



High Court Awards Damages Against the Minister of Defence

The High Court has rapped members of the national army for attacking civilians with impunity. Delivering a strongly-worded judgment in the case in which a Harare man, Joseph Mutsotso (41), was suing the Minister of Defence for compensation after being severely assaulted by members of the army, the High Court condemned the army's unlawful conduct.

Justice Mathonsi heard the matter on the 20th of November 2012 and Justice Patel delivered his judgment on the 28th of November 2012. The court denounced the army's actions and failure by the force to discipline its errant members saying "they (members of the army) acted with impunity noisily attacking civilians without any sign of fear of reprisals and got away with their unlawful activity." The court added that the evidence also showed that at the same time army members were also frolicking among civilians robbing them with no firm action being taken against them. It rejected as inconceivable the argument by the defence's key witness Major Enock Chivhima who claimed the assailants were defectors noting that "it is difficult to accept that these were defectors because if they were, the army would have been quick to neutralize them and bring them to book", the learned judge said.

On the night of 3 June 2003 Mutsotso, his wife and child were sleeping at their rented lodgings when members of the army unlawfully broke into their home and started to brutally assault his wife. Mutsotso who was hiding came out from his hiding place to intervene when the members of the force turned on him. They assaulted him with baton sticks, rifle butts, booted feet and clenched fists for about 30 minutes. He sustained broken ribs, fingers and they only left him when they thought he was dead. Mutsotso was accused of trying to remove the government by unlawful means. The incident occurred during a strike organised by the Zimbabwe Congress of Trade Unions (ZCTU) and Movement for Democratic Change (MDC) party dubbed "the final push". The assailants accused the plaintiff of trying to remove President Mugabe by unlawful means. Mutsotso was never charged for his alleged offence.

Mutsotso was awarded the amount claimed without any variations namely US\$726 for shock pain and suffering, US\$121 for loss of amenities of life and US\$121 for the embarrassment endured by Mutsotso who was beaten in full view of his family, neighbours and strangers. The Zimbabwe Human Rights NGO Forum's Public Interest Unit represented him.

The Forum welcomes the decision of the court as it continues to fight impunity and push for justice and accountability on behalf of victims of organized violence and torture.

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