

Ministry of Local Government and Housing Confidential  
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William Tordoff: 'Rural Administration' op cit p 200

Act No. 15 of 1980 S92.

According to Regulation 13 of the Local Government Service Regulations 1975 where it appeared to the Commission that it was not feasible to recruit a suitable candidate from within Zambia for any office, the Commission would cause to be prepared, a relevant indent on the appropriate form, which would be transmitted to such missions of Zambia in foreign countries as the Commission thought fit for publication in any newspapers of those countries, prior to the actual selection of candidates for appointment.

CHAPTER FOUR

LOCAL GOVERNMENT SERVICE BETWEEN THE PERIOD

1980 to 1985

INTRODUCTION

As a result of the Report of the Working Party appointed to Review the System of Decentralised Administration<sup>1</sup> and the Proposals for the Intergrated Local Government Administration<sup>2</sup> which, inter-alia, recommended for the creation of an intergrated district Council which would be the only representative body of the Council and would combine and replace the tripartite Local Government structure (township, rural and municipal councils, the district development committees) and incorporate the party organisation, the government enacted the Local Administration Act No. 15 of 1980.

Under the Local Government Act, the Administration of the affairs of each council was carried out by three separate authorities, namely the provincial administration Local government and party, all of which exercised identical powers independently of one another and this resulted, in some cases, in duplication of effort and sheer waste of scarce human and material resources.<sup>3</sup>

Under the Local Government Act there had also been incidents of conflict between these separate authorities over important matters of local administration.<sup>4</sup> The government saw the solution to these problems in the integration of all organs of local administration and accordingly the local Administration Bill aimed at achieving that solution by making provisions for the establishment for each district of a district council, a district committee and a district secretariat.<sup>5</sup> Provision was also made in the bill for the establishment for each province of a provincial council, a provincial committee and a provincial secretariat.<sup>6</sup>

It was also envisaged that district councils would be autonomous bodies. As the Prime Minister assured parliament:<sup>7</sup>

"Matters of local administration will no longer be the subject of direct or indirect co-erce influence from Lusaka, but will be the primary responsibility of the local people themselves----- under the new decentralised system of local administration, district councils will now have sufficient statutory powers to discharge their functions without prior reference to or approval of ministers or other departmental headquarters in Lusaka".

However that the decentralised system of administration, taken as a whole, is subject to firm control is consistent with what President Kaunda stated when announcing the administrative reforms 1968. He stressed the need to:-<sup>8</sup>

"Decentralise in centralism. I define this decentralisation in centralism a measure whereby through the party and government machinery, we will decentralise most of our party and government activities while retaining control of the party and the government machinery in the interests of unity. In short we decentralise to avoid regionalism----- . We should integrate more the party and government activities".

As was put forward by Chaloka S. Beyani:-<sup>9</sup>

"Measures of decentralisation show a gradual extension of political control by ruling United National Independence Party over political administrative institutions at provincial and district levels".

As further propounded by B.C. Chikulo:-<sup>10</sup>

"A closer analysis (of the Local Administration Act) detects central control to be another goal-the intention is to make the state bureaucracy into a structural extension of the United National Independence Party and thus enhance the 'leading role' of the party. The centre is to devolve to the district level albeit through party officials and political appointees, the latter are subject to tight central political control.

1) The Local Administration Act No. 15 of 1980

The preamble to the Act read that it is:-

"An Act to provide for an integrated local administrative system, to define the functions of local authorities; to repeal the local government Act and certain related laws and to provide for matters connected with or incidental to the foregoing".

The salient features of the Act are as follows:-

(A) District Council.

There is established for every District in which a municipal council, township or rural council was established under the Local Government Act or a mine township was declared under the Mine Township Act a Council which shall be known by the name by which the District was known immediately before the commencement of the Act<sup>11</sup>. The Minister may, by statutory order, establish for every District, a council to be known by such name as may be assigned thereto in the order.<sup>12</sup>

At the request of any registered employer, the Minister, may, in his discretion by statutory notice, firstly, declare any area or place specifically provided for as a residential area for employees employed by such employer to be specified residential area, secondly, define the limits of such specified residential area and, thirdly, direct that any area or place declared to be a specified residential area shall cease to be a specified residential area.<sup>13</sup>

However even though the administration of specified residential areas do not come under that of the District Councils, the Act under section 6(4) and 6(5) requires a District Council to approve sanitation measures and social services or amenities provided by an employer in a specified residential area.

The council conducts its business through meetings of its councillors<sup>19</sup> and it may establish standing and occasional committees consisting of some of its councillors and such committees may examine and report on any matter that the district council may assign or delegate to them.<sup>20</sup>

The District Governor as Chairman of a council is responsible for the overall administration of the council and in particular for the following matters, the supervision of the day to day functions of the council, the efficient and proper operation of all public institutions and parastatal organisations in the District and such functions as may, from time to time, be assigned to him by the President or the Secretary General of the Party or by resolution of the Council.<sup>21</sup>

Whenever the Chairman of council is absent or is for any cause unable to perform the functions of his office such functions shall be performed by the District Political Secretary.<sup>22</sup>

A council may discharge all or any of the functions set out in Part I of the schedule to the Local Administration Act 1980.<sup>23</sup> The functions are quite numerous and extensive and include, inter-alia, the administering of the affairs of the District in the following fields,

political, economic, scientific, technological, social, cultural, defence and security. They also include ensuring that the administration of the District is carried out in such a manner as to achieve effective decentralisation and the transfer of power in the above mentioned fields in pursuance of the objective of One Party Participatory Democracy under the Philosophy of Humanism and also ensuring an effective integration of the primary organs of the party and other organs of local administration in the District.

The District Council discharges its functions through an administrative machinery known as the District Secretariat<sup>24</sup> whose composition includes a District Executive Secretary, Political Secretary, Administrative Secretary, Security Secretary, Development Secretary, Social Secretary and Legal Secretary.<sup>25</sup> Among the functions of the District Secretariat are: to co-ordinate government functions in the District and to carry out the day-to-day administration of the council including the administrative processing of council meetings.<sup>26</sup> The main aim is to be responsible for the proper administration of the council so as to achieve effective decentralisation in the District.

Members of the Secretariat have specific functions assigned to them.<sup>27</sup> The District Executive Secretary is the Chief Executive Officer of a council and the Head of the District Secretariat.<sup>28</sup>

He exercises the general supervision and co-ordination of the operations of the District Secretariat and performs any or all the functions of the District Secretariat if deemed necessary. The Political Secretary is in charge of overseeing matter pertaining to Party Organisation, information and public relations, public functions, meetings and trade union affairs in the district. The Administrative Secretary has responsibility for the day-to-day general administration of the district eg. staffing and transport. The Legal Secretary provides legal services and legal advice to the council. He is also responsible for administration of courts in the district. The Security Secretary is responsible for all security services in the district, especially the Police, National Service and Prisons. The Social Secretary is in charge of providing district residents with social services and amenities ie pre-school, social welfare, housing, sports co-ordinating, religious and cultural affairs. The Financial Secretary is responsible for all financial matters of the district eg. budget preparation, accounting, licensing, banking, personal levy, insurance etc. The Development Secretary is responsible for development activities such as district planning, public works, mechanical services, agriculture and water development, exploitation of natural resources, tourism, parks, Co-operatives, Communication, traffic, fire services, monuments, relics and fire services.

The Commercial and Industrial Secretary is responsible for all commercial and trade activities in the district and overseas price control, operations of parastatals and price enterprises and issues trade licences.

A district council may make by-laws for the peace, order and good administration of its area and in particular for controlling any of the things which and any of the persons whom it is empowered by or under the Act to control, prohibiting any of the things which it is empowered by or under the Act to prohibit, requiring or compelling the doing of any of the things which it is empowered by or under the Act to require or to compel and providing for the issue or supply of licences permits, certificates and other instruments and documents.<sup>29</sup>

The by-laws made by a council may impose a levy.<sup>30</sup> However the by-laws made by the council must not conflict with or derogate from any other written laws and if it does it shall be void.<sup>31</sup> A by-laws by a council shall not have the force of law until it has been confirmed by the Minister.<sup>32</sup> The Minister may refuse to confirm any by-laws or may confirm the by-laws in whole or in part or with such modifications as appear to him to be desirable.<sup>33</sup>

The Minister is further empowered by statutory order to amend or revoke any by-law made by the council<sup>34</sup> but before exercising this power the Minister must give the council reasonable notice of his intention and shall afford the council an opportunity of making representations to him.<sup>35</sup> The Minister can also make regulations for a district council whose effect is the same as the by-law by a district council.<sup>36</sup>

(b) District Committees

The District Committee which is established under section 31 of the Act is dominated by party appointees. It is constituted of the District Governor as Chairman, the District Political Secretary as Vice-Chairman, one representative from each of the Security Forces in the district, two district trustees appointed by the Provincial Committee and approved by the Central Committee, and one representative each from the Women's League and the Youth League.

Among the functions discharged by the District Committee are to supervise the work of Ward, Branch and Section Committees, explain and publicise party policies and programmes in the District and submit development plans to the Provincial Council for approval.<sup>37</sup>

(c) Provincial Council

Equally the Provincial Council established for each Province under section 85 of the Act is dominated by party appointees. It consists of the Member of the Central Committee for the Province as Chairman, the Provincial Political Secretary as Vice Chairman, the District Governors of the Province, the members of Parliament of the Province, the District Chairmen of the Womens League and District Chairmen of the Youth League in the Province, one representative from each of the trade unions operating in the Province and one representative from each of the Security Forces in the Province. Its functions are to review development programmes in the Province, to approve development plans prepared by the Provincial Committee and to formulate programmes for the enforcement of law and order in the Province.<sup>38</sup> It is also concerned with ensuring the efficient functioning of the party, the government and other public institutions and organisations in the province and to submit to the appropriate national organs of the party and the Government for appropriate action such development plans, reports or recommendations on provincial projects as may be required.<sup>39</sup>

(D) Provincial Secretariat

This is the administrative wing of the Provincial Council and its composition under section 89 of the Act includes the Permanent Secretary for the Province and the Provincial heads of organs of the government in the Province. It provides the technical and administrative machinery necessary for serving the national organs of the party and the government at Provincial level.<sup>40</sup>

(E) Provincial Committee

This is the equivalent of the District Committee at the Provincial level and a Provincial Committee established for each province, which also is dominated by party cadres, according to section 87 of the Act consists of the Member of the Central Committee for the Province as Chairman, the Provincial Political Secretary as Vice Chairman, one representative from each of the Security Forces in the Province, one representative each from the Women's League and the Youth League and one other person nominated by the Central Committee.

Among the functions of the Provincial Committees as set out in Part V of the schedule are to organise the Provincial Conference, to supervise the work of the District Committees and other primary organs of the party, the government and other public institutions and organisations in the Province and to co-operate with

District Committees in the enforcement of law and order and the safeguarding of defence and security of the Province.

2. Local Government Service under the Local Administration Act No. 15 of 1980 between the period 1980 to 1986

The Local Administration Act No. 15 of 1980 came into operation on the 1st of January 1981.<sup>41</sup> With the commencement of the Act any person who immediately before its commencement was employed in the local government service or in the service of any local authority on permanent and pensionable establishment was deemed to have been seconded to the public service for a period of not less than three years and not more than five years and during such secondment his rights to or eligibility for pension, gratuity, leave or other benefits were not to be less favourable than those enjoyed by him while in the local government service or in the service of a local authority as the case was.<sup>42</sup> A person who had been seconded to the public service was deemed to have voluntarily transferred to the public service after the expiration of five years unless during the period of secondment he gave notice in writing to the Public Service Commission, with a copy thereof to the appropriate local authority stating his intention not to transfer to the public service and in which case such person was to be retired in the public interest and be entitled to be paid all his terminal benefits.<sup>43</sup> A

person who voluntarily transferred to the public service as above had his previous service in the local government or a local authority treated as service in the public service.<sup>44</sup> As regards a person who immediately before the commencement of the Act was employed in the local government Service or in the service of a local authority on contract for a specified period, as from the 1st January 1981 was deemed to have been seconded to the public service for the unexpired term of his contract and during the period of secondment his right to or eligibility for pension, gratuity, leave or other benefits were not to be less favourable than those he enjoyed while employed in the local government services or in the service of a local authority, as the case was.<sup>45</sup>

By virtue of section 92(1) of the Act, the following Acts were repealed, that is the Local Government Act, the Local Government Elections Act, the Municipal Corporations Act, the Townships Act, and the Local Government Service Act. However, notwithstanding the repealing of the said Acts, any regulations, by - laws, rules or orders made or deemed to have been made under any of the said Acts, having force and effect or in operation immediately before the 1st of January 1981 in so far as they were not inconsistent with the Act were deemed to have been made under the Act:

Provided that any standing order regulating the duties and procedure of a council was deemed to be the standing orders made under the Act by that council.<sup>46</sup>

The effect of this was that the Local Government

(Conditions of Service) Regulations 1978 and Local Government Service Regulations 1975 were still in force provided they were not in conflict with the Act.<sup>47</sup> The role played by the Local Government Service Commission in the implementation of the regulations was now assumed by the Public Service Commission. Further the repeal of the aforementioned Acts did not affect any property which immediately before the commencement of the Act was vested in or belonged to or was held in trust for a council or rights, liabilities and obligations which immediately before the commencement of this Act were rights, liabilities and obligations of a council.<sup>48</sup> The repeal also did not affect any legal proceedings which, immediately before the commencement of the Act were pending by or against a council.<sup>49</sup>

Section 91(1) of the Act has not escaped the attention of the Courts on the legal interpretation of the terms "secondment" as used in that section. In two cases, that of Peter Kayula and Eleven Others Vs the Attorney General and Ndola Urban District Council<sup>50</sup> and Andrian M. Chaponda V The Attorney General and Ndola Urban District Council<sup>51</sup>

the court was called upon to give effect to the legal interpretation of the meaning of secondment of employees who were employed in the local government service or in the service of a local authority on permanent and pensionable establishment of the public service. In the Kayula case the plaintiffs had instituted proceedings against the two defendants that they had been wrongfully dismissed from the public service as employees in the liquor undertaking section of the Ndola Urban District Council on account of incurring shortages by the Council on divers dates between September and November 1982 and for an order that they be re-instated and paid salaries for the period of their purported dismissal.

Counsel for the plaintiffs raised a preliminary issue before the commencement of the trial. The Counsel's argument was that prior to the coming into effect of the local Administration Act the plaintiffs were employees of the Ndola Urban District Council. Following the coming into operation of the Act and in particular section 91 they were deemed to have been seconded to the Public Service. In 1982 on divers dates between September and November the Council wrote to the plaintiffs conveying the decision of the Public Service Commission terminating their employment. The Counsel contended that the termination of the plaintiffs employment by the Public Service Commission was unlawful since they were not employees of the Public Service Commission

which body had no jurisdiction over them. He relied on the wording contained in section 91 of the Act which referred to "secondment" as opposed to "transferred". He said that notwithstanding the provisions of section 92 of the Act the Local Government Service Commission was no longer in existence following the repeal of the Local Government Act and that his clients were still employees of the Local Government Service Commission although it was no longer in existence and invited the Court to find that the purported dismissal was unlawful.

On the other hand the Counsel for the first defendant argued that the Public Service Commission had Jurisdiction over the plaintiffs as under section 91 the plaintiffs were seconded to the Public Service Commission. He further pointed out that section 92(1) of the Act repeals many Acts including one under which the Local Government Service Commission fell. To his understanding there was no distinction between "transfer" and "secondment".

The Counsel for the second defendant in his submission provided a summary of the history of local government in Zambia. Prior to the coming into effect of the Local Government Act the Cities and Municipal Councils were legal entities on their own which recruited and hired their own staff. These powers by the Council and Cities were transferred to the Local Government Service Commission by section 11(3) of the 1974 Act. With the coming into effect of the Local Administ-

ration Act No. 15 of 1980 the Local Government Service Commission was abolished following the repealing of the 1974 Act by section 92 of the 1980 Act. The Counsel thus submitted that the relationship between the Public Service Commission and the plaintiffs was one of employer and employees and that the Public Service Commission had jurisdiction to terminate their employment.

It was the view of the Court that it was common ground that at the time immediately prior to the coming into effect of the 1980 Act the plaintiffs were employees of the Local Government Service Commission and not employees of the Council.

The Court further said that the coming into effect of the 1980 Act abolished the then employer and "seconded" the plaintiffs to the Public Service Commission under section 91(1) of that Act. The question the Court posed was: at the time the plaintiffs were dismissed who was their employer? In answering that question the Court said certainly not the Council as the 1980 Act had made no provision to revert to the status prior to the coming into effect of the 1974 Act. It could not be the Local Government Service Commission as that body had ceased to exist. According to the Court the only provision for the continuance of service was found in section 91(1) 'secondment' to the Public Service under the Public Service Commission

which at that time was the only body capable of employing and dismissing the plaintiffs. The Court therefore found for the defendants on the preliminary issue and held that the Public Service Commission had jurisdiction over the plaintiffs.

In the Chaponda case where the complainant had his services terminated by the Public Service Commission for incurring shortages whilst employed by the second respondent the Court ruled that the provisions of section 91(1) of the Local Administration Act No. 15 of 1980 were intended to effect an actual transfer of all employees and that it was rather unfortunate that the provision had used the rather ambiguous term of secondment. The Court said that what the legislation meant was a virtual transfer of all employees of the local authorities and the employees who fell in the jurisdiction of the Local Government Commission. The Court then went on to say that section 92 of the Act repealed the following Acts that is the Local Government Act, the Local Government Service Act and the Local Government Elections Act and that this meant therefore the abolition of the local authorities and the local government service commission and that the complainant fell under the jurisdiction of the Public Service Commission and as such they had a right to dismiss him and to take disciplinary measures against him as they thought necessary.

By Amendment Act Number 17 of 1985 the secondment of officers of the District Councils to the Public Service Commission was extended by another year so as to enable the government to carry out a review of the staffing positions, the financial, administration and other related matters in the district councils.<sup>52</sup>

3. Evaluation of the Public Service Commission

The Public Service Commission received a lot of criticisms in its operations in relation to matters involving local government staff. It was accused by members of Parliament of delays in appointment of staff to the Secretariat of the district councils and even when appointments were made, it was accused of misplacement of personnel and of making random appointments without due regard to whether someone was qualified for the job or not. W.H. Banda had this to say on this matter:<sup>53</sup>

"It took the government an unnecessary long time to appoint Principal Officers to the District Council Secretariat".

J.K. Kabano whilst on the same subject said:-<sup>54</sup>

"What is happening now is that we make an administrator who does not understand anything about engineering, Development Secretary. I will give an example, Sir, we had one Officer at Kitwe District Council who was trained as an administrator but ended up as a Development Secretary somewhere else. This was after the Kitwe District Council had

spent a lot of money on his training. The Officer was posted to one of the rural areas and already he has been transferred to another rural area".

As was stated by G.C.S. Haipose<sup>55</sup> it took more than a year for the Public Service Commission to make substantive appointments to posts in the Secretariat of the district councils and when appointments were finally made there was not significant improvement made in the quality of the staff appointed.

The same accusations of delays and misplacement of personnel were levelled at the Public Service Commission in respect of appointments and confirmations of other members of staff other than members of the Secretariat. The Chairman of the Parliamentary Committee on Local Administration C.E. Mukuka had this to say on this point:<sup>56</sup>

"Mr. Speaker, Sir, the Local Administration system can be made more effective for a start, if the loose administrative areas were tightened. A case in point is the appointments and confirmations of Officers to district councils. It appears that the appointments, in some cases, were made at random without taking into account the qualifications and experience related to the job which an Officer was appointed to serve".

"In addition, Sir, there has been a delay in the appointment of Officers to certain vacant posts and some Officers have been acting in the position since 1980 without being confirmed. Yet the General Orders clearly state that Officers normally be appointed for a period of not less than six months, with a view of assessing their

suitability for substantive appointment. Indeed the Minister of Decentralisation informed this August House that the Officers were on six months probation and therefore their confirmation could be determined by their capability".

"Mr. Speaker, Sir, for a long time some of these Officers have not been confirmed despite their having been acting in their posts for more than four years".

Even councils voiced criticisms against the Public Service Commission in the random transfers of staff. The case of Mr Joe Mulumba, formerly Administrative Secretary for Ndola Urban District Council is quite illustrative on this point.<sup>57</sup> Mr. Joe Mulumba was on the 25th of March 1985 transferred to Lusaka Urban District Council by the Public Service Commission acting for and in the name of His Excellency the President. On the 15th of April 1985 the District Executive Secretary for the Ndola Urban District Council wrote to the Personnel Division appealing against the transfer of Mr. Mulumba on the grounds that Mr. Mulumba was at that time in England pursuing a Post-Graduate diploma course in Development Administration. He further argued that it would be unfair to transfer him in that Ndola Urban District Council which had spent money in respect of air fares, tuition and subsistence allowance would not benefit from his training.

However, on the 25th September, 1985 the District Executive Secretary received a letter from the Personnel

Division in which he was informed that the decision to transfer Mr. Mulumba stood and that if he did not move then the Personnel Division was going to order stoppage of salary and recommend the suspension of Mr. Mulumba. The District Executive Secretary replied on the 11th October 1985 expressing the view contained in his earlier letter of 15th April 1985.

On 2nd December 1985 he received instructions from the Personnel Division to take disciplinary action against Mr. Mulumba by suspending and charging him for misconduct arising from failure to obey lawful instructions and that he should be placed on half salary.

On 11th December 1985 the District Executive Secretary wrote to the Personnel Division informing them that he was not going to suspend Mr. Mulumba because he the District Executive Secretary was not satisfied with the decision to transfer Mr. Mulumba and that it was not the fault of Mr. Mulumba that he had not moved to Lusaka because he the District Executive Secretary had not allowed him to move so it could be unfair to suspend him.

Another letter dated 11th December 1985 came from the Personnel Division in which the District Executive Secretary was informed that Mr. Mulumba must move without fail. The Division argued that the question of sponsorship was immaterial as there were a number of Officers who had been

transferred from one Ministry to another and one District to another although they were sponsored by the Ministries and District Councils from which they had been transferred. The Division further argued that one cardinal point to remember was that all officers belonged to the same system and benefits derived out of the services of various officers were for Zambia and not for any particular Ministry or District Council.

The Ndola Urban District Council recommended that the Council should express its displeasure to the Public Service Commission over the manner in which Mr. Mulumba had been transferred. However it is worth noting that the Public Service Commission later rescinded its decision and Mr. Mulumba was subsequently appointed District Executive Secretary for Luanshya District Council and Mr. Hsenje the Administrative Secretary for Lusaka Urban District Council he was supposed to swap positions with still retains his position with the Lusaka Urban District Council to date.

Like in the case of the full-time Local Government Service Commission there was unfavourable reception of the Public Service Commission by Local authorities especially the large district councils. Since it was the Councils themselves which raised the money for training of staff, revenue from which salaries were paid and indeed they were the ultimate employers but had no final say in deciding on

matters relating to appointments, confirmations, promotions, transfers or dismissals of the staff as this power was now vested in the Public Service Commission. The councils argued that the removal of these powers from councils to the Commission bred indiscipline in the staff and created a crisis of allegiance. The Councils argued that the staff now owed their allegiance to the Public Service Commission since it was the body which now exercised the powers of appointment, confirmation, promotion, transfer and dismissal of staff.

The Zambia United Local Authorities Workers Union also joined in criticism of the Public Service Commission accusing the Commission of disciplining its members without consulting it before any disciplinary measures were taken contrary to the disciplinary procedure set out in Article 3 of the Recognition Agreement entered into between the Government of the Republic of Zambia and the Zambia United Local Authorities Union which called for this procedure to be followed.<sup>58</sup> The union also accused the Commission of delays in disposing of disciplinary matters involving union members which in some cases took five to seven years before being finalised.<sup>59</sup>

## CONCLUSION

Local Government Service between the period 1930 to 1986 was administered through the provisions of the local Administration Act No. 15 of 1980. The Local Administration Act established an intergrated District Council which combined and replaced the tripartite local government structure (township, rural and municipal council, the district development committees) and incorporated the party organisation.

Under the Local Government Act the administration of each district was carried out by three separate authorities, namely, the provincial administration, local government and party all of which exercised identical powers independently of one another and this resulted, in some cases, in duplication of effort and sheer waste of scarce human and material resources. Under the Local Government Act there had also been incidents of conflict between these separate authorities over important matters of local administration. The government saw solution to these problems in the integration of all organs of local administration and the Local Administration Act aimed at achieving this by making provision for the establishment for each district of a district council, a district committee and a district secretariat. Provision was also made in the Act for the establishment for each

Province of a Provincial Council, a Provincial Committee and a Provincial Secretariat. It was also envisaged that councils would be autonomous bodies. But as stated in this chapter the ushering in of the local Administration Act saw a gradual extension of political control by the ruling United National Independence Party over political administrative institutions at provincial and district levels.

Under the Act employees in the Local Government Service and local authority service were seconded to the public service for a period of five years which was later extended to six years and had within the course of three years to elect to join the Civil Service or not. As observed in this chapter the Public Service Commission failed to guarantee the security of tenure of the staff for the following reasons:-

- 1) It was not a specialised body to deal only with matters involving local government and local authority staff as it had to cater for other civil servants and hence it made random appointments without taking into consideration someone's qualifications for the job.
- 2) There were delays in the processing of appointments, confirmations and promotions of the Officers.

3) There were also delays in the processing of disciplinary cases involving officers. Further the Commission did not bother to consult the Zambia Local Authorities Workers Union on some disciplinary matters involving union members contrary to the procedure laid down in the Recognition Agreement entered into by the government and the union.

4) There were frequent transfers of staff thereby creating insecurity in the minds of the employees about their tenure of officer.

REFERENCES

1. (Sinnance Commission) Zambia (Lusaka: Cabinet Office 1972) pp 103 - 104
2. Op cit p 50
3. Zambia: Parliamentary Debates (Lusaka: Government Printers 1980) 29th July - 22nd August 1980 column 347
4. Ibid
5. Ibid
6. Ibid
7. Zambia: Parliamentary Debates 29th July -- 22nd August 1980 op cit column 849
8. From article by W. Tordoff 'Rural Administration' in Administration in Zambia W. Tordoff (E) op cit p.205
9. The Legal Framework for the Decentralised System of Local Government in Zambia op cit p. 109 - See also article by B.C. Chikulo 'The Zambia Administration Reforms: An Alternative View' in Public Administration and Development Journal David Murray (E) Volume I Number I January - March 1981 p. 55
10. 'Re-Organisation for Local Administration in Zambia: An analysis of the Local Administration Act 1980' article in Public Administration and Development Journal Brian Smith (E) Volume Number I January - March 1985 p. 81
11. Act No. 15 of 1980 83(1)
12. Ibid 83(2)
13. Ibid 86(1) This provision was meant to cater for the continued administration of mining townships by mining companies, see Zambia: Parliamentary Debates (Lusaka: Government Printers 1980) 25th November - 5th December column 307.

14. Ibid 87
15. Ibid 810
16. Article 58(1) of the Constitution of Zambia reads:  
No person shall be qualified to be elected or nominated as a member of the National Assembly:-
  - a) Who is under a declaration of allegiance to some country other than Zambia
  - b) who is, under any law in force in Zambia, adjudged or otherwise declared to be unsound mind
  - c) who has been convicted of any offences prescribed by or under an Act of Parliament, unless a period of five years has elapsed after his conviction or if he has been sentenced to a term of imprisonment, after he has served the sentence
  - d) who is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in Zambia
  - e) whose freedom of movement is restricted or who is detained
17. Act No. 15 of 1980 312(2) A possible explanation is that these officers owe their membership of the District Council to offices which they hold under Article 36 of the Constitution of UNIP. The difficulty with this explanation is the position of Womens and Youth's Leagues which are designated mass organisations under Article 59 of the Constitution but section 85 of the Local Administration Act 1980 mentions the Women's League and Youth League, along with representatives from a mass organisation, as members of the Provincial Council
18. Act No. 21 of 1986 Local Administration (Amendment) Act 34(6)
19. Act no. 15 of 1980 Party IV
20. Act No. 21 of 1986 347A(1)
21. Act No. 15 of 1980 S15
22. Ibid S16

23. Ibid S44 please also note that Councils perform additional functions under the following Acts:- Markets Act, Town and Country Planning Act, Trades Licensing Act, Public Health Act and Personal Levy Act
24. Ibid S83 (1)
25. Statutory Instrument No. 3 of 1981: Local Administration (District Secretariat) Members Functions Order 1981
26. Act No. 15 of 1980 S84 Part III of the Schedule
27. Statutory Instrument No. 3 of 1981 Supra
28. Act No. 15 of 1980 S2 and S83
29. Ibid S56(1)
30. Ibid S52
31. Ibid S60
32. Ibid S62(1)
33. Ibid S62(4)
34. Ibid S63(1)
35. Ibid S63(2)
36. Ibid S64(1)
37. Ibid S82 Part II of the Schedule
38. Ibid S86 Part IV of the Schedule
39. Ibid
40. Ibid S90 part VI of the Schedule
41. Statutory Instrument No. 171 of 1980: The Local Administration Act (Commencement) Order 1980
42. Act No. 15 of 1980 S91(1) This was contrary to what the Prime Minister said in Parliament that councils would be autonomous bodies see footnote 7 above
43. Ibid S91(2)

44. Ibid S91(4)
45. Ibid S91(3)
46. Ibid S92(2)
47. See footnote 51 below where in the case of Andrian M. Chaponda VS The Attorney General and Ndola Urban District Council the Industrial Court was of a similar view.  
  
See also Personnel Circular No. B14 of 1982 dated 5th October issued by Personnel Division of the Public Service Commission entitled Conditions of Service: Officers Seconded to Civil Service from the former Local Government Service or Local Authority
48. Act No. 15 of 1980 S92(3)
49. Ibid
50. 1982/III/852 Unreported High Court Case
51. Complaint No. 24/84 Unreported Industrial Relations Court case
52. Zambia: Daily Parliamentary Debates (Lusaka: Government Printers 1985) 1985 August columns 201 - 202
53. Zambia: Daily Parliamentary Debates (Lusaka: Government Printers 1982) 1st December Column 4532
54. Zambia: Daily Parliamentary Debates (Lusaka: Government Printers 1985) 14th December column 213
55. Constraints on Administration of Rural Development in Zambia Thesis submitted to the Faculty of Economic and Social Studies at Victoria University of Manchester for the Degree of Philosophy July 1984 P. 286
56. Zambia: Daily Parliamentary Debates (Lusaka: Government Printers 1981) 27th November column 551
57. Ndola Urban District Council minutes for December 1985 see Minute Number 1007

58. Minutes of the Meeting held between the Zambia United Local Authorities Workers Union and Personnel Division (Management) held in the Personnel Division Conference Room on 24th September 1982
59. Zambia: Daily Parliamentary Debates (Lusaka: Government Printers 1986) 15th October column 111

CHAPTER FIVE

LOCAL GOVERNMENT SERVICE BETWEEN THE PERIOD 1986

TO DATE

INTRODUCTION

As observed in chapter four the Public Service Commission received unfavourable reception from Councils in its operations in relation to matters involving local government staff. The Councils complained that since the Public Service Commission exercised the powers of appointments, confirmations, promotions, transfers and dismissals of the staff the latter owed their allegiance to the Commissions and not Councils even though the Councils raised the money for training, revenue from which salaries were paid and were in fact the ultimate employers. The Councils charged that this had bred indiscipline in the staff. The Government alluded to the point advanced by the Councils and when need was seen to amend various aspects of the Local Administration Act No. 15 of 1980 this aspect of the matter was conceded to by the Minister of Decentralisation in the following manner:-<sup>1</sup>

Mr. Speaker, Sir, Hon. Members will recall that at the outset of decentralisation of local administration on 1st January 1981, all officers in the

former Local Government Service were seconded to the Civil Service for a period of five years and recently extended to six years. Such Officers were then subsequently re-employed to work in district councils. These arrangements whereby district councils have been deprived of the power to employ their own staff have not operated satisfactorily. The officers in councils owe their allegiance to the Public Service Commission and not their respective councils to which they have been seconded. The Councils have no powers to take disciplinary measures against erring officers. To remedy the situation, it is proposed to amend the Act so as to empower the Councils to appoint, promote, dismiss, second, transfer or discipline its officers".

However when the initial bill proposing the amendments was brought before the National Assembly during its second reading it ended up being deferred by the Minister because of hostile reception by the backbenchers who, among other things criticised the provision proposing to transfer powers to Council to appoint, confirm, promote, transfer and dismiss their officers as the powers of the Councils were subjected to the approval of the Provincial Service Boards hence Councils were not to exercise the power to hire and fire as earlier envisaged.<sup>2</sup> After the Minister had reviewed the point raised by the backbenchers the amendment bill was passed on its re-introduction in the National Assembly.<sup>3</sup>

1) The Local Administration Act of 1980<sup>4</sup>

Under section 90(1) of the above Act, with effect from the 1st of December 1980, Councils, which are graded by the Minister through a statutory order based on the economic circumstances of each Council which is subject to

a review periodically,<sup>5</sup> are empowered, subject to other provisions of the Act, to appoint, promote, transfer, second, dismiss, discharge or discipline its officers and employees and such power is to be exercised in accordance with the terms and conditions determined by the Council with the prior approval of the Minister.

Upon receiving a request in that behalf, the Public Service Commission may authorise the secondment of a public officer to a council for such period and on such conditions as may be agreed between the council and the Public Service Commission.<sup>6</sup> A public officer may apply to the Public Service Commission to transfer from the public service to the service of a council and the Public Service Commission may, after consultation with the council, grant or refuse such transfer.<sup>7</sup> A public officer who transfers as above may either with the approval of the Public Service Commission retire from the **Public** service before such transfer or have his previous service and accrued benefits relating to gratuity, pension, earned leave and the like, transferred to the council for his benefit.<sup>8</sup> A council may, on such terms and conditions as may be agreed between all parties concerned, permit the secondment or transfer of any of its officers to the service of another council or to the public service.<sup>9</sup>

By the above amendment every former Council employee who on the 1st of December 1986 was serving in a Council

was deemed to be an employee of that council unless within six months of that date he gave a written notice to the Public Service Commission, with a copy thereof to the appropriate council, stating his intention not to transfer to the service of that council and any such person giving such notice was to be retired in the public interest and be entitled to be paid all his terminal benefits.<sup>10</sup> A former council employee meant any person who prior to the 1st January 1981 was employed in the local government service or in the service of any local authority on permanent and pensionable establishment and who was deemed to have been seconded to the public service.<sup>11</sup>

A former council employee who had, since the 1st January 1981 ceased to serve in a council and was instead serving in the public service had to opt either to be employed in the public service or to revert to serving in the council in which he last served<sup>12</sup> and a person who was serving in the public service on the 1st January 1981 and had since been transferred to service in a council had to opt either to become an employee of that Council or revert to serving in the public service.<sup>14</sup> Any person required to opt as stipulated above had before the 31st of March 1987 to give a written notice to the Public Service Commission, with a copy thereof to the appropriate council, stating his intention and in the absence of such notice such person

was deemed to have opted to be employed where he was serving on the 1st of December 1980.<sup>15</sup>

Under section 99(1) of the amendment the Minister is empowered to make regulations, through a statutory instrument for the better carrying out of the purposes of Part II of the Act and the regulations made may provide for the creation or abolition of any post in a council or grade of councils, the qualification for appointment to a post, such training in the local administration service as the Minister may consider necessary for promoting efficiency in councils, matters relating to terms and conditions of appointment, promotion, transfer, secondment, dismissal, discharge and discipline of officers or employees and matters relating to the functions of a Board.<sup>16</sup> The Minister in exercise of the powers contained in section 99(1) of the Local Administration Act 1980 through Statutory Instrument No. 101 of 1987 made the Local Administration Regulation 1987 which apply to all local authority officers except national joint council and part-time junior employees.<sup>17</sup> The effect of the application of these regulations was to revoke the Local Government Service Regulations 1975.<sup>18</sup>

2. Provincial Service Boards Established under the Local Administration Act of 1986

The case for the establishment of the Provincial Service Boards was put in this way by the Minister of

Decentralisation:-<sup>19</sup>

"We are evolving democracy and people must have the ways and means of appealing where they feel aggrieved. If we simply say that a Council should sit and decide and it ends there, then we will be stifling the minds of the people. Let us give them the ways and means of airing their grievances. But the Council will have the power and once they have decided and an individual feels that there has been injustice, he should be allowed to make an appeal".

The Provincial Service Board, which is established for each Province and which operates on a part-time basis, is composed of a Chairman appointed by the Minister, two persons to represent all the councils in respect of which the Board is authorised to exercise its functions, appointed by the Minister from nominations submitted collectively by such councils, two persons to represent the officers and employees of the councils in respect of which the Board is authorised to exercise its functions, appointed by the Minister after consultations with such persons or associations of persons as appear to the Minister to represent the interests of such officers and employees and two persons appointed by the Minister after consultation with the Member of the Central Committee for the Province.<sup>20</sup>

In the absence of the Chairman from any meeting of a Board, the members present at that meeting shall elect one of the members from either the two members to represent all the councils in respect of which the Board is authorised to exercise its functions or the two members to represent the officers and employees of the councils in respect of which the Board is authorised to exercise its functions to preside over the meeting.<sup>21</sup> The quorum at a meeting of a board shall be four members<sup>22</sup> and a decision of the Board on any question shall be by a majority of the members present and voting at the meeting and in the event of an equality in votes, the person presiding ~~at the meeting~~ shall have a casting vote in addition to his deliberative vote.<sup>23</sup>

According to section 93(1) a member shall hold office for a period of three years from the date of his appointment and a member may by notice in writing addressed to the Minister resign his office at any time.<sup>24</sup> A person who has ceased to be a Chairman may be re-appointed.<sup>25</sup> A member who absents himself from three consecutive meetings of the Board shall be reported to the Minister together with a detailed explanation by the member and comments by the Chairman<sup>26</sup> and whenever it appears to the Minister that a member has absented himself frequently without reasonable cause or that he is unable or unfit to discharge his functions as member, he may remove him from office as a member.<sup>27</sup>

The Minister is empowered by section 95 of the amendment Act to designate a public officer to be the Secretary to the Board and such number of other public officers as may be necessary to carry out the functions of the Board and funds required by a Board to carry out its functions shall be appropriated by Parliament.<sup>28</sup>

A Board shall in respect of the councils for which it is authorised to exercise its functions review disciplinary cases from such councils and hear appeals from aggrieved officers of such councils.<sup>29</sup> The decision of the Board shall be binding upon the council and the officer or employee, subject to an appeal to a court of appropriate jurisdiction.<sup>30</sup> The overall responsibility for the co-ordination of all matters relating to staffing generally in councils shall remain with the Minister and he may make such regulations or administrative arrangements relating to recruitment or transfer of officers as appear to him to be necessary in the interest of local administration<sup>31</sup> and the Minister may, from time to time, give such general directions as he thinks necessary to any Board or any council on any matter contained in Part XI of the Act and such Board or Council as the case may be shall give effect to every such direction.<sup>32</sup>

3) Local Administration Service Regulations

Under these regulations made by the Minister through Statutory Instrument No. 10 of 1987 dated 18th May 1987 and which are quite detailed in matters relating to appointments, confirmations, promotions, transfers, dismissals and disciplinary procedures to be followed in the local administration service, in selecting candidates for appointment, an appointing authority, which in this case refers to a district council, shall have regard primarily to the efficiency of the Local Administration Service.<sup>33</sup> Where any post in the Local Government Service is vacant only persons satisfying any scheme which lays down the qualifications for any such post shall be qualified for appointment to such post.<sup>34</sup> However the Minister may, in consultation with the local authority concerned waive the requirements of a scheme of service if it is in the interests of the Local Administration Service to do so.<sup>35</sup>

Under regulation 15(1) no person who has been convicted of an offence involving moral turpitude or any offence which affects the integrity of the Local Administration Service or who has been dismissed from the Civil Service or Local Administration Service shall be appointed to a post in the Local Administration Service except with the prior approval in writing of the Minister and no person shall be appointed to a post in the Local Administration Service unless he holds

such qualifications as have been prescribed for appointment to the post.<sup>36</sup> No person who is not a Citizen of Zambia shall be appointed to any post in the Local Administration Service unless the appointing authority is satisfied that it is not feasible to fill the post by the appointment of a Citizen of Zambia who is qualified and suitable to hold the post.<sup>37</sup> Every application for appointment shall contain a declaration disclosing whether or not an applicant has a family relationship with either a Councillor of a local authority or any of its staff and failure to so disclose may result in disqualification of the applicant from a post in the Local Administration Service of the local authority concerned.<sup>38</sup>

According to regulation 16(1) where any person is appointed otherwise than by promotion or transfer to any post in Local Administration on permanent terms, he shall before being confirmed in such post serve on probation for a period of six months or for such other period as the Minister may prescribe for a particular post. However where any person who is required to serve on probation has previously been employed in the service of the Government or a local authority or in such other service as the Minister may determine, the period or any part of the period of such service may in the discretion of the appointing authority be regarded as a service on probation.<sup>39</sup>

An officer on probation shall remain on probation until he is informed in writing by the appointing authority that either he is confirmed in his post or his appointment is terminated.<sup>40</sup>

Where any officer is appointed to any local authority post on promotion the effective date of his promotion to such post shall be determined by the appointing authority.<sup>41</sup> However the appointing authority shall not fix as a date of promotion a date which is earlier than the last of the following dates, that is the date on which the vacancy existed, the date upon which the officer became qualified for promotion and the date upon which the officer assumes the functions of the post; provided that the appointing authority may, having regard to the special circumstances of a particular case, fix a date earlier than the date of promotion.<sup>42</sup>

An officer is required to faithfully serve, aid and assist the local authority under which he holds a post or to which he is attached, posted or transferred, to carry out and obey all lawful orders of that local authority and to perform the functions of his post impartially, efficiently and expeditiously so as to serve the public and promote their welfare and lawful interests.<sup>43</sup> An officer is also required at all times to conduct himself in a manner respectful to superior officers.<sup>44</sup> It is the

duty of an officer to report to the District Executive Secretary any misconduct or negligent act of a subordinate employee which comes to his notice<sup>45</sup> and also to report to the Chief Officer any misconduct liable to disciplinary action committed by some other officer as soon as he becomes aware of it.<sup>46</sup> In addition an officer is required to comply with the requirements of the Leadership Code on assumption of duty.<sup>47</sup>

Transfers of officers from one local authority to another shall be by consent of all parties concerned and such consent shall not be unreasonably withheld<sup>48</sup> and on transfer an officer's previous service in a local authority shall be treated as service in the local authority to which he transfers.<sup>49</sup>

Where disciplinary proceedings are to be or may be taken against an officer, the appropriate procedure shall be commenced as soon as possible.<sup>50</sup> A District Executive Secretary may suspend a Chief Officer or any other Officer from the exercise of the powers and functions of his office and a Chief Officer may suspend an Officer directly falling under the jurisdiction of his office from the exercise of the powers and functions of his office if he is satisfied that the public interest so requires and if criminal proceedings are instituted against such officer or if disciplinary

proceedings for the dismissal are instituted against such officer.<sup>51</sup> Whenever a District Executive Secretary or a Chief Officer suspends an Officer he shall notify such Officer in writing of the reasons therefor and shall deliver a copy of such notice to the local authority<sup>52</sup> and an Officer who is suspended shall during the period of his suspension receive a proportion of his salary, not being less than half, as the local authority may direct.<sup>53</sup> However when criminal or disciplinary proceedings have been instituted against an officer under suspension and such an officer is not convicted as a result of such suspension or is not subjected to any punishment as a result of such disciplinary proceedings the whole amount of his salary withheld shall upon the expiry of the period of his suspension be paid to him.<sup>54</sup> Where criminal proceedings or disciplinary proceedings have been instituted against an officer under suspension and such an officer is or is not convicted as a result of such proceedings or is subjected to any punishment other than dismissal as a result of such disciplinary proceedings, he shall upon expiry of the period of his suspension, be paid such proportion of his salary withheld as the local authority may direct.<sup>55</sup> The suspension of an officer shall have effect during such period and in accordance with such conditions as the local authority shall specify in writing to such officer but where it appears expedient the local authority may at any time during such period abridge or extend such

period by further notice in writing to any such officer<sup>56</sup> and any officer who is suspended shall not leave Zambia without the permission of the local authority during the period of his suspension.<sup>57</sup> "Criminal Proceedings" in terms of these regulations includes investigations into malpractices and embezzlement of public funds and "salary" includes any personal allowances, inducement allowances and direct payments under assistance scheme.<sup>58</sup>

According to regulation 26 where any criminal proceedings are instituted against an officer, no disciplinary proceedings shall be instituted against such an officer upon any ground which is the subject of such criminal proceedings or if such disciplinary proceedings have been instituted, they shall be suspended until the conclusion of such criminal proceedings and determination of any appeal arising therefrom. Any officer acquitted of a criminal charge in any court shall not be dismissed or otherwise punished for any charge upon which he has been acquitted but this shall not prevent his being dismissed or otherwise punished on any other charges arising out of his conduct in the matter.<sup>59</sup>

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duty of an officer to report to the District Executive Secretary any misconduct or negligent act of a subordinate employee which comes to his notice<sup>45</sup> and also to report to the Chief Officer any misconduct liable to disciplinary action committed by some other officer as soon as he becomes aware of it.<sup>46</sup> In addition an officer is required to comply with the requirements of the Leadership Code on assumption of duty.<sup>47</sup>

Transfers of officers from one local authority to another shall be by consent of all parties concerned and such consent shall not be unreasonably withheld<sup>48</sup> and on transfer an officer's previous service in a local authority shall be treated as service in the local authority to which he transfers.<sup>49</sup>

Where disciplinary proceedings are to be or may be taken against an officer, the appropriate procedure shall be commenced as soon as possible.<sup>50</sup> A District Executive Secretary may suspend a Chief Officer or any other Officer from the exercise of the powers and functions of his office and a Chief Officer may suspend an Officer directly falling under the jurisdiction of his office from the exercise of the powers and functions of his office if he is satisfied that the public interest so requires and if criminal proceedings are instituted against such officer or if disciplinary

proceedings for the dismissal are instituted against such officer.<sup>51</sup> Whenever a District Executive Secretary or a Chief Officer suspends an Officer he shall notify such Officer in writing of the reasons therefor and shall deliver a copy of such notice to the local authority<sup>52</sup> and an Officer who is suspended shall during the period of his suspension receive a proportion of his salary, not being less than half, as the local authority may direct.<sup>53</sup> However when criminal or disciplinary proceedings have been instituted against an officer under suspension and such an officer is not convicted as a result of such suspension or is not subjected to any punishment as a result of such disciplinary proceedings the whole amount of his salary withheld shall upon the expiry of the period of his suspension be paid to him.<sup>54</sup> Where criminal proceedings or disciplinary proceedings have been instituted against an officer under suspension and such an officer is or is not convicted as a result of such proceedings or is subjected to any punishment other than dismissal as a result of such disciplinary proceedings, he shall upon expiry of the period of his suspension, be paid such proportion of his salary withheld as the local authority may direct.<sup>55</sup> The suspension of an officer shall have effect during such period and in accordance with such conditions as the local authority shall specify in writing to such officer but where it appears expedient the local authority may at any time during such period abridge or extend such

period by further notice in writing to any such officer<sup>56</sup> and any officer who is suspended shall not leave Zambia without the permission of the local authority during the period of his suspension.<sup>57</sup> "Criminal Proceedings" in terms of these regulations includes investigations into malpractices and embezzlement of public funds and "salary" includes any personal allowances, inducement allowances and direct payments under assistance scheme.<sup>58</sup>

According to regulation 26 where any criminal proceedings are instituted against an officer, no disciplinary proceedings shall be instituted against such an officer upon any ground which is the subject of such criminal proceedings or if such disciplinary proceedings have been instituted, they shall be suspended until the conclusion of such criminal proceedings and determination of any appeal arising therefrom. Any officer acquitted of a criminal charge in any court shall not be dismissed or otherwise punished for any charge upon which he has been acquitted but this shall not prevent his being dismissed or otherwise punished on any other charges arising out of his conduct in the matter.<sup>59</sup>

Disciplinary proceedings may be instituted by the District Executive Secretary in respect of any officer or by a Chief Officer in relation to an officer serving within the jurisdiction of the Chief Officer but the

District Executive Secretary may institute disciplinary proceedings even in cases where a Chief Officer is competent to do so.<sup>60</sup> Disciplinary proceedings are termed disciplinary proceedings if the officer involved in the proceedings is a Chief Officer or if the officer concerned is likely to suffer dismissal, discharge, reduction in rank or reduction in salary and in all other cases they are termed summary disciplinary proceedings.<sup>61</sup>

Where formal disciplinary proceedings are to be instituted against an officer the District Executive Secretary shall do so after investigation and such consultation with the Director of Public Prosecution (through the Local Police Officer in Charge) as he considers necessary, by delivering or causing to be delivered to the officer concerned a written statement setting out particulars of the disciplinary charge and the grounds upon which such disciplinary proceedings are instituted, together with a notice requiring the concerned officer to submit not less than five days of receipt of such notice, as the District Executive Secretary shall specify, an exculpatory statement giving therein the grounds on which the concerned officer relies to exculpate himself.<sup>62</sup> Upon expiry of the said period specified in the notice and upon receipt of the exculpatory statement, if any, the District Executive Secretary shall submit the case to the local authority together with a statement of the disci-

plinary charge, the exculpatory statement (if any) of the concerned officer, and the written comments of the District Executive Secretary.<sup>63</sup> The local authority shall consider any case submitted to it and the documents referred therein and may either exculpate the officer concerned and direct the District Executive Secretary to inform the officer concerned accordingly or impose such punishment on the officer concerned as may be proper, having regard to all the circumstances of the case.<sup>64</sup> Where it appears to the local authority, upon consideration of the report of the District Executive Secretary and the exculpatory statement, if any, of the officer concerned and all other documents submitted to it, that further inquiry of the case is necessary, the local authority shall appoint a committee to carry out further inquiries as the local authority may direct.<sup>65</sup> The Committee shall consist of not less than three members one of whom shall be an officer qualified to be admitted as an advocate in Zambia and the other two shall be appointed having due regard to the rank and the responsibilities of the officer concerned.<sup>66</sup> On completion of its inquiry the Committee shall prepare and submit to the local authority a written report setting out matters inquired into by the Committee and such report shall include a statement as to whether, in the opinion of the majority of the members of committee, the officer concerned is guilty of the charge alleged against him and inquired into by the Committee and

a brief statement of the reasons for that opinion; particulars of any matters which, in the opinion of the majority of the members of the Committee operates to aggravate or mitigate the case, as the case may be, and a summary of the findings of the committee or, in the case of dissent among members, a summary of the majority of the members thereof, on the matters investigated by the Committee, but the Committee shall not make any recommendation as to, or otherwise comment on, the punishment that may be imposed on the officer concerned.<sup>67</sup> The local authority may after considering the report submitted to it refer the report back to the Committee for clarification of such matters arising therefrom or for such further investigation and report, as the local authority may direct, and the Committee shall comply with any such direction as soon as may be practicable.<sup>68</sup> The local authority shall consider all matters submitted to it for consideration and determination including any report submitted as above and determine whether any punishment is to be imposed on the officer concerned and give the District Executive Secretary directions accordingly.<sup>69</sup>

Any punishment imposed shall be communicated to the concerned officer by the District Executive Secretary and such notice shall also state that the officer has a right of appeal to the appropriate Provincial Service Board.<sup>70</sup>

Where any summary disciplinary proceedings are to be instituted against an officer the District Executive Secretary shall do so, after such investigation as he considers necessary, by delivering or causing to be delivered to the officer concerned a written statement setting out the particulars of the disciplinary charge and the grounds upon which such disciplinary proceedings are instituted, together with a notice requiring the officer concerned to submit to the District Executive Secretary, within such specified period as the District Executive Secretary shall specify, an exculpatory statement.<sup>71</sup> Upon the expiry of the period specified, the District Executive Secretary shall submit the case to the local authority, together with a statement, if any, of the officer concerned and the written comments of the District Executive Secretary.<sup>72</sup> A local authority may impose such punishment on the officer concerned as may be appropriate having regard to all the circumstances of the case or exculpate the concerned officer and inform him accordingly in writing.<sup>73</sup> The District Executive Secretary shall communicate to the officer any punishment imposed on him<sup>74</sup> and shall also inform him of his right to appeal to the appropriate Provincial Service Board.<sup>75</sup> A Chief Officer can also institute summary disciplinary proceedings against an officer under his jurisdiction.<sup>76</sup> A local authority may impose any one or more of the following punishments, that is, dismissal or retirement in the public interest, discharge by due notice or by payment of salary in lieu thereof, reduc-

tion in rank, deferment of increment, stoppage of increment, withdrawal of increment, severe reprimand and reprimand.<sup>77</sup>

The District Executive Secretary is required to keep and maintain records and reports of all disciplinary proceedings instituted by him or by a Chief Officer, including disciplinary proceedings where no punishment is imposed.<sup>78</sup>

The Provincial Service Board may call for and examine the record of any disciplinary proceedings before a local authority under its jurisdiction for the purpose of satisfying itself as to the correctness, legality or propriety of any findings or punishment recorded or passed and as to the regularity of any disciplinary proceedings of any such authority.<sup>79</sup> Further the District Executive Secretary is required to submit a copy of the report and records of disciplinary proceedings instituted against an officer to the Secretary of the Board after thirty days from the date when a local authority imposes any punishment upon an officer affected if there is no appeal pending in respect of such disciplinary proceedings.<sup>80</sup> In the exercise of its powers of review in any proceedings referred to it, the Board may, in the case of any punishment, firstly confirm, vary or reverse any decision of a local authority; secondly, if it thinks a different punishment should have been imposed by a local authority quash the punishment imposed by the local authority and pass such other punishment warranted in law, whether more or less severe in substitution therefore as it thinks ought to have been passed, thirdly, if

it thinks additional evidence is necessary, either take additional evidence itself or direct that it be taken by the local authority; fourthly, direct the local authority to impose such punishment or make such order as may be specified; and in any case of any other finding, other than a finding exculpating the officer, alter or reverse such order.<sup>81</sup> No order shall be made to the prejudice of any officer affected unless he has an opportunity of making representations in writing on his behalf<sup>82</sup> and when additional evidence is taken by the Board or the local authority, the officer affected or his advocate shall be present when additional evidence is taken.<sup>83</sup> The Board however cannot exercise its powers of review against an officer who has appealed unless such an appeal is withdrawn.<sup>84</sup>

According to regulation 35(1) any officer aggrieved by the decision of the local authority may lodge his appeal with the Secretary of the appropriate Provincial Service Board within thirty days of the date of receipt of such decision by submitting in quadruplicate his notice of intention to appeal and stating the grounds of appeal. The appellant shall at the time of lodging his appeal serve a copy of his intention to appeal and the grounds of appeal upon the District Executive Secretary of the local authority concerned.<sup>85</sup> The respondent shall within twenty one days of receipt of the appellants' notice filed, serve a statement on the matters raised in the

applicants' appeal, a record of the minutes of the meeting to which the appeal relates, and copies of any documents relied upon during the meeting to which the appeal relates in quadruplicate, upon the Secretary of the appropriate Board and a copy of each document upon the appellant.<sup>86</sup>

The appellant shall deliver his reply, if any, to the matters raised by the appellants statement within fourteen days on an appropriate Board in quadruplicate, and at the same time, serve a copy of his reply and supporting documents upon the respondent.<sup>87</sup> All documents served shall be served personally upon the parties concerned; or by registered post, in which case the date of service is deemed to be the date on which the documents are posted.<sup>88</sup> On receipt of all relevant documents the Secretary shall cause to have the appeal set down for hearing by the Board on a date not being more than thirty days after receipt of all relevant documents and shall notify the parties in writing, of the hearing date.<sup>89</sup> At the hearing of the appeal the appellant may appear in person, or by an advocate or representative of his trade union, and the respondent may appear through its District Executive Secretary or may be represented by an advocate, or by a representative of an association of local authorities.<sup>90</sup> If the Chairman of the Board considers it necessary in the interests of justice to hear evidence from any person other than any of the parties, he may allow the parties to summon the witnesses to give oral testimony on any issue arising from the appeal

and each party may cross-examine opposing witnesses.<sup>91</sup> If any party claims any documents to be a privileged document, then instead of sending copies of documents to which privilege is claimed, he shall instead send a list of the documents to which privilege is claimed, claiming such privilege<sup>92</sup> and the Board shall determine whether or not the documents are privileged in law before commencement of the hearing.<sup>93</sup>

The Board may adjourn the hearing on an appeal on such terms and conditions as are necessary for just and fair determination of the appeal<sup>94</sup> and the Chairman may in the interests of justice extend prior to the date set for hearing of the appeal, the time for doing anything in connection with the hearing of an appeal,<sup>95</sup> subject to any other right of appeal to the decision of the Board, the decision of the Board on any appeal shall be binding upon the parties concerned<sup>96</sup> and on determination of the appeal, the Board may confirm vary or reverse the decision of the local authority.<sup>97</sup> All correspondence relating to the appeal shall be addressed to the Secretary of the appropriate Board.<sup>98</sup> The Secretary shall maintain a record of all members present at a Board meeting and minutes of all matters transacted at such Board meeting.<sup>99</sup>

4) Evaluation of the Local Administration Act of 1986

As observed in this chapter, by virtue of the above amendment, councils have been given power to appoint, promote, transfer, second, discharge, dismiss or discipline its officers and employees.

However the powers of the councils in respect of disciplinary action to be taken against officers and employees is subject to review by the Provincial Service Boards and the officers and employees are also offered the right to appeal to the Provincial Service Boards if ~~aggrieved~~ with the decision taken against them. Through the provisions of the Local Administration Service Regulations 1987 the officers and employees are given adequate safeguards in their security of tenure as regards the procedure to be followed when disciplinary measures are taken against them. However it is observed, firstly, that the Provincial Service Boards operate on a part-time basis and this might work against the interests of the staff as what happened during the period of the part-time Local Government Service Commission and Local Government Service Boards.

The Local Government Service Commission and the Local Government Service Boards failed to guarantee the security of tenure of the staff as they operated on a part-time basis and hence did not handle the large number of disciplinary cases presented to them despite the fact that the Local Government (Officers) Ordinance contained adequate safeguards to protect the interests of the workers. In fact the failures of the Local Government Service Commission and the Local Government Service Boards in protecting the worker interests was the very reason for the establishment of the full-time Local Government Service Commission which replaced them.

Another point to observe is that at the time of writing this thesis no Provincial Board was operational as no members had been appointed by the Minister.<sup>100</sup> Similarly officers to constitute the secretariat of Boards had not been appointed. This already creates a backlog of cases when the members and secretariat of the Boards are finally appointed.

Secondly, the composition of the Boards militates against the interests of the officers and employees as only two members are appointed specifically to represent the Officers and employees of councils but since the decisions of the Board is by a majority of the members present and voting they can be easily outvoted. The total composition of the Board is seven members.

Thirdly one reason for the establishment of the full-time Local Government Service Commission was because of the concern the Ministry of Local Government and Housing was having in the increasing number of cases where individual councillors had persuaded the councils to suspend, discharge or dismiss employees for the most trivial reasons or for reasons arising out of a clash of personalities or the converse where inefficient or dishonest employees had continued to retain their jobs because of their contacts with councillors. Thus it was hoped that with the creation of the full-time Local Government Service Commission, before an employee was subjected to suspension, dismissal or discharge

his side of the story would have received an impartial hearing as opposed to the system which existed then where the part-time Local Government Service Commission only appeared on the scene after the employee had suffered the humiliation of being suspended, discharged or dismissed. A similar problem is envisaged with the creation of the Provincial Service Boards as they will only arrive on the scene after action has already been taken by councils when they review disciplinary cases and hear appeals. By then the officers and employees would have suffered humiliation from councillors who tend to be dictatorial, vindictive or at the very least unpredictable.

#### CONCLUSION

Local Government Service between the period 1936 to date is still being administered through the provisions of the Local Administration Act No. 15 of 1980. Through the Local Administration (Amendment) Act No. 21 of 1986 councils are now empowered to appoint, promote, transfer, second, discharge or dismiss their officers and employees. However the councils disciplinary action taken against their officers and employees is subject to review by the Provincial Service Boards. Further the officers and employees aggrieved by the disciplinary action taken against them by the councils have the power, in their own right, of appealing to the Provincial Service Boards for redress.

It has been observed in this chapter that through the Local Government Service Regulations 1987 the officers are afforded adequate safeguards in their security of tenure as the regulations are quite elaborate in the procedures to be followed by councils when dealing with appointments, confirmations, promotions, transfers, discharges and dismissals. But as observed in this chapter the bodies which are supposed to see to it that these safeguards are adhered to appear to be handicapped.

For a start the Provincial Service Boards operate on a part-time basis and like in the case of the abolished part-time Local Government Service Commission and Local Government Service Boards are bound not to handle the large number of disciplinary cases presented to them. In fact at the time of writing this dissertation no single Provincial Service Board was operational as the members had not yet been appointed and this was well over eight months after the enactment of the amendment.

Secondly the composition of the Provincial Service Boards militates against the officers and employees interests as only two members out of a membership of seven are appointed specifically to represent their interests but since the decision of the Boards is by a majority vote the two members can easily be outvoted.

Lastly the Provincial Service Boards when reviewing disciplinary cases and hearing appeals from aggrieved officers and employees will only arrive at the scene when the officers and employees will have suffered the humiliation of being disciplined by the councillors who tend to be dictatorial vindictive or at the very least unpredictable.

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5. Ibid S3(3) and S3(4) The need to grade councils was in order that grants could be given to the district councils in proportion to their financial resources. This would help the small district councils to receive more than large district councils to enable them service the people in their respective areas. See Personnel Division Circular No. B1 of 1987 dated 2nd January 1987 entitled Organisational Structures and Grading of Posts in the Civil Service which, inter-alia, stipulated the gradings of councils pp 4-5
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96. Ibid Regulation 35(13)
97. Ibid Regulation 35(14)
98. Ibid Regulation 35(15)
99. Ibid Regulation 36
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PART THREE

CONCLUSION

## CONCLUSION

### INTRODUCTION

This study was aimed at analysing whether the staff in the Local Government Service in Zambia enjoy security in their tenure of office by tracing the Local Government Service from the rule of Northern Rhodesia by the British South Africa Company in 1895 up to the enactment of the Local Administration (Amendment) Act Number 21 of 1986. The study was also aimed at examining whether the institutions which are charged with safeguarding the security of staff in the Local Government Service are fulfilling their responsibilities. The study was prompted by numerous complaints from staff, Zambia Local Authorities Worker's Union, Members of Parliament and Local Authority (Councils) themselves about delays in the processing of appointments, confirmations, promotions, transfer, determination of terms and conditions of service and dismissals. There have also been complaints of unfair treatment in the way disciplinary proceedings have been handled. In the course of the study several conclusions **have** been made. It is now the intention of the writer to make some recommendations based on the conclusions drawn from the study. However it would be necessary first, to stress the conclusions drawn from the study. This will be done under five headings:-

(I) Summary

(A) Local Government Service Between the Period 1895  
to 1963

Chapter One observed that Local Government in Zambia between the period 1895 to 1963 developed along two separate lines, that is Urban Local Authority and Rural Authority.

In the Urban areas Local Government Service was administered through Councils, Township Boards and Mine Township Boards. In the rural areas the service was administered through native authorities.

This chapter revealed that staff in the Local Government Service in the urban areas during this period had no security of tenure as the employing agencies, Councils, Township Management Boards and Mine Township Boards had a **free** hand in engaging and firing the staff and in determining terms and conditions of service. In the rural areas the staff, seconded from the main Civil Service stream, also did not have security of tenure as they held offices at Her Majesty's pleasure.

(B) Local Government Service Between the Period 1963 to  
1974

As seen in Chapter two Local Government Service between the period 1963 to 1974 was administered through the provision of the Local Government (Officers) Ordinance.<sup>1</sup> This Ordinance, which contained adequate safeguards to protect officers in

their security of tenure, was initially enacted to allay the fears of European officers about their future in the Local Government Service with the advent of african majority rule. However even african officers were covered under its provisions.

Under this Ordinance a local authority could at any time terminate the appointment of an officer upon giving him not less than one month's written notice unless it was otherwise stipulated with or in the terms of appointment of the officer. However an officer could be suspended or dismissed without notice for misconduct notwithstanding anything contained in the contract with or in the terms of the appointment of the officer. Be that as it may, in the case of a specified officer (that is a Town Clerk, Treasurer, Engineer, Medical Officer of Health or Secretary) a proviso made provisions that no such officer could be removed from office unless and until such removal had been sanctioned by a majority of the Councillors present at a meeting of the local authority specifically convened for the purpose and unless the number of councillors voting in the majority was not less than the majority of the whole local authority. Further, before such officer was removed the matter had to be submitted to the Part-Time Local Government Commission which was required to give the matter careful consideration and only if the Commission had given its approval then the officer was removed. In

addition the removal of the Medical Officer of Health was further subject to the approval of the Minister of Health. There were further provisions providing for appeal to the Commission by officers other than specified officers.

As revealed in that chapter, despite the above mentioned safeguards the bodies which were charged with seeing to it that these provisions were strictly adhered to and further in determining terms and conditions of service, salary and salary scales failed to do this because the Part-Time Local Government Service Commission and Provincial Service Boards operated on part-time basis and hence did not handle the large number of disciplinary, salary scale and conditions of service cases presented to them. In addition local politics and personal connections among the councillors themselves influenced decisions.<sup>2</sup> There arose a situation where councillors had persuaded the councils to suspend, discharge or dismiss employees for the most trivial reasons or for reasons arising out of a clash of personality or the converse where inefficient or dishonest employees had continued to retain their jobs just because of their contacts with councillors.

(c) Local Government Service Between the Period 1974 to 1980

Chapter Three observed that between the period 1974 to 1980 Local Government Service was administered through the provisions of the Local Government Act.<sup>3</sup> The United National

Independence Party in its Manifesto entitled "National Policies for the Next Decade 1974 to 1984" stated that it was committed to the establishment of a strong Local Government System to achieve maximum decentralisation in order to ensure that local Government accorded with the principle of Participatory Democracy under the Philosophy of Humanism. In this respect the Party promised, among other things, to strive towards the achievement of a meaningful Unified Local Government Service, to improve employment opportunities and stabilise the staffing position in all local government institutions through uniform conditions of service. To achieve this goal the government created the Full-line Local Government Service Commission. It was argued that a unified service under a Commission set up to operate it would have many advantages in that:-

Firstly, every system would be unified. The conditions of service would be standardised, employment opportunities would improve, the staffing position would be stabilised, transfers between councils would be possible, secondments and transfers from and to other service commissions would be possible, training programmes would be more meaningful, recruitment efforts would cost less and generally all persons would be in a happier working relationship.

Secondly, every Commissioner would be full-time. Unnecessary and often very inconvenient and costly delays that had

been experienced in the past would be reduced to a minimum. The Commission would be able to devote more time to improving systems and programmes for training, conducting examinations and promoting Zambians to replace expatriates.

Thirdly, as the proposed Commission would be in a different situation compared to the then existing service commissions in that it would be catering for over fifty local authorities, it was essential that it performed in the context of local government, the equivalent functions of the Public Service Commission, the Establishment Division and the Directorate of Civil Service Training, thereby cutting out a lot of red-tape. It was also hoped that the creation of the Commission would solve the problems of negotiating with Trade Unions over salaries, terms and conditions of service etc, as at that time there was no existing body which legally had the mandate to negotiate for salaries, terms and conditions of service etc as each council was independent in this respect and so could accept or reject any agreement informally reached between Trade Union Executives and say Local Government Association of Zambia or indeed the Ministry of Local Government and Housing.

It was further envisaged that since the decision of the Commission would be impartial and objective and based on evidence, the concern the Ministry of Local Government and Housing was having in the increasing number of cases where

individual councillors had persuaded the councils to suspend, discharge or dismiss employees for the most trivial reasons or for reasons arising out of a clash of personality or the converse where inefficient or dishonest employees had continued to retain their jobs because of their contacts with councillors would be eradicated since before an employee was going to be subjected to suspension, discharge or dismissal his side of the story would have received an impartial hearing as opposed to the system which prevailed then where the Part-time Local Government<sup>1a</sup> Commission only appeared on the scene after the employee had suffered the humiliation of being suspended, discharged or dismissed. Equally it was envisaged that the creation of the Commission would eradicate the conflicts which existed between councils arising from accusations of "poaching" each time one council got an employee from another council as transfers between councils was now possible.

However as revealed in this chapter, the Local Government Service Commission failed to guarantee the security of tenure of the staff in the Local Government Service **because:-**

a) There were random transfers of staff from one council to another without looking into the cost aspect of the matter and the frequent transfers of the staff created insecurity in the minds of the employee as related to their security of office.

b) The Commission was inadequately staffed to deal expeditiously with the massive number of cases related to appointments, confirmations, promotions, transfers and disciplinary matters presented to it thereby leaving the staff dissatisfied.

c) The Ministry of Local Government and Housing interfered in the operations of the Commission as it wanted to have a final say in staff matters contrary to the powers bestowed on the Commission and hence there was friction between the Commission and the Ministry to the detriment of the staff in their security of tenure.

(D) Local Government Service Between the Period 1930 to 1936

The administration of Local Government Service between the period 1930 to 1936 was done through the provisions of the Local Administration Act No. 15 of 1930. This Act established an integrated district council which combined and replaced the tripartite local government structure (township, rural and municipal council, the district development committees) and incorporated the party organisations.

Under the Local Government Act the administration of the affairs of each council was carried out by three separate authorities, namely, the provincial administration, local government and party, all of which exercised identical powers independently of one another and this resulted,

in some cases, in duplication of effort and sheer waste of scarce human and material resources. Under the Local Government Act there had also been incidents of conflict between these separate authorities over important matters of local administration. The Government saw the solution to these problems in the integration of all organs of the local administration and the Local Administration Act aimed at achieving this by making provisions for the establishment, for each district, of a district council, a district committee and a district secretariat. Provision was also made in the Act for the establishment, for each district, of a provincial council, a provincial committee and a provincial secretariat. It was also envisaged that councils would be autonomous bodies but as stated in chapter four the ushering in of the Local Administration Act saw a gradual extension of political control by the ruling United National Independence Party over political, administrative institutions at provincial, and district levels as the composition of these institutions was dominated by party cadres.

Under the Local Administration Act employees in the Local Government Service and Local Authority Service were seconded to the public service for an initial period of five years which was later extended to six years and had to, within the course of three years, elect to join the Civil Service or not. As observed in this chapter the Public

Service Commission failed to guarantee the security of tenure of the staff for following reasons:-

a) It was not a specialised body to deal specifically with matters related to Local Government and Local Authority staff only as it had to cater for other civil servants hence it made random appointments without taking into consideration someone's qualification for the job.

b) There were delays in the processing of appointments and promotions of the officers.

c) There were also delays in the processing of disciplinary cases involving officers. Further the Commission did not bother to consult the Zambian Local Authority Workers Union on some disciplinary matters involving union members contrary to the procedure laid down in the Recognition Agreement entered into by the Government and the Union.

d) There were frequent transfers of staff thereby creating insecurity in the minds of the staff about their tenure of office.

(E) Local Government Service Between The Period 1986 to date

Local Government Service between the period 1986 up to the writing of the dissertation is still being administered through the provisions of the Local Administration Act No. 15 of 1980. Through the Local Administration (Amendment) Act No. 21 of 1986 councils are now empowered to appoint, promote, transfer, second, discharge or dismiss their officers

and employees. However the councils' disciplinary action taken against their officers and employees is subject to review by the Provincial Service Boards. Further the Officers and employees aggrieved by the disciplinary action taken by the councils have the power, in their own right, of appealing to the Provincial Service Boards for redress.

It was observed in chapter five that through the Local Government Regulation 1987 the officers and employees are afforded adequate safeguards in their security of tenure as the regulations are quite elaborate in the procedures to be followed when dealing with appointments, confirmations, promotions, transfers and dismissals. But as also observed in this chapter the agencies which are supposed to see to it that these safeguards are adhered to are handicapped. For a start the Provincial Service Boards operate on a part-time basis and like in the case of the abolished part-time Local Government Service Commission and Local Government Service Boards, are bound not to handle the large number of disciplinary cases presented to them thereby leaving the staff dissatisfied. In fact at the time of writing this dissertation no single Provincial Service Board was operational as the members had not yet been appointed and this was well over eight months after the enactment of the amendment. Secondly the composition of the Provincial Service Boards militates against the workers interest in that only two members out of a membership of seven are specifically appointed to represent

officers and employees interests and since the decision of the Boards is by a majority vote the two members can easily be outvoted. Thirdly as earlier observed one reason for the establishment of the Full-Time Local Government Service Commission was because of the concern the Ministry of Local Government and Housing was having in the increasing number of cases where individual councillors had persuaded the councils to suspend, discharge or dismiss employees for the trivial reasons arising out of a clash of personality or the converse where inefficient or dishonest employees had continued to retain their jobs because of their contacts with councillors. Thus it was hoped that with the creation of the Full-Time Local Government Service Commission before an employee was subjected to suspension, discharge or dismissal his side of the story would have received an impartial hearing as opposed to the system which existed then where the part-time Local Government Service Commission only appeared on the scene after the employee had suffered the humiliation of being suspended, discharged or dismissed. Similarly the Provincial Service Boards when reviewing disciplinary cases and hearing appeals from aggrieved officers and employees will only arrive at the scene when the officers and employees will have suffered the humiliation of being disciplined by councillors who tend to be dictatorial, vindictive or, at the very least, unpredictable.

(2) Recommendations

While it is conceded that the Local Administration Service Regulations 1987 contain elaborate safeguards to protect the Local Government Staff in their security of tenure in respect of appointments, confirmations, promotions, transfers, secondments and disciplinary procedures to be followed by the local authorities, however there is need to revamp the Provincial Service Boards to make them more efficient in the disposal of disciplinary matters involving staff and also to provide them with additional powers in dealing with disciplinary matters involving senior officers of local authorities so as to protect this class of workers from unfair treatment. In light of the above the following measures are recommended:-

a) The Provincial Service Boards should operate on a full-time basis. It might be argued that this measure will be costly but this argument can be disposed by, firstly, reducing the number of members constituting these Service Boards, secondly, instead of having a Provincial Service Board for each Province have only four Service Boards for the nine provinces of Zambia by having a Board for two provinces and with the Board catering for Lusaka Province also servicing two other provinces. It is suggested that the membership of the Board be restricted to five members only by doing away with the two members appointed by the Minister

after consultation with the member of the Central Committee for the Province.<sup>4</sup> It is the contention of the writer that that the idea behind the appointment of these two members is the desire by the ruling United National Independence Party to exert its authority on all decision making institutions in the country. This party's desire can still be fulfilled by the exercise of the Minister's power to appoint the Chairman and the other four members of the Boards if the appointments of these two members is done away with. In fact if the membership is restricted to five this will give leverage to the workers interests being protected as the two members specifically appointed to represent workers interest will not be easily outvoted. It may also be argued that there is no need for the Provincial Service Boards to operate full-time as there is not much workload involved. This argument misses the point that the Provincial Service Boards in addition to hearing appeals have, also, power to review disciplinary cases. Further the District Executive Secretary is required to submit records of all disciplinary proceedings instituted against an officer by a local authority to the Provincial Service Board when a punishment is imposed and where no appeal is pending for the Board to review the punishment imposed. Taking into consideration that there are over fifty local authorities in Zambia there is a lot of work involved.

b) A proviso should be inserted in the Local Administration Act that when it comes to the dismissal of senior officers of councils (ie District Executive Secretary, Chief Officers and other professional staff) these officers should not be dismissed without the prior approval of the Service Board. The writer, as a Chief Officer with Ndola Urban District Council, has noticed that councillors are highly suspicious about senior officers of councils. From the writer's experience this suspicion stems from feelings of inferiority complex on the part of the councillors. The majority of the councillors are poorly educated in comparison to the senior officers who in most cases are professionals and hence the councillors feel jealous. Further the senior officers are better remunerated than the majority of councillors who resent this and to show their resentment they tend to harass the senior officers and try to get them dismissed over trivial matters. In order to protect these officers this proviso is called for. It may be argued that there is no need for it because the Provincial Service Boards exercise the right of review and hearing of appeals from aggrieved officers. It should be observed that the Provincial Service Boards when reviewing cases and hearing appeals only arrive at the scene when the damage will already have been done and the officers will already have suffered the humiliation of being suspended, discharged or dismissed. It might further be argued that to give the Provincial Service Boards power

to sanction the dismissals of the senior officers will be eroding the powers of the local authority to fire their staff. However the writer is of the view that if a local authority has a good case in support of the dismissal of a senior officer the Provincial Service Board will endorse the dismissals. What is being suggested is a counter check to the arbitrary use of powers by councillors who tend to be dictatorial, vindictive or, at the very least, unpredictable. As stated by Stanley Dryden:-<sup>5</sup>

"If the local government system was to survive and grow according to the original design, it was clearly a matter of first importance to safeguard the interests of the executive staff and to offer them a status commensurate with the responsibilities which they were being asked to shoulder!"

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