

IN THE HONRABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA  
MARCH TERM, A.D. 2025

BEFORE HER HONOR : SIE-A-NYENE G. YUOH..... CHIEF JUSTICE  
BEFORE HER HONOR : JAMESETTA H. WOLOKOLIE .....ASSOCIATE JUSTICE  
BEFORE H I S HONOR : YUSSIF D. KABA .....ASSOCIATE JUSTICE  
BEFORE H I S HONOR : YAMIE QUIQUI GBEISAY, SR.....ASSOCIATE JUSTICE  
BEFORE HER HONOR : CEANEH D. CLINTON-JOHNSON.....ASSOCIATE JUSTICE

Ministry of Commerce, by and through Hon. Wilson K. )  
Tarpeh, Minister of Commerce, all Deputies and Assistant )  
Ministers, Ministry of Commerce )  
.....Appellant )

Versus ) APPEAL

Mr. Abu Kamara of the City of Monrovia, Montserrado )  
County, Republic of Liberia )  
.....Appellee )

GROWING OUT THE CASE:

Mr. Abu Kamara of the City of Monrovia )  
Montserrado County, Republic of Liberia.....Petitioner )

Versus ) PETITION FOR  
DECLARATORY  
JUDGMENT

Ministry of Commerce by and thru Hon. Wilson K. Tarpeh, )  
Minister of Commerce, All Deputies and Assistant Ministers, )  
Ministry of Commerce )  
.....Respondent )

Heard: November 20, 2024

Decided: May 29, 2025

MADAM JUSTICE CLINTON-JOHNSON DELIVERED THE OPINION OF THE COURT

This appeal grows out of the August 2, 2018 A.D. ruling of the Six Judicial Circuit Civil for Montserrado County, sitting in its June Term A.D. 2018 by His Honor, Yamie Quiqui Gbeisay, Sr., in which a petition for declaratory judgment was granted in favor of the appellee, Abu Kamara.

The certified records before this Court reveal that on June 7, 2018, the appellee filed a petition for declaratory judgment against the appellant, the Ministry of Commerce, by and thru Hon. Wilson K. Tarpeh, Minister of Commerce and all Deputy Ministers and Assistant Ministers of said ministry, praying the trial court to declare his rights. The appellee, in his petition, averred that he was employed in 2006 as a civil servant with the Ministry of Commerce and Industry,

serving in the position of Director of Domestic Trade; that while in the employ of the appellant, the appellee was assigned in 2011 jointly by the Ministry of Foreign Affairs, and the appellant to serve as the Registrar General of the Liberia Business Registry (LBR), until March 5, 2018, when the appellee was replaced by Sampson M. Dee through a Presidential Appointment by the Former President of Liberia, H.E. George M. Weah. In obedience to the recall from the joint duty by the appellant, the appellee continued to report to duty and serve as Registrar General until Thursday, March 8, 2018, when the appellee received a letter post-dated March 9, 2018, signed by the appellant, Wilson K. Tarpeh, instructing the appellee to turn over all properties of the Liberia Business Registry (LBR), in his possession to the Director of Human Resource of the Ministry of Commerce and to report to the office of the appellant, Wilson K. Tarpeh for "re-assignment".

In compliance with the instruction as contained in the appellant's letter, the appellee turned over all the assets of the LBR in his possession to Mr. Joseph L. Blango, Director of Human Resource Department of the Ministry of Commerce and Industry on March 12, 2018, and obtained a receipt thereto. Thereafter, the appellee continued to report to the appellant, Hon. Wilson K. Tarpeh's office for re-assignment in compliance with the instruction as contained in the March 9, 2018. While waiting for the re-assignment, Hon. Wilfred J. S. Bangura, Deputy Minister of Commerce and Industry for Administration wrote the Civil Service Agency on April 4, 2018 requesting it to re-assign the appellee to an area where his skills and experience will be properly utilized to the benefit of the Government and People of Liberia. In response to this communication from the Ministry of Commerce and Industry, the Civil Service Agency (CSA), on April 16, 2018 wrote a letter to the appellant with a suggestion that the appellee be transferred to a position of lateral portfolio in the Ministry of Commerce and Industry with remuneration (base salary and allowance), which the appellant refused, failed, and neglected to do, as well as failing to give to the appellee his allowances for the months of April and May A.D. 2018 without any justifiable reasons.

Dissatisfied with the unresponsiveness of the appellant, the appellee, on June 7, 2018, filed a petition for Declaratory Judgment in the Sixth Judicial Circuit Court, praying the court to declare his rights, re-assigned him to a position of lateral portfolio and declare his right to receive his salary and allowances. Following the service of the judge's order on the appellant, the appellant, on June 11, 2018, filed its returns and a motion to dismiss the petition for declaratory judgment, contending in both that the petition for declaratory judgment was cognizable before the Civil Service Agency (CSA) and not a judicial forum; that the court may refuse to render or enter a declaratory judgment where such judgment, if rendered will not

terminate the uncertainty giving rise to the proceeding and in this instant case, the court cannot terminate the issue.

The appellee on June 25, 2018, withdrew its petition and filed a fourteen (14) count amended petition for declaratory judgment contending that it is his right to be re-assigned to a lateral portfolio with the same salary and allowance and other benefits as his removal from his position as Registrar General was not due to any disciplinary action against him; that it was his right to claim allowances for the months of April and May 2018 and other benefits thereafter, that he is entitled in accordance with his status as a Civil Servant. The appellant also filed a nine (9) count amended returns to the amended petition on July 2, 2018, basically contending that the remedy for a claim of a Civil Servant is not cognizable before a judicial forum but to the Civil Service Agency where the appellant made a request for re-assignment, relying on the law that the court may refuse to render or enter a Declaratory Judgment where such judgment, if rendered, will not terminate the uncertainty giving rise to the proceeding (*Civil Procedure Law, Rev. Code 1:43.5*), and that in this instant case, the court cannot terminate the issue; and that the appellee's amended petition needs to be stricken because it was not signed and served on the appellants.

Pleading having rested, the trial court, on August 2, 2018, entertained arguments pro et con and thereafter ruled, denying the motion to strike and granted the petition for declaratory judgment to have the appellee re-assigned to a lateral portfolio with his base salary and allowance which he earned prior to his recall. In the ruling, the court said that it has jurisdiction to hear the matter of declaratory judgment and quoted *Civil Procedure Law, Revised Code 1:43.1*, which states: "Courts of records within their respective jurisdictions shall have power to declare their rights, status and other legal relations whether further relief is or could be claimed. No action or proceeding shall be open to objection on the grounds that a declaratory judgment is prayed for. The declaration may be either affirmative or negative in form and effect; and such declaration shall have the effect of a final judgment. The power granted to the court under this section is discretionary." Further, in determining whether or not the petitioner was entitled to salary and benefits, the court decided that there was no law that limited allowances beyond the normal working hours, and as such, the appellee was entitled to his salary and benefits. The court further held that the appellee was entitled to be reassigned to a lateral portfolio with his base salary and allowance which he was earning prior to his recall.

The appellant noted exception and announced an appeal to the Full Bench. Subsequently thereafter, the appellant, on August 8, 2018, filed a three count (3) bill of exceptions, which we now state verbatim:

1. "That Your Honour erred when he did not order stricken appellee/defendant amended petition for wrong service on respondent/appellant.
2. That Your Honor erred when you denied appellant/movant's motion to dismiss the petition for wrong declaratory judgment, when you know that granting cannot terminate the controversy.
3. That Your Honor erred when in your ruling denying the motion you ordered the appellant to do what the Civil Service Agency can order.

WHEREFORE AND IN VIEW OF THE FOREGOING, appellant most respectfully submits these bill of exceptions for your approval for the Honorable the Supreme Court of Liberia to review your ruling during its October Term, 2018."

After reviewing the records certified to this Court, and noting the content and merit of the arguments of the parties before this Court, we must determine whether the judge acted in line with law when he granted the amended petition for declaratory judgment.

To answer this question, this Court takes recourse to three basic questions (Does the court have power to declare rights; who can request the court to declare rights; and which rights does the court has the power to declare?). In answering the question as to whether or not the court has the power to declare rights, we note that the court has the "*power to declare rights, status, and other legal relations whether or not further relief is or could be claimed and in their discretionary power to grant or deny same; however, courts are under legal authority to first ascertain whether the granting of said declaratory judgment ends the controversy, which declaration may be either affirmative or negative in form and effect; and such declarations shall have the force and effect of a final judgment*". *Civil Procedure Law, Rev. Code 1:43.1*. In answering the question who has the rights to file a petition for declaratory judgment, *Civil Procedure Law, Rev. Code 1:43.3* which states that "Any person interested as or through an executor, administrator, trustee, guardian or other fiduciary, creditor, devisee, legatee, heir, next of kin, or cestui que trust in the administration of a trust, or of the estate of a decedent, an infant, lunatic, or insolvent, may have a declaration of rights or legal relations in respect thereto:

- (a) To ascertain any class of creditors, devisees, legatees, heirs, next of kin or others; or
- (b) To direct the executors, administrators, or trustees to do or abstain from doing any particular act in their fiduciary capacity; or

(c) To determine any question arising in the administration of the estate or trust, including questions of construction of wills and other writings.” As to what rights can be declared under the declaratory judgment, same is laid down in the provision of the *Civil Procedure Law Revised Code 1:43.2*, which states that “any person interested under a deed, will, written contract, or other writing constituting a contract, or whose rights, status, or other legal relations are affected by a statute, municipal ordinance, contract, or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract, or franchise and obtain a declaration of rights, status, or other legal relations thereunder.” Additionally, the court may refuse to render or enter a declaratory judgment where such judgment, if rendered, would not terminate the uncertainty or controversy giving rise to the proceeding. *Civil Procedure Law, Rev. Code 1:43.5.*”

Taking recourse to the law in addressing the contentions and merits of the parties, this Court says that it is clear that the right in contention in this case does not fall under any of the rights that the court has the authority to declare because from the perusal of the claims stated in the complaint, the appellee’s right to be reassigned and given his salary and benefits are not among the rights provided for by statute.

From the information culled from the certified records before this Court, the appellant, on April 8, 2018, informed the CSA about reassignment of the appellee, which we now state verbatim:

Republic of Liberia  
Ministry of Commerce & Industry, Monrovia

April 4, 2018

The Human resource Director (Officer-In-Charge)  
Civil Service Agency  
Carey Street, Monrovia  
Republic of Liberia

Dear Sir/Madam

I present my sincere compliments and wish to inform you that the President of the Republic of Liberia, H. E. George M. Weah has appointed Mr. Sampson Dee as the new Registrar General replacing Mr. Abu Kamara.

Based on the above and with the fact that he is a Civil Servant, we will like to forward Mr. Kamara to the Civil Service Agency for reassignment to an area where his skills and experience will be properly utilized to the benefit of the Government and people of Liberia.

Thanks for your usual cooperation.

Sincerely yours, Wilfred J. S. Bangura  
Deputy Minister for Administration

Following the appellant's communication to the CSA on the reassignment of the Abu Kamara, appellee, the CSA through its Acting Director General wrote the Deputy Commerce Minister for Administration-appellant, which is also quoted verbatim:

Republic of Liberia  
Civil Service Agency  
P. O. Box 9019  
63 Carey Street, Monrovia, Liberia

April 16, 2018

Hon. Wilfred J. S. Bangura  
Deputy Minister for Administration  
Ministry of Commerce & Industry  
Gurley and Ashman Streets  
Monrovia, Liberia

Dear Hon. Bangura:

I present my compliments and acknowledge receipt of your letter of April 4, 2018, on the replacement of Mr. Abu Kamara by Mr. Sampson Dee is the new Registrar General of the Liberia Business Registry and for the Civil Service Agency to reassign Mr. Kamara to area where his skills and experience will be properly utilized.

While under the Standing Orders for the Civil Service, Chapter 3,4,9, a and 3,4,9,b on (Transfer between/within agencies) states: "With the approval of the Director-General, a vacant position may be filled by the transfer of an employee from another position in the same class, or from a different class requiring essentially same qualifications and the same maximum salary. If the agency which is to lose the employee does not approve, the transfer may still take place, provided that the losing agency is given 30 days' notice of the intended transfer". "Internal transfers may be effected by the administrative authority but such transfers must not reduce the salary or status of civil servant, except in the case of disciplinary actions which must adhere to sections 4,2,4 and 4,2,8 of these regulations".

Also, the General Allowance Policy of February 26, 2014 under Director-General, George K. Warner signature, explains the Civil Servants general allowance policy. (copy of policy attached). Moreover, the transfer of Mr. Kamara to another Ministry and Agency can only be effected if he has to move with a financial package provided by your Ministry until the end of the budget period.

In view of the above, I suggest that Mr. Abu Kamara be transferred to a position of lateral portfolio in the Ministry of Commerce and Industry with remuneration (based salary and allowance).

With sentiments of my highest esteems,

Sincerely,

Reginald M. Wade, Sr. (Rev.)  
Acting Director-General/Deputy Director for HR

Clearly, the Civil Service Agency did not determine any rights of the appellee; rather, made a suggestion “That Mr. Abu Kamara be transferred to a position of lateral portfolio in the Ministry of Commerce and Industry with remuneration (based salary and allowance)”, which suggestion was not an outcome of an administrative hearing. Therefore, the contention of the appellant challenging the court of its power to hear this matter on declaratory judgment is proper because the appellee admitted in its petition that he is a civil servant working for the appellant’s Ministry. The appellee as a civil servant was to file his grievances to the CSA pursuant to Chapter 6 of the CSA’s Standing Order under the Grievance Procedure.

We are of the opinion that after the appellee files a formal complaint under the said grievance procedure of the Civil Service Agency, the adequate remedy available to the appellee would then be for the CSA to conduct a proceeding concerning the refusal of the appellant to reassign him with his salary and benefits, thereby exhausting the administrative remedy available to him; only after which determination that the appellee was entitled to the rights claimed and if the head of the agency for which he served does not afford him the right as declared, then the appellee can take recourse to *Section 82.8 of the Administrative Procedure Act of the New Executive Law* states that “A person who has exhausted all administrative remedies available within the agency and who is aggrieved by a final determination in a contested matter is entitled to judicial review under this chapter; for contested matters in which the right to review provided by this section affords an adequate remedy, no other means of review, redress or relief shall be available. A preliminary procedural or intermediate agency action or ruling is immediately reviewable if review of the final agency determination would not provide an adequate remedy.”

Therefore, the trial court’s ruling granting the petition for declaratory judgment is not consistent with law since the administrative remedy to address any contested issue/grievance of a civil servant was not determined; the letter relied on by the appellee in his petition for declaratory judgment was an advice/suggestion, which letter of advice is not one of those instruments contemplated by the statute for which declaratory judgment will lie. Hence, the trial judge erred when he granted the petition.

WHEREFORE AND IN VIEW OF THE FOREGOING, the final ruling of the trial judge is reversed. The Clerk of this Court is ordered to send a mandate to the court below commanding the judge presiding therein to resume jurisdiction over this case, and give effect to the Judgment of this Opinion. Costs are disallowed. AND IT IS HEREBY SO OREDRED.

Reversed

When the case was called for hearing Counsellor Thompson N. Jargba appeared for the appellant. Counsellor Momolu G. Kandakai and Dauda Keita appeared for the appellee.