lie in that case.

On the general question of whether or not the case was tried in the proper forum, and that Mr. Chahine having complained of illegal dismissal and damages should have pursued his case at the Ministry of Labour or the Civil Law Court, it is to be remembered that the Government at the time was a military one in which the Constitution was suspended, unlike a civilian government which operates normally under a Constitution. Decisions, regulations or decrees made under a military government supercedes the local law when deemed desirable or expedient. *See BLACK'S LAW DICTIONARY* 1144 (4th ed). Consequently, administrative decisions made during the period of military administration cannot be made subject to review, except such decisions are cruel and against the laws of God and humanity. In the instant case, although the appellant requested compensation in the amount of \$50,000.00, the administrative decision reduced it to \$25,000.00.

Further, to entertain review of decisions made in such matters during military rule will open a floodgate because hundreds, if not thousands, of similar cases were in like manner decided administratively without regard to the doctrine of separation of functions since no constitution was then in operation.

Secondly, such a review by this Court would border on, or almost amount to a violation of Article 97 (a) of the present Constitution which provides that:

"No executive, legislative, judicial or administrative action taken by the People's Redemption Council or by any persons, whether military or civilian in the name of that Council pursuant to any of its decrees shall be questioned in any proceedings whatsoever; and, accordingly, shall not be lawful for any court or other tribunal to make any order or grant any remedy or relief in respect of any such act."

In view of the foregoing, it is our opinion that the ruling of the Chambers Justice be,

and the same is hereby reversed, the petition denied, the peremptory writ quashed and the decision ordered enforced with costs against the appellee. And it is so ordered.

Petition denied.

MR. JUSTICE JANGABA *dissents.*

I have considered that the holding of the Chambers Justice in this matter is sound and commendable for all it says: that the Ministry of Justice is without jurisdiction to hear and determine Labour matters arising from labor relations, nor does it have it with respect to awarding general damages which is exclusively an affair for the jury; and when the enforcement of the illegal judgment of that Ministry, or of any other illegal judgment has not been complete, prohibition will lie to restrain its further enforcement.

The Justice Ministry had a duty to properly advise both the Executive and the party litigants of its lack of jurisdiction in the matter, rather than assume an illegal jurisdiction and attempt to enforce an illegal judgment. The Justice Ministry is supposed to set a better example in such matters as this one.

I am therefore convinced that some successors of ours will certainly decide to ride with the prudence of my judgment in this matter.

Hence, I respectfully register this dissent for the benefit of posterity, and for the sake of my own conscience built out of an understanding of the laws of this jurisdiction.