



# ZIMBABWE TEACHERS' ASSOCIATION (ZIMTA)

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## CIRCULAR LETTER NUMBER 19 OF 2 DECEMBER 2022

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### SUBJECT: PROGRESS REPORT ON ZIMTA & OTHERS v MINISTER OF PRIMARY AND SECONDARY EDUCATION & ANOR HC 1564/22

#### 1. INTRODUCTION

1.1. This circular gives progress report on the case of our members who were suspended from work following the February 2022 campaign for salaries and allowances. The same officers have been arraigned before disciplinary hearing while the matter was before the court, a case of double jeopardy.

1.2. ZIMTA went to High court to get a declaratory order setting aside the suspensions. Which declarature could provide a lasting solution to the right to be heard.

1.3. The details of the matter are as follows.

#### 2. PROGRESS REPORT

2.1. On the 9<sup>th</sup> of March 2022, and on behalf of six of our members; through our legal practitioners, Matika Gwisai and Partners, we filed an urgent chamber application with the High Court.

2.2. In that application, we were challenging the three (3) months suspension of the members who were alleged to have been

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**Secretariat:** Dr. S. Ndlovu (Chief Executive Officer), Mr. P. Mazibuko (Chief Human Resources and Operations Officer) & Mr. L. Charumbuka (Chief Financial Officer)

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absent from work from 7 February 2022 to 10 February 2022 (a period of four days).

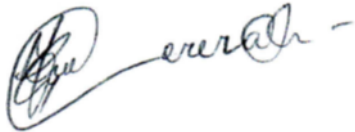
- 2.3. The basis of challenging the suspension were that;
  - 2.3.1. The members were not heard before the suspension orders (violation of the audi alteram partem rule).
  - 2.3.2. The suspension was unreasonable disproportionate, and unfair contrary to s 68 (1) of the Constitution.
  - 2.3.3. The suspension was in violation of fair labour standards and practices contrary to s 65 (1) of the Constitution.
  - 2.3.4. The suspension was in violation of just and satisfactory conditions of work contrary to s 65 (4) of the Constitution.
  - 2.3.5. That s 48 of the Public Service Regulations was unconstitutional, it being inconsistent with s 65 (1) and s 65 (4) of the Constitution.
- 2.4. The urgent chamber application was ruled not urgent and therefore the matter was transferred to the Court's ordinary roll.
- 2.5. On the 2<sup>nd</sup> of December 2022, the matter was heard before Honourable Chinamora J. Oral submissions were made by both parties and after argument, the legal practitioners for the Respondent conceded that indeed the suspensions were unfair and should be set aside.
- 2.6. Resultantly, an order by consent was issued on the following terms;
  - 2.6.1. The Application be and is hereby granted
  - 2.6.2. The suspension orders issued by the Respondents Disciplinary Authorities against the 2<sup>nd</sup> – 7<sup>th</sup> Applicants be and are hereby set aside.
  - 2.6.3. There shall be no order as to costs.

### **3. CONCLUSION**

- 3.1. Effectively what this means is that all those who were suspended for absence between 7 to 10 February must be reinstated and be paid their salaries, allowances and other benefits they were entitled to had it not been for the unlawful and unfair suspension.

- 3.2. A typed Court Order will be availed in due course.
- 3.3. ZIMTA will continue to defend members and protect their labour rights without fear or favour.
- 3.4. Our commitment to ameliorate challenges brought by garnishees and suspensions was demonstrated by the fact that we stood by the thirteen thousand (13 000) teachers whose salaries were garnished by paying each one of them fifty percent (50%) of the garnished total, through our solidarity fund.

The struggle continues



Goodwill Taderera  
**ACTING SECRETARY GENERAL**

