

IN THE SUPERIOR COURT OF JUDICATURE
IN THE SUPREME COURT
ACCRA - A.D. 2024

Filed on 11/3/24
at 2:50 pm
JA Registrar
SUPREME COURT OF GHANA

**WRIT TO INVOKE THE ORIGINAL JURISDICTION OF THE
SUPREME COURT PURSUANT TO ARTICLES 2(1) AND 130
OF THE 1992 CONSTITUTION AND RULE 45 OF THE
SUPREME COURT RULES, 1996 (C.I. 16)**

BETWEEN

**1. IMANI CENTRE FOR
POLICY & EDUCATION**

No. KD 14, KOANS Estate
Kutunse

2. PROF. KWESI ANING

S29, Hydraform Estate
East-Airport,
Spintex Road-Accra

SUIT NO.

JI/10/2024
PLAINTIFFS

AND

THE ATTORNEY-GENERAL
Attorney-General's Department
Ministries, Accra.

DEFENDANT

IN THE NAME OF THE REPUBLIC, you are hereby commanded within fourteen days after service on you of the Plaintiffs' Statement of case, inclusive of the day of service to file or cause to be filed for you, the Defendant's statement of case in an action at the suit of: **IMANI CENTRE FOR POLICY & EDUCATION; PROF. KWESI ANING**

The nature of the reliefs sought by the Plaintiffs are as follows:

1. A declaration that upon a true and proper interpretation of the letter and spirit of Articles 200, 202(1), 202(2), 202(3), 205, 207 (1), 207(2), 207(3), 190(1), 191, 196, 199 and 296 of the 1992

Constitution of Ghana, the President of the Republic of Ghana has no authority to terminate the appointment or remove from office of a person occupying the office of the Chief Fire Officer of the Fire Service; Inspector-General of Police; Director-General of Prisons Service and Comptroller General of Immigration Service, unless only upon proven stated misconduct or misbehavior established against these office holders or incapacity to perform the functions of the office by reason of infirmity of mind or body or death or retirement or upon resignation by the office holder.

2. A further declaration that upon a true and proper interpretation of the letter and spirit of Articles 200, 202(1), 202(2), 202(3), 205, 207 (1), 207(2), 207(3), 190(1), 191, 196, 199 and 296 of the 1992 Constitution of Ghana, the President of the Republic of Ghana upon assumption of office does not have the power to make a fresh appointment to the office of the Chief Fire Officer of the Fire Service; Inspector-General of Police; Director-General of Prisons Service and Comptroller General of Immigration Service unless the immediate holder of the office is deceased; retired, or incapable of performing functions of the office by reason of infirmity of the body or mind or resignation or dismissed upon proven stated misconduct or misbehavior established against the office holder.
3. Another declaration that upon a true and proper interpretation of the letter and spirit of Articles 200, 202(1), 202(2), 202(3), 205, 207 (1), 207(2), 207(3), 190(1), 191, 196, 199, 296 of the 1992 Constitution of Ghana, upon a change of government, the newly appointed President of the Republic of Ghana has no authority or power to terminate the appointment of persons occupying the offices of the Chief Fire Officer of the Fire Service; Inspector-General of Police; Director-General of Prisons Service and Comptroller General of Immigration Service unless the office holder is deceased; retired, or incapable of performing functions of the office by

reason of infirmity of the body or mind or upon proven stated misconduct or misbehavior or upon resignation.

4. A declaration that upon a true and proper interpretation of the letter and spirit of Articles 200, 202(1), 202(2), 202(3), 205, 207 (1), 207(2), 207(3), 190(1), 191, 196, 199 and 296 of the 1992 Constitution of Ghana, upon a change of government, the newly appointed President of the Republic of Ghana has no authority or power to appoint new persons to occupy the offices of the Chief Fire Officer of the Fire Service; Inspector-General of Police; Director-General of Prisons Service and Comptroller General of Immigration Service unless the offices are vacant by reason of the death, resignation or retirement of the immediate office holder; or the current office holder is incapable of performing functions of the office by reason of infirmity of the body or mind or upon dismissal of the immediate office holder upon proven stated misconduct or misbehavior.
5. A declaration that, upon a true and proper interpretation of Articles 12 (2), 17, 200, 202(1), 202(2), 202(3), 205, 207 (1), 207(2), 207(3), 190(1), 191, 196, 199, 296 of the 1992 Constitution of Ghana, the practice of the termination or removal from office of persons occupying the positions of the Chief Fire Officer of the Fire Service; Inspector-General of Police; Director-General of Prisons Service and Comptroller General of Immigration Service who are members of the public services upon the assumption of a new government by the President of the Republic in the absence of resignation, retirement, death, proven stated misbehaviour or misconduct, incapability to perform the functions of the office by reason of infirmity of body or mind by the immediate occupants of the offices is unconstitutional.
6. A declaration that upon a true and proper interpretation of Articles 12 (2), 17, 200, 202(1), 202(2), 202(3), 205, 207 (1), 207(2), 207(3), 190(1), 191, 196, 199 and 296 of the 1992

Constitution of Ghana, the practice of the appointment of persons to take over from the occupants of the offices of the Chief Fire Officer of the Fire Service; Inspector-General of Police; Director-General of Prisons Service and Comptroller General of Immigration Service who are members of the public services upon the assumption of a new government by the President of the Republic in the absence of retirement, resignation, death, proven stated misbehaviour or misconduct, incapability to perform the functions of the office by reason of infirmity of body or mind by the current occupants of the offices is unconstitutional.

7. A consequential order to restrain or prevent the President of the Republic from dismissing or removing or attempting to dismiss or remove the appointment of persons occupying the offices of the Chief Fire Officer of the Fire Service; Inspector-General of Police; Director-General of Prisons Service and Comptroller General of Immigration Service unless only in cases of proven stated misconduct or misbehavior established against such persons or upon retirement or resignation or death or incapacity to perform the functions of the office by reason of infirmity of body or mind.
8. Any further order(s) or direction(s) as this Honourable Court may deem necessary.

The capacities in which the Plaintiffs bring the action are as follows:

- a. The 1st Plaintiff brings this action as a juristic person registered under the laws of the Republic of Ghana pursuant to Article 2(1) of the 1992 Constitution.
- b. The 2nd Plaintiff brings this action as a citizen of the Republic of Ghana pursuant to Article 2(1) of the 1992 Constitution.

The address for service of the Plaintiffs are as follows:

- (i) **IMANI Centre for Educational & Policy**
No. KD 14, Darko Street,
Koans Estate-Kuntunse
- (ii) **Professor Kwesi Aning**
S. 29 Hydraform Estate
East Airport
Spintex Road, Accra


The address for service of Counsel for the Plaintiffs is as follows:

PaaJoy Law Group,
No. 77, Pawpaw Street
East-Legon, Accra

The name and address of the person affected by this writ is as follows:

The Attorney-General
Attorney-General's Department
Ministries, Accra.

DATED AT PAAJOY LAW GROUP, NO. 77 PAWPAW STREET, EAST-LEGON, ACCRA THIS 5TH DAY OF MARCH, 2024.



PAA JOY AKUAMOAH BOATENG

Counsel for Plaintiffs

Solicitor's License No. eGAR : 01798/24

The Registrar
Supreme Court
Accra.

PAAJOY LAW GROUP
No. 77, PAWPAW STREET
EAST - LEGON, ACCRA
P. O. BOX YK 110, KANDA - ACCRA
TEL: 030 2523389

AND FOR SERVICE ON THE ATTORNEY-GENERAL,
ATTORNEY-GENERAL'S DEPARTMENT, MINISTRIES -
ACCRA.

Filed on... 11/03/2024
at... 3:00 am/pm
Registrar
SUPREME COURT OF GHANA

IN THE SUPERIOR COURT OF JUDICATURE
IN THE SUPREME COURT

ACCRA - A.D. 2024

SUIT NO |
51 | 10 | 2024

BETWEEN

**1. IMANI CENTRE FOR
POLICY & EDUCATION**

No. KD 14, KOANS Estate
Kutunse

PLAINTIFFS

2. PROF. KWESI ANING

S29, Hydraform Estate
East-Airport,
Spintex Road-Accra

AND

THE ATTORNEY-GENERAL

Attorney-General's Department
Ministries, Accra.

DEFENDANT

STATEMENT OF CASE OF PLAINTIFFS

[RULE 46 OF THE SUPREME COURT RULES, 1996 (C.I. 16)]

IF IT PLEASES THE HONOURABLE COURT:

1. OPENING STATEMENT

- 1.1 The 1992 Constitution of the Republic of Ghana establishes the Fire Service, Police Service, Immigration Service and Prisons Service under Public Services as per Article 190. Specifically, the Constitution establishes the Prisons Service and Police Service under Chapters sixteen and fifteen respectively.
- 1.2 According to Articles 202(2) and 207(2) of the 1992 Constitution, the Inspector General of Police and the Director-General of the Prisons Service are the respective heads of the Police Service and the Prisons Service.
- 1.3 Your Lordships, although the Constitution and relevant laws empower the President to appoint the heads of these public services, there is a notable silence on the procedure for their termination or removal.
- 1.4 Nevertheless, Article 297 of the Constitution states that the power to appoint also includes disciplinary control

and the authority to remove individuals from an office in the public service.

1.5 We wish to suggest however, that the removal must strictly accord with the due process of law, and in particular be just.

1.6 Given their status as part of the public service under Article 190 of the 1992 Constitution, the removal of these heads must be justified under Article 191(b) of the Constitution.

1.7 My Lords these security services are regimented services whose leadership must rise or be appointed from amongst the ranks and therefore must be subject to the service conditions of the institutions they belong. They must however, be protected as heads of their institutions hence the additional provisions applicable to them by which their offices are protected from arbitrary disruption and political interference.

1.8 It is our respectful contention, that given the importance of these institutions and their effect on the security of the state, it was not intended for them to be

removed at will by every President. Indeed, there are provisions which if read together show that these offices are protected from arbitrary disruption.

- 1.9 We argue that once appointed, these officials can only be removed for “Just Cause”, such as proven misconduct, incapacity, death, retirement or resignation as provided under the Constitution, 1992 and the statutes governing them. This is important to avoid discrimination and susceptibility to the political cycle.
- 1.10 Additionally, we contend that the tenure of these heads is not linked to the President’s term, safeguarding them from arbitrary removal upon a change in Political leadership.
- 1.11 Regrettably, there has been a concerning trend where new governments compel the termination of appointments of these heads, disregarding their constitutional rights. This may simply be the result of a misunderstanding of the laws as they apply when read together, or a practice which despite its deleterious effects on these institutions, has persisted because there has not been a clear determination of what the position of the law is when read together, regarding the removal of these officials.

1.12 In some cases, these removals occur before the individual occupants of the offices reach the statutory retirement age. For instance, in 2017, the then Director-General of the Ghana Prisons Service, Mr. Emmanuel Yao Adzator was asked to proceed on leave at the age of 54 and subsequently, another was appointed in his stead.¹

1.13 Similarly, Madam Elizabeth Adjei, then Comptroller General of the Ghana Immigration Service, was in 2011, removed from office by the then late President, His Excellency John Evans Atta Mills, at a time, when she was not also of the age of retirement.

1.14 In the Police Service also, on the 21st of January, 2001, Mr. Peter Nanfuri, the then Inspector-General of Police was removed from the office of the Inspector-General of Police and by extension, the Ghana Police Service by the newly elected President at the time, His Excellency John Agyekum Kuffuor².

¹ [www.ghheadlines.com](http://ghheadlines.com/agency/daily-guide/20170328/38567160/president-appoints-new-prisons-boss). 28th March, 2017 <http://ghheadlines.com/agency/daily-guide/20170328/38567160/president-appoints-new-prisons-boss>

² www.pulse.com.gh. 27th October, 2021

1.15 My Lords, in 2009, the then Inspector-General of Police, Mr. Patrick Kwateng Acheampong was removed as Inspector-General of Police and by extension, the Ghana Police Service by the freshly elected President John Evans Atta Mills³.

1.16 Your Lordships, at the time of Mr. Patrick Kwateng Acheampong's removal from office, he was 58 years of age. Again, my Lords, no reason was assigned for Mr. Patrick Kwateng Acheampong's removal.

1.17 Your Lordship, President John Dramani Mahama on the 1st of February, 2013 instructed the then Inspector-General of Police, Mr. Paul Tawiah Quaye to proceed on leave and the President consequently appointed Mr. Alhassan Mohammed to act as the Inspector-General of Police at a time when Mr. Paul Tawiah Quaye was not due for retirement⁴.

1.18 Again My Lords, on the 22nd of July 2019, the President of the Republic of Ghana demanded the then Inspector General of Police, Mr. David Asante-Apeatu to

³ www.modernghana.com. 24th March, 2005

⁴ www.gna.org.gh 1st February, 2013

proceed on leave despite not having attained the age of retirement.⁵

1.19 Again, in August 2021, Mr. James Oppong-Boanuh who was the then Inspector-General of Police was asked to proceed on leave and the current Inspector-General of Police, Mr. George Akuffo Dampare appointed in his stead⁶.

1.20 My Lords, this practice is an affront to the provisions governing these State Institutions, disrupts their operations, compromises the security of the state, effectively subjects these institutions to the political cycle, and thus affects the mindset of their leaders, and undermines the constitutional rights of these officeholders. Cumulatively, these jeopardise the security of their positions and the State.

1.21 The absence of clarity in these matters can only be resolved by the Supreme Court. This Supreme Court is the only Court which may give a coherent interpretation of the

⁵ www.ghanaweb.com, 23rd July, 2019.

⁶ www.MyJoyOnline.com, 9th November, 2021.

applicable laws which in our humble view prohibit the removal of these officials at the will of the President.

1.22 As concerned citizens, we seek the Court's intervention under Articles 2(1)(b) and 130(1)(a) of the 1992 Constitution, requesting the reliefs outlined in the Writ.

2. BACKGROUND

2.1. The Plaintiffs observes that the experience under the 1992 Constitution is that, upon a change in government, every new President, through designated officials always forces the termination of the heads of the Fire Service, Police Service, Prisons Service and Immigration Service without just cause.

2.2. Subsequently, new appointments are made without proper legal basis, distorting the institutions and violating the rights of the former officeholders.

2.3. These actions are unconstitutional, as the ousted officials have not engaged in misconduct or demonstrated incapacity.

- 2.4. The former heads have effectively been unlawfully stripped of their constitutionally guaranteed job security.
- 2.5. When weighed against applicable law, the President's actions in removing and replacing these officials are arbitrary, unconstitutional, and illegal. Indeed, they undermine the security of the state and state institutions. Such actions contravene the constitutional provisions governing public services in Ghana.
- 2.6. This principle of requiring *just cause* for the removal of the heads of some public services including the Fire Service, Police Service, Immigration Service and Prisons Service is aimed at ensuring institutional stability, accountability, transparency and the independence of law enforcement agencies from political interference. It helps to uphold the rule of law and prevents arbitrary removals that could undermine the effectiveness and credibility of law enforcement institutions. It is also to insulate these sensitive institutions from the political cycle, interference and disruption which destabilizes them.

3. RELIEFS SOUGHT

3.1. The Plaintiffs seek the reliefs as stated in the Writ invoking the jurisdiction of this Honourable Court being for :

- (a) *A declaration that upon a true and proper interpretation of the letter and spirit of Articles 200, 202(1), 202(2), 202(3), 205, 207 (1), 207(2), 207(3), 190(1), 191, 196, 199 and 296 of the 1992 Constitution of Ghana, the President of the Republic of Ghana has no authority to terminate the appointment or remove from office of a person occupying the office of the Chief Fire Officer of the Fire Service; Inspector-General of Police; Director-General of Prisons Service and Comptroller General of Immigration Service, unless only upon proven stated misconduct or misbehavior established against these office holders or incapacity to perform the functions of the office by reason of infirmity of mind or body or death or retirement or upon resignation by the office holder.*

- (b) *A further declaration that upon a true and proper interpretation of the letter and spirit of Articles 200, 202(1), 202(2), 202(3), 205, 207 (1), 207(2), 207(3), 190(1), 191, 196, 199 and 296 of the 1992 Constitution of Ghana, the President of the Republic of Ghana upon*

assumption of office does not have the power to make a fresh appointment to the office of the Chief Fire Officer of the Fire Service; Inspector-General of Police; Director-General of Prisons Service and Comptroller General of Immigration Service unless the immediate holder of the office is deceased; retired, or incapable of performing functions of the office by reason of infirmity of the body or mind or resignation or dismissed upon proven stated misconduct or misbehavior established against the office holder.

- (c) *Another declaration that upon a true and proper interpretation of the letter and spirit of Articles 200, 202(1), 202(2), 202(3), 205, 207 (1), 207(2), 207(3), 190(1), 191, 196,199, 296 of the 1992 Constitution of Ghana, upon a change of government, the newly appointed President of the Republic of Ghana has no authority or power to terminate the appointment of persons occupying the offices of the Chief Fire Officer of the Fire Service; Inspector-General of Police; Director-General of Prisons Service and Comptroller General of Immigration Service unless the office holder is deceased; retired, or incapable of performing functions of the office by reason of infirmity of the body or mind or upon*

proven stated misconduct or misbehavior or upon resignation.

- (d) *Another declaration that upon a true and proper interpretation of the letter and spirit of Articles 200, 202(1), 202(2), 202(3), 205, 207 (1), 207(2), 207(3), 190(1), 191, 196, 199 and 296 of the 1992 Constitution of Ghana, upon a change of government, the newly appointed President of the Republic of Ghana has no authority or power to appoint new persons to occupy the offices of the Chief Fire Officer of the Fire Service; Inspector-General of Police; Director-General of Prisons Service and Comptroller General of Immigration Service unless the offices are vacant by reason of the death, resignation or retirement of the immediate office holder; or the current office holder is incapable of performing functions of the office by reason of infirmity of the body or mind or upon dismissal of the immediate office holder upon proven stated misconduct or misbehavior.*
- (e) *A declaration that, upon a true and proper interpretation of Articles 12 (2), 17, 200, 202(1), 202(2), 202(3), 205, 207 (1), 207(2), 207(3), 190(1), 191, 196, 199, 296 of the 1992 Constitution of Ghana, the practice*

of the termination or removal from office of persons occupying the positions of the Chief Fire Officer of the Fire Service; Inspector-General of Police; Director-General of Prisons Service and Comptroller General of Immigration Service who are members of the public services upon the assumption of a new government by the President of the Republic in the absence of resignation, retirement, death, proven stated misbehaviour or misconduct, incapability to perform the functions of the office by reason of infirmity of body or mind by the immediate occupants of the offices is unconstitutional.

- (f) *A declaration that, upon a true and proper interpretation of Articles 12 (2), 17, 200, 202(1), 202(2), 202(3), 205, 207 (1), 207(2), 207(3), 190(1), 191, 196, 199 and 296 of the 1992 Constitution of Ghana, the practice of the appointment of persons to take over from the occupants of the offices of the Chief Fire Officer of the Fire Service; Inspector-General of Police; Director-General of Prisons Service and Comptroller General of Immigration Service who are members of the public services upon the assumption of a new government by the President of the Republic in the absence of*

retirement, resignation, death, proven stated misbehaviour or misconduct, incapability to perform the functions of the office by reason of infirmity of body or mind by the current occupants of the offices is unconstitutional.

- (g) *A consequential order to restrain or prevent the President of the Republic from dismissing or removing or attempting to dismiss or remove , terminating or purporting to remove or terminate the appointment of persons occupying the offices of the Chief Fire Officer of the Fire Service; Inspector-General of Police; Director-General of Prisons Service and Comptroller General of Immigration Service unless only in cases of proven stated misconduct or misbehavior established against such persons or upon retirement or resignation or death or incapacity to perform the functions of the office by reason of infirmity of body or mind.*
- (h) *Any further order(s) or direction(s) as this Honourable Court may deem necessary.*

3. PLAINTIFFS' CAPACITY TO BRING THE INSTANT ACTION

- 3.1 My Lords, by the provisions of Articles 2(1)(b), 130(1) and 41(b) of the 1992 Constitution, a natural person being a citizen of Ghana, or a juristic person registered under the laws of the Republic of Ghana may invoke the exclusive original jurisdiction of this Court for the interpretation and/ or enforcement of any provision of the Constitution.
- 3.2 My Lords, in the case of *New Patriotic Party v. Attorney-General*⁷, Bamford-Addo JSC asserted at page 180 that:

“It is evident from this passage that a very wide effect was intended to enable all persons to resort to judicial review for the enforcement of the Constitution, 1992. Therefore under article 2(1) of the Constitution, 1992 other than the citizenship requirement, no limitation is placed on the nature of persons who may invoke the original jurisdiction of the Supreme Court. If this be the case then it seems to me that there would be no logical reason for restricting the resort to the original jurisdiction of this court to only natural persons. On

⁷ [1996-97] SCGLR 729

the contrary, it would be more beneficial and in accordance with the intention of the framers of the Constitution and in the public interest to open the door widely to permit both natural and legal persons, like the plaintiff, access to the court. I would think that corporate bodies by reason of their important place in society are most suited both financially and otherwise to undertake the defence of the constitutional order by resort to judicial review when the constitutional order is being threatened.”.

3.3 Further, this Honourable Court in *Bimpong-Buta v. General Legal Council & Others*⁸ held that:

“A person bringing an action under article 2 of the Constitution 1992 need not demonstrate that he has any personal interest in the outcome of the suit; that he is a citizen of Ghana suffices to entitle him to bring the action.”

3.4 My Lords, the 1st Plaintiff is a Civil Society Organisation, registered under the Laws of the Republic of Ghana and engaged in amongst others, public interest advocacy.

⁸ [2003-2005] 1 GLR 738

- 3.5 Respectfully, the second Plaintiff is also a security expert and an academic. He was, until recently, the Director, Faculty of Academic Affairs & Research at the Kofi Annan International Peacekeeping Training Centre.
- 3.6 By various decisions of this honourable court, the Plaintiffs have the requisite capacity to invoke the exclusive original jurisdiction of this court by virtue of qualifying as persons within the meaning of Article 2 of the 1992 Constitution. We cite in fortification such decisions like *Tuffuor v. Attorney - General*⁹; *Sam v Attorney - General (NO. 2)*¹⁰; *Amidu (No. 2) v Attorney - General, Isofoton SA & Forson (No 1)*¹¹.
- 3.7 My Lords, the 1st Plaintiff being a legal person registered under the laws of the Republic of Ghana; and the 2nd Plaintiff being a citizen of the Republic of Ghana owe a civic duty to protect and defend the constitution of the Republic of Ghana by virtue of **Article 41(b) of the 1992 Constitution.**

⁹ [1980] GLR 637

¹⁰ [1999-2000] 2 GLR 336

¹¹ [2013-2014]1 SGCLR 167

3.8 Your Lordships, the remedies being sought in this action are not personal to Plaintiffs but to advance a public interest cause, further justifying the proper commencement of this action.

3.9 In *Federation of Youth Association of Ghana (FEDYAG) v. Public Universities of Ghana and Others*¹², this Court held at **Holding 3** of the Report that:

“Looking at the substance of the Plaintiff’s claim, the plaintiff had not complained that any of its members had been personally discriminated against under the full fee paying policy of the Public Universities of Ghana and was thereby seeking redress to enforce its rights to equal access to university education under the Constitution. The actual complaint was that the full fee paying policy being implemented by the public universities was discriminatory as it offered hitherto unqualified students to have access to tertiary education due to their economic status; and that the full fee paying policy was inconsistent with or was in contravention of the provisions of the Constitution. Thus from the nature and substance of the Plaintiff’s

¹² [2010] SCGLR 265

complaint, the case rather fell within those lines of cases where the central issue involved the interpretation of the provisions of the Constitution relating to the enjoyment of a fundamental human rights and freedoms in contrast to the enforcement of fundamental human rights and freedoms by a victim of breach of those rights. And by virtue of the fact that the instant case bordered more on the interpretation of constitutional provisions in relation to the acts or policies of public universities, the original jurisdiction of the Supreme Court could properly be invoked under articles 2(1) (b) and 130 (1) of the 1992 Constitution in the interest of public good. Once the claim was for the interpretation of the Constitution, the Supreme Court had jurisdiction regardless of the fact that the interpretation required would affect provisions of fundamental human rights and freedoms under chapter 5 of the 1992 Constitution. In effect, the plaintiff's action was not masquerading as an enforcement or interpretation of the Constitution, but one raising real and genuine issues of interpretation that would justify the invocation of the court's original jurisdiction under articles 2(1) (b) and 130(1) (a) of the 1992 Constitution."

3.10 From the foregoing, we respectfully submit, that the Plaintiffs have the requisite capacity to mount the present suit.

4. JURISDICTION OF THIS COURT TO ENTERTAIN THE SUIT

4.1 My Lords, by **Articles 2(1)(b) and 130(1)(a) of the 1992 Constitution**, this court has exclusive original jurisdiction to entertain this action.

4.2 Article 2(1)(b) of the 1992 Constitution provides as follows:

(1) *A person who alleges that-*

(a) ...

(b) *any act or omission of any person: is inconsistent with, or is in contravention of a provision of this Constitution, may bring an action in the Supreme Court for a declaration to that effect.*

4.3 Article 130(1)(a) of the 1992 constitution also provides a follows:

(1) *Subject to the jurisdiction of the High Court in the enforcement of the Fundamental Human Rights and Freedoms as provided in article 33 of this Constitution, the Supreme court shall have exclusive original jurisdiction in-*

(a) *all matters relating to the enforcement or interpretation of this Constitution; and*

(b) *...*

4.4 That is, by invoking the jurisdiction of this honourable court to interpret the phrase "*just cause*" as provided for under Article 191(1)(b) in relation to the dismissal or removal of the Chief Fire Officer; the Inspector General of Police, the Comptroller General of the Ghana Immigration Service and the Director-General of Prisons; as well as inviting this honourable court, to enforce the provisions of the Constitution to ensuring, that the President of the Republic acts in tune with due process regarding the termination of the appointments of the aforementioned persons, the Plaintiff's action falls within the exclusive original jurisdiction of this honourable court.

4.5 My Lords, in *Edusei (No.2) v. Attorney-General*¹³, this Court held among others, that the exclusive original jurisdiction of this court arises:

- (i) In the enforcement of all provisions of the Constitution except those provisions contained in chapter 5 dealing with fundamental human rights.
- (ii) The interpretation of any provision of the Constitution.

4.6 In *Amidu v. President Kufour*¹⁴, Acquah JSC (as he then was) at page 100 delivered himself thus:

“...where it is alleged before the Supreme Court that any organ of government or an institution is acting in violation of a provision of the constitution, the Supreme Court is in duty bound by articles 2(1) and 130(1) to exercise jurisdiction, unless the Constitution has provided a specific remedy, like those

¹³ [1998-99] SCGLR 753

¹⁴ [2001-2002] SCGLR 86 @ 100

of articles 33 and 99 for dealing with that particular violation. It follows therefore that no individual nor creature of the Constitution is exempted from the enforcement provision of article 2 thereof. No one is above the law. And no action of any individual or institution under the Constitution is immuned from judicial scrutiny if the constitutionality of such an action is challenged.”

4.7 Further, Edward Wiredu JSC (as he then was) in *Ghana Bar Association v Attorney-General (Abban case)*¹⁵ also pronounced on the scope of the original jurisdiction of the Supreme Court under article 2 as follows:

“The court, as the repository watchdog of the constitution, is enjoined to protect, defend and enforce its provisions and should not allow itself to be diverted to act as an independent arbiter of the Constitution.”

4.8 Very recently, the Supreme Court speaking through Atuguba JSC in *Kor v. Attorney-General & Justice Dotse*¹⁶ pointed out the distinction between the

¹⁵ [2002-2004]1 SCGLR at 259

¹⁶ [2016] GHASC 71

interpretative and enforcement jurisdictions of the Court as follows:

“It would be seen that article 2 of the Constitution is headed ‘Enforcement of the Constitution’ and the ensuing provisions are meant to attain the enforcement of the Constitution. There is therefore express authority in the Constitution itself for the view that the enforcement jurisdiction of this Court is conspicuously independent item jurisdiction of this Court.”

- 4.9 Finally, the very essence of the original jurisdiction of this honourable court was expressed by the Court in the case of *Okudzeto Ablakwa & Anor vrs Attorney - General & Anor*¹⁷. The court speaking through Adinyira JSC (as she then was) pronounced that:

Article 2(1) of the 1992 Constitution imposes on the Supreme Court the duty to measure the actions of both the legislature and the executive against the provisions of the Constitution. This includes the duty to ensure that no public officer conduct himself in

¹⁷ Unreported: Writ No. J1/19/2016 dated 14th June 2017.

such a manner as to be in clear breach of the provisions of the Constitution. It is by actions of this nature that gives reality to enforcing the constitution by compelling its observance and ensuring probity, accountability and good governance.”

4.10 Your Lordships, we are cautioned by the Court’s jurisprudence against invitations to deal with cases which are not live. This caution, however, operates in very special and confined situations of mootness. The court has yet again, guarded against attempts to foreclose and limit its power to check the exercise of power of the government under the umbrage of mootness. As has been variously decided by my Lords, the question of mootness with regards to the proper invocation of the court’s jurisdiction must be tested against the peculiar constitutional issue that the court is faced with; as well as the likely recurrence of the impugned alleged unconstitutional practice or conduct.

4.11 In *Commission on Human right and Administrative Justice v. The Attorney General and Baba Kamar*¹⁸ this

¹⁸ [2011] DLSC4125

honourable court noted the principle of law that mootness must always be determined according to the peculiar circumstances of each case and even where the question at issue in a particular case might have been overtaken by events and rendered moot, **the court may still proceed to determine the issue if it is anticipated that it is likely to be a recurring one.**

4.12 Your Lordships, the esteemed Acquah JSC (as he then was,) observed in the case of *Amidu v Kufuor*¹⁹ that:

“... As defined in Black’s Law Dictionary (6th ed.), an action is generally considered moot when it no longer presents a justiciable controversy because issues involved have become academic or dead. This may happen when the matter in dispute has either been resolved already and hence there is no need for judicial intervention, or events happening thereafter have rendered the issue no longer live. In either situation, unless the issue is a recurring one and likely to be raised again between the parties, the courts would not entertain such a dead issue.”
(Emphasis supplied)

¹⁹ [2001-2002] 2 SCGLR 86 at 106

4.13 In giving further justification for the refusal to uphold the preliminary objection on the ground that the action was moot, the court in *J H Mensah v Attorney-General*²⁰ held, per Acquah JSC that:

“Now whatever be the merits of these preliminary objections, it cannot be denied that the tension that this dispute has caused both in and outside Parliament and in the nation as a whole, makes it prudent that this court determines the questions in issue for the guidance of future Governments and Parliaments.”

4.14 The above discussions were further considered by My Lords very recently in the case of *Ghana Center For Democratic Development & Ors. Vrs Attorney-General*²¹ where Amegatcher JSC speaking on behalf of the court pronounced that *“in actions that have the capacity for repetition or possess the potential to undermine the rule of law ought to undergo constitutional examination.”*

²⁰ [1996-97] SCGLR 320 at 360

²¹ Writ No. J1/01/2021 dated 31st May, 2023

- 4.15 My Lords, the present suit, is, with the greatest of respect one such suit whose subject-the impugned conducts of the President do not only have the potential to undermine the rule of law, but actually continue to undermine the rule of law. Further, the likelihood of a recurrence of this unconstitutional political practice is beyond doubt. There is therefore the urgent constitutional need for this honourable court, being also a policy court to make a firm pronouncement on same.
- 4.16 Your Lordships, as earlier demonstrated in this statement of case, all Presidents under the Fourth Republic are guilty of the impugned practice which, this honourable court, with utmost deference, must make a firm pronouncement.
- 4.17 My Lords, it is important to emphasise, that your jurisdiction has not been invoked to only enforce the aforementioned constitutional provisions but also, Plaintiffs are through this action, inviting my Lords to interpret the phrase "*just cause*" as used in Article 191(b) of the Constitution, 1992 regarding the termination or removal of members of the public service, of which the

heads of the public services referenced in this suit belong.

4.18 My Lords, the phrase “*just cause*” as contained in Article 191(b) of the Constitution, 1992 is potentially ambiguous and susceptible to varying interpretations. Does it admit of the President terminating at will, since he is the appointor to the said office, having regard to Article 191(1)(b) of the 1992 Constitution? Or, should it be construed to mean *inter alia*, serious violation of the Constitution, 1992 or any other law, gross misconduct, physical or mental incapacity to perform the functions of office, incompetence or any other just cause?

4.19 Your Lordships, the ambiguity associated with or the rival meanings that may be placed on the phrase “*just cause*” particularly, when utilised in relation to the dismissal of the heads of the public services referred to, and as contained in Article 191(b) of the 1992 Constitution is one of the grounds for invoking the jurisdiction of this Honourable Court to interpret the Constitution, 1992. Please see *Republic V. Special Tribunal, Ex-Parte Akosa*²².

²² (1980) GLR 592

4.20 My Lords, on the strength of the above discussions, we respectfully submit, that the jurisdiction of this honourable court has been properly invoked to:

- a. Interpret the phrase "*just cause*" as found under Article 191(1)(b) of the 1992 Constitution relative to the dismissal or removal of the Chief Fire Officer ; the Inspector General of Police; the Comptroller General of Immigration and the Director-General of the National Fire Service to include instances of proven stated misbehavior or misconduct; resignation; retirement; incapability to continue to perform the functions of the respective office based on infirmity of body or mind; serious breaches of the Constitution and other laws of Ghana.
- b. Enforce the provisions of the 1992 Constitution, specially, Articles 200, 202(1), 202(2), 202(3), 205, 207 (1), 207(2), 207(3), 190(1), 191, 196, 199 and 296 to prevent the President of the Republic as provided for under the Constitution from removing or attempting to remove ; dismissing or attempting to dismiss the Chief Fire Officer ; the Inspector General of Police; the

Comptroller General of the Ghana Immigration Service and the Director-General of the Ghana Prisons Service, except only upon just cause, which implies situations of instances of proven stated misbehavior or misconduct; resignation; retirement; incapability to continue to perform the functions of the respective office based on infirmity of body or mind or serious breaches of the Constitution or other laws.

5. GUIDING PRINCIPLES TO INTERPRETING AND/ OR ENFORCING THE 1992 CONSTITUTION

5.1 My Lords, the 1992 Constitution being a product of the entire polity must, anytime a question is triggered on its interpretation, or enforcement be specially pursued in advancing the welfare of the people. Indeed, Article 1(1) of the Constitution, 1992 proclaims this check, when it provides that:

“The Sovereignty of Ghana resides in the people of Ghana in whose name and for whose welfare the powers of government are to be exercised in the manner and within the limits laid down in this Constitution.”

- 5.2 Our constitution, very respectfully, on the strength of various authorities of this court is not an ordinary Act of Parliament. A doctrinaire approach to the interpretation of the Constitution clearly misses the undergirding principles upon which the constitution rests, principally being : the Rule of Law; Respect for Fundamental Human Rights; Freedom, Justice, Probity and Accountability.
- 5.3 My Lords, our constitutional jurisprudence and history has taught us, that the best approach to interpreting the Constitution, 1992 is the purposive approach to interpretation. This approach, has also found acceptance among the comity of common-law nations.
- 5.4 By this approach, this Honourable Court, which is vested with the sole preserve to interpret and enforce the Constitution 1992, must, with utmost deference, take account of the historical antecedents of the subject for interpretation; the present circumstances or situations that has crystalised the urgency to interpret as well as the objective or goal the product of the interpretation is to attain. This later factor, is very crucial, as it goes to reinforce the constitutional expectation, that the

interpretation of the 1992 Constitution must gear towards the establishment of a just and free society, and thus, advance the welfare of the people.

5.5 My Lords, the purposive approach to the interpretation of the Constitution, 1992, often attributed to Aharon Barack, formerly of the Supreme Court of Israel, is a three-prong approach, entailing the ascertainment of the subjective purpose; the objective purpose and the ultimate purpose. The subjective purpose is explained as the actual intent of the author of the text at the time of the creation of same. While in appropriate situations, this internationalist or originalist approach may serve the purpose of the text, it does not always serve the ends of their creation under present and changing situations.

5.6 As admonished by Justice Holmes in *Towne v Eisner*²³

“A word is not a crystal, transparent and unchanged. It is the skin of a living thought and may vary greatly in colour and content according to the circumstances and the time in which it is used.”

²³ 245, US 418, 425; 38 S. Ct. 158, 159 (1918)

- 5.7 The objective purpose is the test of the hypothetical reasonable person. This approach, expects, that account is taken of the socio-economic, cultural values and political developments of the country at the time of interpretation. Thus, while the subjective purpose is ahistorical, the objective purpose is a function of the present, for, the constitution is a living tree that is capable of growth and development. It is upon ascertaining these two purposes, that a synthesis will unravel the ultimate purpose which, with respect must be the actual purpose.
- 5.8 My Lords, against Justice Barack's approach to purposivism is that of another modernist, Francis Benion who proposes a two-step approach being -purposive - and-literal construction and purposive-and-strained construction. The former approach is applying the literal rule, but in a purposeful manner to ascertaining the purpose of the constitutional text. For the latter approach, if the former approach does not lead to desired results, then, the interpreter applies a strained meaning to arrive at a legislative purpose.

5.9 The modern purposive approach, has received various amplifications by this honourable court; be it per Barack's or Benion's. In *Asare v Attorney -General*²⁴ Prof. Date-Bah JSC (as he then was) observed a distinction between the subjective purpose and objective purpose as follows:

The subjective purpose of a constitution or statute is the actual intent that the authors of it, namely the framers of the constitution or the legislature, respectively, had at the time of the making of the constitution or the statute. On the other hand, the objective purpose is not what the author actually intended but rather what a hypothetical reasonable author would have intended, given the context of the underlying legal system, history and values, etc of the society for which he is making law. This objective purpose will thus be interpreted to include the realization, through the given legal text, of the fundamental or core values of the legal system...

I should mention that although I have expressed the conflicting interpretations of the plaintiff and the defendant as representing a tension between the

²⁴ [2003-2004] SCGLR 823

subjective and objective purposes of articles 60(11) , this is not necessarily how the plaintiff himself sees it. Rather, this represents my interpretation of the plaintiff case. Indeed, the plaintiff himself, in one part of his argument, purports to frame his contention on the basis of a 'literalist' interpretation of the provision under construction...

My conclusion is that the purposive interpretation to be given to article 60(11) is that where both the President and the Vice -President are absent from Ghana, they are to be regarded as 'unable to perform the function of the President' and thus the Speaker is obliged to perform those functions.²⁵

5.10 Wood CJ (as she then was) in further expatiation of the modern purposive approach opined in *Republic vrs High Court; Ex Parte Yalley*²⁶ that:

Similarly, I made reference to the two tier approach to interpretation, commended by my brother Dr. Justice

²⁵ Ibid at 834; 844

²⁶ [2007-2008] 1SCGLR 512

Date-Bah, in the Asare case. In ringing out the difference between two approaches, namely, the objective based and subjective based purpose, a theory espoused by the President of the Supreme Court of Israel, Justice Aharon Barak, which undoubtedly is a helpful guide to constitutional or statutory interpretation, my respected brother observed:

“The subjective purpose of a constitution or statute is the actual intent that the authors of it, namely, the framers of the constitution, or the legislature had at the time of making the constitution or the statute. On the other hand, the objective purpose is not what the author actually intended but rather what a hypothetical reasonable author who would have intended, given the context of the underlying legal system, history and values of the legal system for which he is making the law.”

I fully endorse these views. It does appear to me that where the purposive and literalist approach, advocated by Bennion, which in my view is synonymous with the subjective purpose theory of Justice Barak, advances the legislative intent and does not lead to any ambiguities or

injustice, then it is not proper to apply the “purposive and strained “meaning or “objective purpose” rule.

By way of emphasis, in the construction of statutes, if the subjective purpose would bring out the legislative intent, leaving no ambiguities, absurdities or injustices that the purely literalist approach would result in; the objective purpose approach does not come into play. In other words, the objective purpose which does not constitute the actual intent of the authors but rather the intents of a hypothetical reasonable man, should only be deployed if upon application of the subjective purposive rule, the statute is still clouded in absurdity, irrationality, mystery or will prove unworkable. The objective purpose is a useful guide, where with the best of efforts, namely reading the statute as a whole and conscientiously applying all the known guides to interpretation, the meaning of the statute still remains unclear or has elements or even traces of the absurd, the irrational, the unjust or the like.”

5.11 In *Brown vrs Attorney-General*²⁷, My Lords emphasised, that in interpreting the constitution, the

²⁷ [2010] SCGLR 183

constitution must be read as a whole, taking account of both its explicit and implicit text.

5.12 This honourable court held that the constitution must be:

“...read as a whole, in terms of both its explicit and implicit language, and read as a living document, with a view to actualising core values and meeting the hopes and aspirations of the people for whom it was crafted. The spirit of the 1992 Constitution, a judicially established aid to interpretation is embodied not only in the actual texts under consideration, but also the goals and objectives as captured in the preamble, the directive principles of state policy, and indeed the entire document.”

5.13 My Lords the proposition that the constitution must be read as a whole supports the assertion made in this submission that indeed, to obtain a proper appreciation of the meaning of, and purposive reasoning behind laws on an issue, and to achieve the ends of justice regarding that issue, all laws applicable to that issue must of necessity be read together and interpreted as a whole.

5.14 Guided by the above principles, we shall proceed with an evaluation of the establishment of the public services under the 1992 Constitution and their security of tenure. However, we shall focus more on the Fire Service; the Police Service Immigration Service and the Prisons Service.

THE PUBLIC SERVICES

5.15 My Lords, the framers of the Constitution, 1992 intended that there exist a group of persons known as “public officers” whose tenure of office would not be tied to the tenure of political office holders.

5.16 These public servants are the true implementors of policies and projects of the state. These group of people survived even changes in governments through *coup d’etats*.

5.17 Chapter Fourteen of the 1992 Constitution is on the Public Services. Under Article 190(1), the Public Services of Ghana include:

- (a) the Civil Service,
the Judicial Service

the Audit Service,
the Education Service,
the Prisons Service,
the Parliamentary Service,
the Health Service,
the Statistical Service,
the National Fire Service
the Customs, Excise and Preventive Service
the Internal Revenue Service,
the Police Service,
the Immigration Service; and
the Legal Service;

- (b) public corporations other than those set up as commercial ventures;
- (c) public services established by the Constitution; and
- (d) such other public services as Parliament may by law prescribe. [Our emphasis]

5.18 Per the constitutional arrangements, the public services can thus be categorised into the civil service, whose constituents are largest among the Public Services. The membership of these persons include those serving in posts designated as Civil Service Posts or as designated

under the Civil Service Act, 1993 (PNDCL 327). My Lords this category include such persons occupying posts in the Ministries, Government Agencies and Departments etc.

5.19 Next are those expressed as independent constitutional bodies such as the Electoral Commission, the Commission on Human Rights and Administrative Justice (CHRAJ) and the National Commission for Civil Education (NCCE).

5.20 The third category are persons who belong to the Education Service, the Audit Service, the Police Service, the Prisons Service, the Immigration Service, the National Fire Service etc. We respectfully wish to point out, that our focus shall be on this category.

5.21 My Lords, there is yet, another category which comprises public corporations who are not set up as commercial entities such as Public Universities .

5.22 Finally are those public services established by or under the authority of an act of parliament upon the coming into force of the Constitution such as the Office of the

Special Prosecutor established under the Special Prosecutor's Act, 2017 (Act 959).

5.23 We remark however, that the list under Article 190 is not exhaustive.

5.24 The Supreme Court in *Yovuyibor vrs Attorney-General & Inspector General of Police*²⁸ speaking through Amua-Sekyi JSC also expressed a categorisation of public servants into those holding offices for fixed periods and those who were permanent employees. Her Ladyship held as follows:

“It is to be observed that there are two types of employees in the public services: those holding appointments, that is, appointments for fixed periods, usually computed in years; and those holding permanent appointment. These contracts are usually of two years' duration, but they may be for as long as five years. To the latter category belong the mass of employees who by the terms of their employment can look forward to a life-

²⁸ [1993-94] 2GLR 343

time engagement in one public office or the other. These are the career officers in the various public services, who subject to the needs of the public services and their own competence and good behaviour can expect to be kept in employment until they reach the prescribed retiring age.

THE POLICE SERVICE; THE INSPECTOR GENERAL OF POLICE

5.25 It is beyond controversy, that the Police Service forms part of the Public Services of Ghana, and thus, are subject to the constitutional dictates pertaining to the public services. Chapter Fifteen of the 1992 Constitution establishes the police service under Article 200(1) thereof. The primary function of the service is the maintenance of law and order. Article 202(2) of the 1992 Constitution makes the Inspector General of Police, the head of the Police Service. Your Lordships, Under Article 202(1), the Inspector-General of Police is appointed by the President of the Republic of Ghana, acting in consultation with the Council of State.

5.26 My Lords, it is important observing, that despite that the President appoints the Inspector General of Police, the

IGP is the highest ranked position in the Police Service. What that implies is that, lower ranked officers of the police service, say, a constable or a sergeant is incapable of being immediately appointed the Inspector General of Police. Thus, despite the appointment being the preserve of the President, it is first and foremost based on merit. Stated differently, any Commissioner of Police, is capable of being appointed the Inspector General of Police. In terms of arrangements of ranks, we humbly refer your Lordships to the Police Service Act which provides under Section 3 that the membership of the Police service shall be as follows:

- (a) the Inspector-General of Police;
- (b) Commissioners of Police;
- (c) Deputy Commissioners of Police;
- (d) Persons holding posts, or being of ranks, created under this Act; and
- (e) persons holding posts created by or under any other enactment which are designated by that enactment as Police Service Posts

5.27 Clearly, upon attaining the status of IGP albeit being appointed by the President, he cannot without justifiable basis be demoted in rank. Your Lordships, therein lies the danger of an IGP, who is not yet of the age of retirement but removed from office as an IGP and another appointed in his stead. That practice, simply brings to an end, his career in the public services; a practice which is a serious affront to the Constitution!

5.28 My Lords, we submit, that these rankings in the police service, are similar in the other Security Agencies, like the Prisons Service; the Immigration Service and the National Fire Service.

**SECURITY OF TENURE & INTERPRETATION OF
"JUST CAUSE" UNDER ARTICLE 191(b)**

5.29 Your Lordships, members of the public services, including those who belong to the Police Service, the National Fire Service, the Immigration Service and the Prisons Service are assured a security of tenure.

5.30 Article 191 of the 1992 Constitution provides that:

A member of the public services shall not be

- (a) *victimized or discriminated against for having discharged his duties faithfully in accordance with this Constitution; or*
- (b) *dismissed or removed from office or reduced in rank or otherwise punished without just cause*

5.31 Further, article 199 of the Constitution, 1992 provides that:

- (1) *A public officer shall, except as otherwise provide in this Constitution, retire from the public service on attaining the age of sixty years.*
- (2) *A public officer may, except as otherwise provided in this Constitution, retire from the public service at any time after attaining the age of forty-five years.*

5.32 Thus, the dismissal or removal of a member of the public service, including the IGP; the Chief Fire Officer the Comptroller General of the Ghana Immigration Service and the Director-General of the Ghana Prisons Service

must be measured against whether the reason informing the dismissal is *just*.

5.33 The above provisions, your Lordships, are not novel in our constitutional history. When the Supreme Court was invited to enforce a similar provision under the 1979 Constitution in the case of *Hormeku vrs Director of Prisons*²⁹ the court pronounced as follows at page 354 of the Report:

With regard to public officers, the framers of the Constitution, 1979, in their wisdom, have provided that a public officer shall, except as otherwise provided in the constitution, retire from the public service on attaining the age of 60 years: see article 162 of the Constitution, 1979.

To secure public officers their tenure of office under the changing vicissitudes from politics and to protect them from the capricious use of power, article 155(b) of the Constitution, 1979, provides that: "No member of the public services shall be ... dismissed or removed from office or reduced in rank or otherwise punished without

²⁹ [1982-83] GLR 354

just cause.” I ask myself: How is just cause to be shown except at proceedings at which the defendant is accorded the right to answer the charges against him?”

5.34 Indeed, the position of the Supreme Court is in accord with the stance taken by the Committee Experts who advocated for a strong security of tenure for public officers. At paragraph 23 of the Report of the Committee of Experts, it was stated as follows:

“whatever the restructuring may be the Committee holds that the viability of any government programme depends on the stability of the public administration. Such stability is not assured by arbitrary and summary removal of public servants. The Committee accordingly proposes that the constitutional guarantees in Article 155 of the 1979 constitution with respect to the status of public officers be unequivocally re-affirmed.

This provides that

‘No member of the public services shall be

- (a) *Victimized or discriminated against for having discharged his duties faithfully in accordance with this constitution;*
- (b) *Dismissed or removed from office or reduced in rank or otherwise punished without just cause.' "*

5.35 The Committee of Experts further justified their stance, when they submitted at paragraphs 11 and 12 of their Report as follows:

"11. The 1969 Constitution also gave public officers tenured office by providing that no member of the Public Services should be victimised or discriminated against for having discharged his or her duties faithfully in accordance with the Constitution without regard to party considerations; dismissed or removed from office or reduced in rank or otherwise punished without just cause.

"12. The provisions of the 1979 Constitution in relation to the public services were to a large extent a replication of those in the 1969 Constitution. Public officers still enjoyed tenured office and were protected from victimization in the performance of their duties under the Constitution. The Public Services Commission performed the same functions as under the 1969

Constitution. It is this constitutional design under the 1969 and 1979 Constitutions which has evolved into the current framework of the Public Services of Ghana under the 1992 Constitution.”

5.36 For its persuasive effect, we humbly refer my Lords to the case of *Ghana Cocoa Marketing Board vrs Agbettoh*.³⁰ In this case, the then Court of Appeal Coram: Apaloo CJ, Francois and Abban JJA , observed that any conduct that sought to deprive a person of his right to earn a living amounted to a removal from office which be deemed to be in breach of the constitution if same was not done without a “just cause”. The court pronounced that:

““But they [Plaintiffs] say that their right to non-removal without just cause, so to speak, stemmed from the Constitution, 1969 and that although that Constitution was suspended and then abrogated, such right was preserved by various legislative enactments.

To determine this, one must first look at the source on which their claim is bottomed. It is article 138(b) of the

³⁰ [1984-86] 1 GLR 122

Constitution, 1969 and it says: "No member of the public services shall be ...dismissed or removed from office or reduced in rank or otherwise punished without just cause". There was some suggestion in the Court below that the Plaintiffs were not dismissed but retired. That is a verbal point of no substance. If the Plaintiffs were retired and barred from holding the office from which they earned their living, it would be a perfect use of language to say they were removed from office. The next question is: was there just cause for their removal? There cannot have been any. The board misappreciated the true meaning of paragraph 35 of the white paper and thinking that it empowered it to do so, dispensed with the services of the Plaintiffs and sought to justify its action by reliance on that paragraph.

There can be no doubt that the appellant board is one of the type of statutory corporations whose servants can, on the true intendment of the article, be regarded as members of the "public service" as contemplated by article 138. They therefore acquired a right not to be removed from their offices without just cause. We have already concurred with the judge's holding that there was no just cause for their removal or retirement or both.

Accordingly, if the Plaintiffs can show that the constitutional guarantee against removal without just cause enured to them in the rather constitutional set-up in November 1979 then they are “home and dry.”

(emphasis added)

5.37 It is abundantly clear therefore, that failing compliance with the requirement of justness as enshrined under Article 191(b) relative to the removal or dismissal of a public officer including the Chief Fire Officer, the Inspector General of Police, the Comptroller General of the Ghana Immigration Service and the Director-General of the Ghana Prisons Service is unconstitutional.

5.38 My Lords, Article 297(a) of the 1992 Constitution presumes in a person who has the power to appoint, the power to remove a member of the public services. The Article provides thus:

the power to appoint a person to hold or to act in an office in the public service shall include the power to confirm appointments, to exercise disciplinary control over persons holding or acting in any such office and to remove the persons from office”

5.39 Clearly, the President of the Republic has the power to remove the IGP, the Chief Fire Officer, the Comptroller General of the Ghana Immigration Service and the Director-General of the Prisons Service. We contend however, that this power is not without limit, but carefully checked by the very constitution as provided for under Article 191 referred *supra*.

5.40 In *Francis Owusu Mensah & Anor vrs National Board for Professional and Technical Examinations (NABTEX) & Ors*³¹ this Honourable Court pronounced that, the Respondent, being a public institution established by Parliament must comply with the due process of law in seeking to dismiss any of its members.

5.41 Infact, when My Lords were confronted with the issue of the constitutionality of section 14 of the Presidential (Transition) Act 2012, (Act 845) which sought to suggest, that CEOs or Directors-General on public boards or corporations cease to hold office upon the assumption of office by a person elected as president, My Lords declared same as unconstitutional in *Theophilus Donkor*

³¹ GHASC 27, judgment delivered on 9th May 2018

vs Attorney General. This court actually pronounced as follows:

[T]o the extent that section 14 of the Presidential (Transition) Act 2012, (Act 845) requires Chief Executives or Directors-General (howsoever described) of public boards or corporations to cease to hold office upon the assumption of office by a person elected as President of the Republic of Ghana, the same is hereby declared to be unconstitutional and void for being in contravention of articles 190 and 191 of the Constitution."

5.42 My Lords, to tie the tenure of office of public office holders to the tenure of political office holders would be to risk grinding the country to a halt in the event of change of government from one party to the other.

5.43 My Lords, it is trite that during political transition from one political party to the other, there is absence of clarity in the exercise of political power. The practice is that, the outgoing regime must not take certain decisions which have the propensity to outlive their tenure.

- 5.44 My Lords, these difficulties and uncertainties that usually surround political transitions were foreseen by the framers of the Constitution.
- 5.45 My Lords, the office of the Inspector-General of Police, Director-General of Prisons Service, Comptroller General of Immigration Service, and Chief Fire Officer of the Ghana Fire Service are creatures of the 1992 Constitution, and therefore, subject to the Constitution.
- 5.46 My Lords, although the Constitution, 1992 creates only the Police Service and the Prisons Service under chapters fifteen and sixteen respectively of the 1992 Constitution, the creation of the Fire Service and Immigration Service were anticipated and in fact incorporated into the Constitution, 1992 by chapter seventeen of the Constitution, 1992.
- 5.47 My Lords, all these public services have been given constitutional blessing under chapter fourteen; specifically, Article 190 of the 1992 Constitution.

- 5.48 My Lords, the Immigration Service was created by the Provisional National Defence Council (PNDC) under the PNDC Law 226 in 1989.
- 5.49 It is common knowledge that duties of the Immigration Service under their enabling enactment were hitherto, performed by Ghana Armed Forces.
- 5.50 My Lords, we respectfully submit that the Fire Service and the Immigration Service were incorporated into the Constitution, 1992 by virtue of Articles 190 and 210 (1) of the 1992 Constitution.
- 5.51 Again, your Lordships, the President of the Republic of Ghana is an office created by the Constitution and hence subject to it.
- 5.52 The President cannot arrogate unto himself powers not specifically assigned him under the Constitution, 1992 or any other law or exceed powers conferred him under the Constitution, 1992.
- 5.53 My Lords, we immediately point out that, although the President of the Republic may be assigned powers under

an enactment or any other law, same must conform to the Constitution, 1992 lest that enactment or law risks being set aside as being contrary to the Constitution, 1992.

5.54 This Honourable Court in the case of *Abu Ramadan & Others v. Electoral Commission & Attorney-General*³² reaffirmed the principle on the supremacy of the Constitution as enshrined in Article 1(2) of the Constitution, 1992 in the following words:

“A clearly unambiguous constitutional provision which underscores the supremacy of the 1992 Constitution is the Article 1(2). It provides: “1(2) This Constitution shall be the supreme law of Ghana and any other law found to be inconsistent with any provision of this Constitution shall, to the extent of the inconsistency, be void.”

5.55 Respectfully, your Lordships, in order to properly ascertain the true purpose for the security of tenure accorded public officers the Report of the Committee of Experts on Proposals for a Draft Constitution of Ghana ought to be considered. The Report stated in respect of

³² (Civil Motion No J8/I08/2016) dated 2016-07-05 or [2016] DLSC11116

Chapter fifteen of the proposed 1992 Constitution (which applies to public officers) as follows:

“We were further advised that the process of reorganization had not been completed and that certain structures and procedures were still evolving. In view of the wide-ranging nature of these reforms, the fluid state of the restructuring exercise, and the severe time constraints under which we labored, we were not in a position to make a definitive evaluation of the structure of the Public services. The Committee is therefore unable to make concrete detailed proposals in this regard beyond the following general principles:

1. The principal objective of any major restructuring should be to ensure a viable, efficient and productive public administration. All changes should therefore be evaluated against this overriding criterion.

3. Whatever the restructuring may be the Committee holds that the viability of any government programme depends on the stability of the public administration. Such stability is not assured by arbitrary and summary removal of public servants. The Committee accordingly proposes that the constitutional guarantees stipulated in

Article 155 of the 1979 Constitution with respect to the status of public officers be unequivocally re-affirmed.

This provides that

“No member of the public services shall be

- (a) Victimized or discriminated against for having discharged his duties faithfully in accordance with this Constitution*
- (b) Dismissed or removed from office or reduced in rank or otherwise punished without just cause.*

4. The Committee further recommends that in making appointments to the Public Services, every attempt should be made to ensure that principles of equity and justice are maintained at all times.

367. In this regard the Committee recommends that the Public Services Commission should ensure the harmonization of standards in the public services and the elimination of improper and extraneous consideration in the appointment of public officers.

368. The Committee was unable to study in depth the constitutional provisions relating to particular public services such as the Prisons Service, the Audit Service, the Statistical Service. However, the above

recommendations as to security of tenure and the requirement of due process in the removal of public officers must necessarily apply to all categories of public services.

369. The Committee is also unable to recommend any change in the general retiring age for public servants stipulated in Article 162 of the 1979 Constitution which states that:

1. A public officer shall, except as otherwise provided in this Constitution, retire from the public services on attaining the age of sixty years.

2. A public officer may retire from the public service at any time after attaining the age of forty-five years."

5.56 Your Lordship, going back to ascertain the intention of the framers of the Constitution, 1992 as contained in the Report of the Committee of Experts is in line with Aharon Barak's subjective and objective meaning of a legal text.

5.57 The aforementioned excerpts from the Report of the Committee of Experts demonstrate that, in drafting article 191(b) of the 1992 Constitution, the framers

intended that there should be stability and continuity in the performance of public services. They realized that people who hold such offices ought to be treated in a decorous manner and without discrimination as they carry the fate of the country on their shoulders. They also believe that no extraneous matters such as a change of government ought to be considered in appointing or dismissing public officers. Finally, they believed in equity and fairness, which is contrary to the idea of dismissing someone just because "there is a new sheriff in town".

5.58 Further your Lordships, there is guidance from other jurisdictions such as Kenya. My Lords, just like Ghana, the Office of the Inspector General of Police for the Republic of Kenya is a creature of the 2010 Constitution of Kenya. However, unlike Ghana, the Kenya Constitution of 2010 has actually detailed the situations which could warrant the removal of the IGP. These instances, are all instances of just cause. Article 247(7) of the Kenya Constitution, 2010 provides as follows:

(7) The Inspector -General may be removed from office by the President only on the grounds of-

- (a) *Serious violation of this Constitution or any other law, including a contravention of Chapter Six;*
- (b) *Gross misconduct whether in the performance of the office holder's functions or otherwise;*
- (c) *Physical or mental incapacity to perform the function of office;*
- (d) *Incompetence;*
- (e) *bankruptcy; or*
- (f) *any other just cause*
- ...

5.59 Your Lordships, we acknowledge that unlike Ghana, the Constitution of Kenya provides specific circumstances that could lead to the removal of the Inspector General of Police (IGP) or other security service heads. However, we argue that these instances are equally applicable to Ghana if the Constitution is viewed holistically, with due consideration to its essence.

5.60 As Chief Justice Sowah highlighted in the well-known case of *Tuffour vrs Attorney General*,³³ the Constitution is a dynamic entity capable of growth and evolution.

³³ [1980] GLR 637

Therefore, Your Lordships have the authority to imbue it with the true intentions of the framers of the Constitution or its creators, especially regarding the purpose envisioned by the relevant provisions.

5.61 We further assert emphatically that the framers of the Constitution never intended to grant the President unchecked power to unilaterally terminate the appointments of security service heads without justifiable cause. We respectfully urge Your Lordships to uphold this view, which is more in accord with the spirit and tenet of the Constitution.

6. THE DIRECTIVE PRINCIPLES OF STATE POLICY

6.1 My Lords, Article 34(1) of the Constitution, 1992 stipulates that the Directive Principles of State Policy outlined in chapter six of the Constitution shall serve as a guide for the Judiciary, Parliament, the President, the Council of State, the Cabinet, political parties and other entities in the application and interpretation of the Constitution.

- 6.2 My Lords, a thorough and purposive examination of Chapter six of the constitution, 1992,³⁴ reveals that its underlying objective is to promote a fair and liberated society. It emphasises that the judiciary should bear this in mind when interpreting the Constitution.
- 6.3 Respectfully, my Lords, the Chapter six³⁵ recognises the significance of continuity in national progress. Abruptly terminating the tenure of the security service heads in question without just cause, as prescribed in the Constitution, not only hampers national development but also goes against the essence and content of the Constitution, which is essential in its interpretation.
- 6.4 The respected Date-Bah JSC in **Ghana Lotto Operators Association and Others v. National Lottery Authority**³⁶ stated thus *“The constitution is a legal document containing the most important rules on political governance. The Courts have the responsibility of ensuring that, these rules are complied with.”* (Emphasis is ours).

³⁴ Titled The Directive Principles of State Policy

³⁵ Article 35 Clause 7 of the 1992 Constitution

³⁶ (2007-2008)

- 6.5 My Lords, we respectfully submit that, in the interest of national progress and sustainable development and in fulfilment of chapter six of the Constitution, 1992 (which this Court has declared to be justiciable), the President should not be able to remove the heads of these public services at will but only within the dictates of the Constitution, 1992.
- 6.6 My Lords, although this honourable Court held in *J.H Mensah v Attorney General*³⁷ that the tenure of office of Ministers of State as appointed by the President is tied to the tenure of the President, it is our humble submission that this holding does not apply to the tenure of office of the heads of public services under article 190, of the Constitution, 1992 as they are not ministers of state.
- 6.7 My Lords would observe that, once the heads of the public services under discussion are replaced or removed from office by the President, their career in the public service truncates regardless of whether the occupants have attained the constitutional age for retirement. Indeed, being positions of ranks, they are not

³⁷ [1997-98] 1 GLR 227-281

expected to still find place within the respective service and end up in sub-servient roles.

- 6.8 Your Lordships, in the face of the extreme politicization of institutions of state, the public service remains that body of professionals appointed by the state to remain in office in order to ensure continuity in governance as postulated under chapter six of the Constitution, 1992.

REMOVAL OF THE HEADS OF THE SECURITY SERVICES

- 6.9 My Lords, the Constitution under chapters fifteen and sixteen is silent on the removal from office of the Inspector-General of Police and the Director-General of Prisons Service.
- 6.10 My Lords, before the relevant provisions in the enabling statutes of the Immigration Service and Fire Service are reproduced, the constitutional provision on removal of the Inspector-General of Police, and the Director-General of Prison Service shall be examined.

- 6.11 Your Lordships, a cardinal canon of interpretation of the Constitution is to read the constitution as a whole.
- 6.12 In *Hon. P.C. Appiah-Ofori v. The Attorney-General*³⁸, this Honourable Court held that, in construing the constitution, its provisions must not be read piecemeal but same must be read as a whole.
- 6.13 Again, this Court speaking through Atuguba JSC in *Republic v. High Court, Koforidua, Ex Parte Asare (Baba Jamal and Ors. Interested Parties)*³⁹ stated:

“Accordingly, in interpreting the Constitution, care must be taken to ensure that all the provisions work together as parts of a functioning whole. The parts must fit together logically to form rational, internally consistent framework. And because the framework has a purpose, the parts are also to work dynamically, each contributing towards accomplishing the intended goal.”

³⁸ Civil Appeal No. J1/4/2007 dated 2nd June, 2010.

³⁹ [2009 SCGLR] 460 at 472

6.14 Respectfully my Lords, the President exercises the functions of his office because he derives authority first and foremost, from the Constitution, 1992.

6.15 The President, although undoubtedly assigned significant powers under the 1992 Constitution, his powers are checked by the Constitution, 1992 itself.

6.16 The President is obliged to bear allegiance to the Constitution and conscientiously abide by the provisions of the Constitution, 1992.

6.17 Although the President per Article 297 (a) of the Constitution, 1992 has the power to appoint and disappoint public servants, his power of removal from office of a public servant is checked or restricted by Article 191(b) of the Constitution, 1992.

6.18 Your Lordships, when Articles 191(b) and 199 (1) of the 1992 Constitution afore-reproduced are read together, a public officer such as the aforementioned heads of the security services must hold office until they attain the compulsory constitutional retirement age of 60; dismissed upon proven stated misbehaviour or

misconduct; resigned; incapable to perform the functions of the office by reason of infirmity of body or mind.

6.19 We submit, that these are the only permissible instances, justified as amounting to a just cause as provided for under Article 191(1)(b) of the Constitution, 1992.

6.20 Your Lordships, in the absence of retirement or removal from office for just cause as per the interpretation above, the heads of public services under article 190 of the Constitution, 1992, must hold office until they attain the compulsory statutory age of retirement; or as lawfully extended.

6.21 This Court in the case of *Yovuyibor & Another v. Attorney-General & Another*⁴⁰ stated the law on the age of retirement of police officers (members of the public service) when it delivered itself thus:

“The view that section 8 (2) of the transitional provisions of the Constitution, 1992 applies to pensionable officers is erroneous and must be rejected. It was also contended that article 199(1) of the

⁴⁰ (1994) JELR 65803 (SC)

transitional provisions of the Constitution, 1992 prescribes an upper limit beyond which no branch of the public services may keep a person in pensionable service, but does not prevent any such branch from prescribing a lower retiring age for its members. If this were so, it would defeat the constitutional provision which was intended to lay down a uniform retiring age for members of the public services. From the above, I am of the opinion that as public officers holding pensionable appointments, the compulsory retiring age of the plaintiffs is 60 years and that their purported retirement from the Police Service at the age of 55 years is a breach of article 199(1) and a nullity."

6.22 My Lords, the effect of the combined reading of Articles 190(1), 191 and 199(1) of the Constitution, 1992 is that Inspector-General of Police, the Director-General of the Prisons Service, the Comptroller of the Immigration Service and the Chief Fire Officer being public servants or officers, cannot be discriminated against, dismissed or removed from their positions except on grounds stated in the Constitution, 1992.

6.23 This Court in *Hon. P.C. Appiah-Ofori v. The Attorney-General (supra)* made definite pronouncement on the security of tenure for some public office holders thus:

“Generally speaking, it is clear that virtually, all the office holders mentioned in article 70 perform such delicate governance functions that regulate, control and give meaning to the democratic dispensation that Ghana has been enjoying since 7th January, 1993. It is in pursuit of the above that the said office holders need to be protected first from early retirement as other public office holders do at sixty years. The rationale for this is to ensure that the state benefits from the rich experience that they will gather on the job by their long stay in office up to seventy or sixty-five as the case might be. Secondly, there will also be the need to insulate the said office holders from the ravages and spoils of politics and change of governments as has happened in 2001 and in 2009. In a country, where party foot soldiers and sometimes even well-educated and well informed feel that with the advent of a new Government must be swept clean from office

every category of a public office holder irrespective of the security of tenure that the said office holder enjoys there is the need for the said article 70 office holders to be protected in office, either in terms of the specific constitutional provisions or from the spirit and letter of the Constitution."

6.24 My Lords, the Constitution refrained from granting the President of the Republic, the authority to remove or dismiss the Inspector-General of Police, the Director-General of the Prisons Service, the Comptroller of the Immigration Service, the Director-General of Customs, Excise and Preventive Service or the Chief Fire Officer from office at will for good reasons-to eschew arbitrary and capricious exercise of power; avoid unjustifiable discriminatory conduct and generally, ensure a healthy socio-economic and political environment in the state.

6.25 Very regrettably, the practice which is notoriously known is that, the Presidents of the Republic, including the current President on several occasions, appointed fresh or new Inspector-General of Police, the Director-

General of the Prisons Service, the Comptroller of the Immigration Service and the and the Chief Fire Officer when the occupant has not retired or been removed from office on grounds, recognized by the Constitution.

6.26 The President may simply demand any head of the security service to proceed on leave and the President thereafter appoints a new occupant to the office.

6.27 My Lords, it is our respectful submission that, the appointment of a new or fresh head of the security services when there is a sitting occupant of the office can only amount to the removal of the reigning occupant

6.28 My Lords, this Honourable Court speaking through Kotey JSC in the case of *Theophilus Donkor v. The Attorney-General*⁴¹ stated that removal of public servants must comply with the dictates of Article 191(b) of the Constitution, 1992.

6.29 Again, my Lords, this Court in *Ghana Center for Democratic Development & 6 Others v. Attorney-*

⁴¹ Writ No. J1/08/2017 dated 12th June, 2019

*General*⁴² declared as unconstitutional, the directive of the President to the Auditor-General to proceed on accumulated leave whilst the Deputy Auditor-General was appointed by the President to act as Auditor-General.

6.30 My Lords, per the authorities of *Theophilus Donkor v. The Attorney-General and Ghana Center for Democratic Development & 6 Others v. Attorney-General*, this Court always insists that the President ensures fidelity to the Constitution, 1992 when exercising the functions of his office; that is, the actions of the President must not violate the provisions of the Constitution, 1992.

6.31 My Lords, we further submit that the removal of the head of the security services prior to their retirement from active service and in the absence of grounds recognized under the Constitution, 1992 is unconstitutional, void and of no legal effect.

⁴² Writ No. J1/01/2021 dated 31st May, 2023

- 6.32 My Lords, Article 191 clearly prohibits the arbitrary removal from office of public officers including heads of security services.
- 6.33 My Lords, the constitutional threshold as stated in Article 191(b) of the Constitution, 1992 for removing a public officer from office is that, the reason for removal must be just.
- 6.34 Truly, by virtue of Article 297(a) of the Constitution, 1992, the President of the Republic has the power to remove the heads of the public services referenced in this suit.
- 6.35 However, per Article 191 (b) of the Constitution, 1992, that the reason for dismissal or removal from the public service must be just.
- 6.36 My Lords, the Constitution, 1992 did not specify the instances under which the removal of a public officer would be deemed to be just.
- 6.37 Undoubtedly my Lords, the President in determining whether a just cause exists for the removal or dismissal

of a public officer is subject to the Article 296 mandates and this Court's power of judicial review as enshrined in Articles 1(2) and 2(1) of the Constitution, 1992.

6.38 Article 296 of the 1992 Constitution provides that:

“Where in this Constitution or in any other law discretionary power is vested in any person or authority – (a) that discretionary power shall be deemed to imply a duty to be fair and candid; (b) the exercise of the discretionary power shall not be arbitrary, capricious or biased either by resentment, prejudice or personal dislike and shall be in accordance with due process of law;...” [Emphasis applied].

6.39 Your Lordships, it is imperative that the President, in utilising his authority to dismiss a public officer as outlined in Articles 297 (a) and 191(b) of the Constitution, refrains from exhibiting bias, arbitrariness, or any form of personal vendetta, prejudice, or animosity.

6.40 My Lords, we contend that any action by the President to remove a security head at his own discretion, or for

reasons such as political affiliation would violate Article 296 of the Constitution, 1992.

6.41 Your Lordships, we further argue that it would be unjust and arbitrary for a newly inaugurated President to terminate a security head from public service solely based on their political allegiance.

6.42 My Lords, it is crucial that the President does not overstep his bounds and assume powers that are not rightfully his.

6.43 Article 1(2) of the Constitution, 1992 upholds the supremacy of the constitution.

6.44 This Honourable Court in *Adumoa II v Twum II*⁴³ delivered itself thus:

“Now it is very important to understand and appreciate that the Constitution, 1992 is the fundamental and supreme law of the land, the provisions of which no other law is permitted to contradict. As stated in article 1(2) thereof: “(2) This

⁴³ [1999-2000] 2 GLR 409

Constitution shall be the supreme law of Ghana and any other law found to be inconsistent with any provision of this Constitution shall, to the extent of the inconsistency, be void.” Therefore, all courts, tribunals, institutions, including the Government, and all individuals are bound by its provisions. Accordingly, all courts, tribunals and indeed all adjudicating authorities in Ghana are obliged to apply the provisions of the Constitution, 1992 in the adjudication of disputes before them.”

6.45 My Lords, we again submit that, any enactment, actions or omissions of the President targeted at removing any head of the security services whiles they remain in office and in the absence of a *just cause* is a breach of the aforementioned provisions in the Constitution, 1992.

6.46 *Date-Bah JSC in the case of Professor Stephen Kwaku Asare v. Attorney*⁴⁴ stated the principles that guide this Honourable Court in the interpretation of the Constitution where he stated that:

“In interpreting the relevant text, we need to remind ourselves that contextual analysis is crucial to the

⁴⁴ (2004) JELR 68342 (SC)

interpretation of legal instruments. An important part of this contextual analysis is the determination of the purpose of the provision under construction... We start by reminding ourselves of the major aids to interpretation bearing in mind the goals that the constitution intends to achieve. Our first duty is to take the words as they stand and to give them their true construction having regard to the language of the provisions of the Constitution, always preferring the natural meaning of the words involved, but nonetheless giving the words their appropriate construction according to the context”.

6.47 My Lords, one of the foremost goals or objectives of the Constitution, 1992 as a political document is to ensure rule of law. Specifically, my Lords, Article 199(1) of the Constitution, 1992 was enacted to ensure security of tenure of public officers.

6.48 In other words, your Lordships, Articles 191 (b) and 199(1) of the 1992 Constitution were enacted to prevent the state or any other institution from arbitrarily dismissing or removing public officers from office.

6.49 Based on the foregoing my Lords, we respectfully urge this Honourable Court to declare that the appointment of fresh or new occupant while there is a subsisting occupant in the office of the head of the National Fire Service; the Police Service and the Immigration contravenes the letter and spirit of Articles 200(2), 200(3), 202(1), 202(2), 205(2), 207 (1), 207(2), 210(2), 210(3), 212(1), 213, 190(1), 191, 196, 199 and 296 of the 1992 Constitution of Ghana, therefore null and void and of no effect.

7. CONCLUSION

In conclusion, my Lords, the Plaintiffs respectfully submit the following:

- 7.1 The authority to appoint and/or remove a public officer stems from the 1992 Constitution.
- 7.2 According to the provisions of the Constitution, the President of the Republic has the prerogative to appoint the Chief Fire Officer, the Inspector General of Police, the Director-General of the Prisons Service and the Comptroller General of Immigration Service.

- 7.3 These heads of the security agencies are considered public officers by virtue of Article 190 of the 1992 Constitution.
- 7.4 As public officers, under Articles 191(b) and 199(1) of the 1992 Constitution, the President of the Republic is restrained from terminating their appointments or dismissing them from their positions unless they have reached the retirement age of 60 (or as lawfully extended), voluntarily resigned or proven to be incapable of performing their duties due to stated misconduct or misbehavior
- 7.5 By collectively reviewing Articles 200(2), 200(3), 202(1), 202(2), 205(2), 207 (1), 207(2), 210(2), 210(3), 212(1), 213, 190(1), 191, 196 and 199 of the 1992 Constitution of Ghana, it is evident that the President lacks the authority to remove the Inspector-General of Police, Director-General of Prisons Service, the Chief Fire Officer and the Comptroller of the Immigration Service without just cause which encompasses instances such as retirement, proven misconduct or misbehavior, incapability due to physical or mental incapacity, or resignation.

7.6 Your Lordships, the Plaintiffs have presented a compelling case that warrants this Honourable court to grant the reliefs they seek in this matter. Therefore, we respectfully pray that all the reliefs outlined in the writ be granted.

RESPECTFULLY SUBMITTED.

DATED AT PAAJOY LAW GROUP, NO. 77 PAWPAW STREET, EAST-LEGON, ACCRA THIS 7TH DAY OF MARCH, 2024.



PAA JOY AKUAMOAHA BOATENG

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The Registrar
Supreme Court
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AND FOR SERVICE ON THE ATTORNEY-GENERAL,
ATTORNEY-GENERAL'S DEPARTMENT, MINISTRIES -
ACCRA.

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IN THE SUPERIOR COURT OF JUDICATURE

IN THE SUPREME COURT

ACCRA - A.D. 2024

SUIT NO. 11/10/2024

BETWEEN

**1. IMANI CENTRE FOR
POLICY & EDUCATION**

PLAINTIFFS

No. KD 14, KOANS Estate
Kutunse

2. PROF. KWESI ANING

S29, Hydraform Estate
East-Airport,
Spintex Road-Accra

AND

THE ATTORNEY-GENERAL

DEFENDANT

Attorney-General's Department
Ministries, Accra.

AFFIDAVIT OF VERIFICATION

I, JALILA SUMAILA of Paajoy Law Group, No.77 East-Legon, Accra make oath and say as follows:

1. That I am a lawyer in the firm of lawyers representing the Plaintiffs in this suit/Deponent herein.

2. That I have the consent and authority of the Plaintiffs to swear to this as regards the facts Plaintiffs rely on in the conduct of this suit.

3. That the facts and particulars stated in this suit are true to the best of the knowledge, information and belief of the Plaintiffs.

4. Wherefore I depose to this affidavit on behalf of the Plaintiffs in good faith.

.....
Deponent

Sworn at Accra

This ^{8th}.....Day of March 2024

BEFORE ME

COMMISSIONER FOR OATHS

~~ExH~~ A



By Daily Guide Africa - February 5, 2013

Paul Tawiah Quay Hands Over IGP

This is the Document ma... referred to th... Sworn to before me
8/2/2013

Paul Tawiah Quaye



Paul Tawiah Quaye

PAUL TAWIAH Quaye, the Inspector General of Police (IGP), yesterday handed over the low key fashion amidst mixed feelings at the Police Headquarters.

The eighteenth IGP had to retire due to his attainment of the compulsory retirement a

The appointment of Mohamed Alhassan to the position of acting IGP by President John of Police Rose Bio Atinga the second in command of the Ghana Police Service. This ma position after Mrs. Elizabeth Mills-Robertson.

Paul Quaye rose through the profession to become the Commissioner in Charge of Res Inspector General of Police on May 16, 2009, as the eighteenth IGP, aside some 11 co be the topmost position in the GPS from 1893-1966).

After serving his term dutifully and injecting certain key reforms into the service, he r ceremony.

Even though a section of the media had treated the president?s announcement of his power and the Police Administration indicated that Paul Quaye had declined an offer tc on grounds that he needed to set a good example to enable others to follow.

Sources hinted that the top hierarchy was crowded with persons who should have reti

Mohamed Alhassan is likely to attain the compulsory retirement age of 60 by January be confirmed as the substantive IGP, considering the few months he has to serve.

Paul Tawiah Quaye, during his tenure, was adjudged the Most Efficient and Effective in May 2011.

He was a proficient systems administrator with enormous experience in policing formu organizational change planning.

Paul Quaye is also credited with a lot of accomplishments which include the designing and computerization of financial and administration software including mechanized pa

It was also during his tenure that the service had a boom in their salaries.

Most police sources said Paul Quaye had been a great inspiration to them. They said w benefited from his training and retraining programmes which had boosted the confider

His instituting the IGP?s reward system, which rewarded informants, helped in the fig

This, according to one of the commanders, had been the service?s secret in minimizin cities throughout the country.

The 2012 December elections have also been acclaimed by many as one of the best a:

BY Rocklyn Antonio

Daily Guide Africa

<http://dailyguideafrica.com>

Daily Guide is a Ghanaian Newspaper published by Western Publications Limited.

General of Police, Patrick Kwarteng Acheampong from office.

The sources said Mrs Elizabeth Mills-Robertson, Deputy Inspector General of Police, will act as IGP.

The dismissal, according to the sources, came in by way of 'proceed on leave,' beginning January 28, 2009.

The sources said even though the decision to fire the IGP was originally planned to reach his desk early morning, the president was constrained from announcing the decision by comments passed to that effect by former President J.J. Rawlings.

Rawlings after a visit to the Kotoka International Airport last Friday where he said he observed security lapses, called for the immediate removal of security chiefs, who he said had been allowed to overstay their welcome in the new administration.

Sources close to the IGP's office said Prof Mills personally announced the dismissal message to the IGP.

EXIT C

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Sworn to before me
20
This

13.01.2011 General News

MILLS FIRES THREE

By Daily Guide



Kofi Opoku Manu
13.01.2011 LISTEN

President John Evans Atta Mills appears to have pressed the action button for the New Year with the dismissal of the Ashanti Regional Minister and the Director of the Ghana Immigration Service (GIS).

A statement containing the presidential order and signed by J.K. Bebaako-Mensah, Secretary to the President announced that the place of sacked Kofi Opoku-Manu is to be taken over by Dr. Kwaku Agyeman-Mensah.

By removing the Director of the GIS, Elizabeth Adjei, the first woman to head the internal security

organisation, the number of women holding top positions has been reduced by one, in addition to the dismissal of Zita Okaikoi as Minister of Tourism.

Ms. Adjei has been replaced by Dr. Peter A. Wiredu, Deputy Commissioner of Police at the Police Headquarters in charge of Human Resources. DCOP Wiredu, a lawyer, holds a PhD from the University of London and has worked with the Bureau of National Investigations (BNI) in addition to working at the Ghana High Commissioner in the UK as Minister Counselor, Passport and Immigration.

The sacked Ashanti Regional Minister, perhaps the oldest in the Mills administration, gained notoriety when he instigated National Democratic Congress (NDC) supporters to slap their New Patriotic Party (NPP) counterparts when disagreements ensued between the two groups.

So uncouth was the call that it resonated across the country as the media took it up, a development which compelled the crestfallen minister to render an unqualified apology.

While some questioned the political wisdom in the call on the NDC supporters to slap their political opponents, others found it unfathomable that a retired top civil servant of many years standing would stoop to that depth.

It has been a chequered ministerial tenure for the old man, having escaped death by the whiskers when he was saved from the wrath of irate foot-soldiers in the Effiduase area of the Ashanti Region. He and a DCE were held hostage by the party hoodlums and, but for the intervention of policemen, the worst could have ensued.

Perhaps for him, this is all but the end of a tumultuous political career fit for the memoirs.

The man who is marching to take over from him, Dr. Kwaku Agyeman-Mensah, headed the Ashanti Regional Lands Commission until his appointment, having taught for a long time at the University of Ghana in rural development studies.

He is also a Board Chairman of Komfo Anokye Teaching Hospital (KATH) and a staunch NDC member in the region. He contested the Atwima Nwabiagya parliamentary seat on the ticket of the party but lost.

As for Ms. Elizabeth Adjei, her ouster had been in the pipeline since President Mills retained persons appointed during the tenure of his predecessor.

The statement said that she would be assigned elsewhere.

She came close to being removed since 2009 but perhaps for the media's handling of the story, it was shelved temporarily as political informants continued to report on her in the corridors of power.

She could however not escape the ploys in a Mills- dubbed Action Year. At the time that he announced that this year would be laden with action, many wondered what form it would take until he removed two ministers from office and changed the portfolios of others.

With this latest action, alongside the hike in the prices of petroleum products, perhaps President Mills has given enough inkling of what is up his sleeves.

Also removed from office is the Ashanti Regional Manager of the National Health Insurance Scheme (NHIS), Afrifa Yamoah Ponko, the man who was allegedly involved in an office sex scandal recently.

His removal has been nicely couched as 'to proceed on leave' and DAILY GUIDE will bring more on his

situation in subsequent publications.

The gentleman was accused by a lady of making sexual advances at her. When she proved unyielding, Ponko allegedly took punitive action against her.

Political turf watchers consider the president's action as a continuation of the mini-cabinet reshuffle announced earlier, as they predict more dismissals in coming days.

Mr. Opoku-Manu's imminent sack from his position was clearly written on the walls for sometime now. Credible information pointed to the fact that there existed bad blood between him and his party's executives in the region.

Recently, the NDC regional executives of the party unanimously rejected a GH¢2,000 Christmas package that the beleaguered minister gave them.

The NDC gurus, who demanded anonymity, then accused the minister of neglecting the party which helped him to attain his current status.

The NDC functionaries said they were surprised at the minister's sudden act of kindness.

Northern NDC Supporters Forum

In a related development, the Northern NDC Supporters Forum in Ashanti Region, a splinter group in the ruling party, has spit fire AT President Mills for discriminating against northerners in the Ashanti region with regard to political appointments.

They sternly warned that if the government continued to overlook competent northerners in the region from occupying key political positions, it might lead to voter apathy among NDC supporters in 2012.

'We feel cheated and neglected after being the main targets of various brutalities and intimidation by the opposition NPP during the 2008 general elections.

Addressing a press conference, Raymond Po-eriba, spokesperson of the group, said northerners were always overlooked in political appointments.

By A.R. Gomda & I.F. Joe Awuah Jnr., Kumasi

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Ghana's IGP Asante-Apeatu sacked

July 22, 2019



IGP David Asante-Apeatu

Ghana's president Akufo-Addo has ordered the Inspector General of Police, Mr. David /

effect, a statement from the presidency said.

He is due to retire from the Ghana Police Service on Wednesday, 14th August, 2019.

"The President thanked him for his many years of service to the country, and wished h
Eugene Arhin said in the statement.

President Akufo-Addo has asked the Deputy Inspector General of Police, Mr. James Op
appointed in accordance with the Constitution.

Source: Daily Mail GH

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President Appoints New Prisons Boss

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Tue 28th Mar, 2017 14:02



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DOP Patrick Darko Missah

President Akufo-Addo has appointed DOP Patrick Darko Missah as the Acting Director-General of the Ghana Prisons Service.

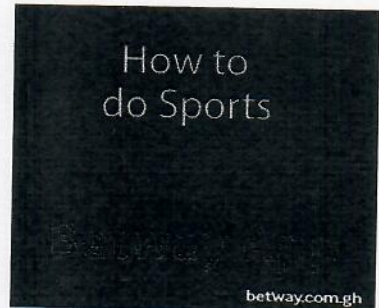
According to a press release from the Ministry of the Interior on Tuesday, March 28, 2017, "His Excellency, the President of the Republic, pursuant to Article 207 (1) of the Constitution and Section (1) of the Prisons Service Act 1972 (N.R.C.D 46) as amended, has appointed Mr Patrick Darko Missah as the Acting Director-General of the Ghana Prisons Service."

Mr Missah, who has more than 20 years' working experience with the Ghana Prisons Service, will succeed Emmanuel Yao Adzator, who is expected to be given a new role.

Mr Missah's appointment takes effect immediately.

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National

Dr Dampare sworn in as substantive IGP

Source: GNA

9 October 2021 6:21am

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President Nana Addo Dankwa Akufo-Addo has sworn into office Dr George Akuffo Dampare as the substantive Inspector General of Police (IGP).

Dr Dampare, 51, becomes Ghana's 23rd IGP, being the youngest Police Officer to attain that position.

He was asked by the President, last July, to take over from Mr James Oppong-Boanuh, as Acting IGP, pending the appointment of a substantive one.

At a ceremony at the Jubilee House in Accra, where President Akufo-Addo administered the Oaths of Allegiance, Office, and Secrecy, he congratulated Dr Dampare on his appointment, which

he said was "a well-deserved one."

He said Dr Dampare had, over the last two months, acquitted himself creditably as the Acting IGP and that he (President) had no option than to confirm him as the substantive Police Boss.

"It's been an eventful two months since his appointment, and the Acting IGP has left me with very little choice in the matter. His actions, which have received widespread support and acclaim from the population, vindicates the decision I made to entrust him with the mandate of managing the police, albeit in a temporary capacity," he said.



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President Akufo-Addo said Dr Dampare, who had served the nation dutifully since joining the Police Service, will make an effective leader of the Service and help foster its efficiency.

"He would be walking in the footsteps of the 22 previous occupants of the Office, and I have no doubt that in Dr George Akuffo Dampare, we have a worthy successor to Mr James Oppong-Boanuh and indeed the others who have gone before him."



The President reminded the IGP of the emerging complex nature of crime and the role of the police in safeguarding the peace, the safety of the people and the preservation of the territorial integrity of the State.

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That, he said, would guarantee that citizens went about their normal lives in security and hope to improve the quality of their circumstances.

"Ladies and gentlemen, the most important things for our nation are peace, the safety of its people and the preservation of its territorial integrity... If these are guaranteed the citizens can go about their normal lives in security and hope to improve on the quality of their circumstances," he said.



"We all sleep feeling safe when the men and women of the Police Service work to keep our communities and our streets safe."

President Akufo-Addo assured the IGP and the Police Administration that the Government would do all it could to modernise and resource the Service to enable it to maintain law and order, and protect lives and property.

He said the Government had instituted far-reaching measures to improve the quality of the Police Service and the welfare of police personnel, and: "We will continue to do more in the coming years."

"I assure you that the Government is determined to give whatever supportive care so that we can have the service that the people of Ghana deserve," he added.

President Akufo-Addo tasked the IGP to establish a service that maintained the trust of the citizenry.

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"It is often said that the public is the police, and the police is the public. The citizenry can only have confidence in the Police Service when its members are seen to be honest and enforce the law without fear or favour," he said.

"It is in everybody's interest that the Police Service serve as the principal creditable instrument of accomplishing the executive duty of maintaining law and order in the State."

The President advised the IGP and the Service as a whole not to tie their well-being to the fortunes of the ruling party of the day.

"As President, together with you as the Inspector General of Police, We need to cooperate to ensure that the Police Service is left to focus on its core mandate and not be an appendage of the ruling party," he said.



"I envisage the development of a Police Service that goes above its function of protecting ordinary citizens, confident, that there will be no interference from the powers that be."

"As newly sworn IGP, I believe strongly that in you, we can help promote the development of the nation governed by the rule of law and respect for human rights with the police being at the front line of this endeavor."

"We are poised and focused to attain a world class institution. We will position the Service to be one of the most respected organisations in the country and make it a reference point for Africa and beyond," he said.

The IGP reminded his colleagues in service of the principle that they would, at a point, become civilians, and that the service they left behind would be the same to look after them when they hit the civil stream.

He, thus, urged them to strive and continue to deliver excellent service in the interest of the nation.

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