



Automatic dismissal of an employee under the ‘auto dismiss upon conviction’ provision in Reg. 27 of the Parliamentary Service (Staff) Regulations, 2001, based on the conviction and without a hearing, is procedurally unfair and unlawful, notwithstanding substantive justification at the time of dismissal.

A successful appeal against a conviction has the effect of displacing a dismissal founded on that conviction, since there would be no legal basis for the dismissal, hence the need to wait for the outcome of the appeal.

An appeal against conviction, if notified to the employer, operates as a stay of the employment disciplinary proceedings or imposition of a disciplinary sanction such as dismissal.



Ochieng Peter v Parliamentary Commission, Labour Dispute Reference No. 120 of 2020 (Arising from KCCA/RUB/LC/580/2019), Industrial Court of Uganda at Kampala, delivered on 19 August 2025

Other Highlights from the decision of the Industrial Court

The right to dismiss an employee is neither absolute nor automatic, and to exercise this right, an employer must follow procedure. It is settled that under **Section 65(1)** of the Employment Act, where an employer is considering dismissal for misconduct, it must hold a hearing. The lawfulness of a dismissal is predicated on two things: procedural fairness, which entails the right to a fair hearing, and substantive fairness, which relates to the reason for dismissal. There is but one exception: an employer may dispense with a hearing where there has been an admission of an employment infraction.

Where a disciplinary sanction has been imposed, criminal proceedings can still be commenced against the employee. An employer confronted with pending criminal proceedings against its employee is entitled either to stay proceedings pending conclusion of the criminal case and abide by the decision of the criminal court, or to hold disciplinary proceedings and determine the employee's fate. The employer may halt disciplinary proceedings, await the outcome of the criminal case, or pursue proceedings concurrently with the criminal case.

Ssekaana J. (as he then was) in Nkunyingi Ssembajja v Secretary Public Service Commission & Another (HCMA No. 82 of 2013) noted that it is wrong to assume that once the court has handed down a conviction against a public servant, then automatically, the Secretary, Public Service Commission, acts like a robot with punched-in information to auto-dismiss any such convicted public servant.

While it is true that **Regulation 27** of the Parliamentary Service (Staff) Regulations, 2001, suggests an automatic dismissal upon conviction by a criminal court, industrial jurisprudence has entrenched the right to be heard in all circumstances. Even where the employee has been convicted, the employer is still statutorily required to invite the employee to explain its decision and the reasons for which it intends to dismiss him. Dismissal is not automatic, absolute, or robotic.

In **Kimbugwe v Kiboko Enterprises Limited (2022)**, this Court observed the divergence in standards of proof between a hearing before a criminal court, proof beyond reasonable doubt, and the standard of reasonable grounds in a disciplinary hearing. These differences hold the potential for varied outcomes. Hence, the Court in this case rejected the argument that, because there was a hearing before the criminal court, there was no need for a hearing by the Commission.

Legal Representation

In the case, Mr. Steven Turyatunga appeared for the Claimant and Ms. Ivy Kemigisha with Ms. Rachel Ampeire appeared for the Respondent



Ochieng Peter v Parliamentary Commission, Labour Dispute Reference No. 120 of 2020 (Arising from KCCA/RUB/LC/580/2019), Industrial Court of Uganda at Kampala, before Hon. Mr. Justice Anthony Wabwire Musana, with Panelists Hon. Adrine Namara, Hon. Susan Nabirye & Hon. Michael Matovu, delivered on 19 August 2025

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