

**THE ENERGY AND WATER UTILITIES REGULATORY AUTHORITY
(EWURA)**

COMPLAINT NUMBER: QN.71/309/04

BETWEEN

**SAMUEL SUMAYAN ON BEHALF OF EAST AFRICA DRIVING
SCHOOL.....COMPLAINANT**

AND

GAPCO MAJI YA CHAI, EMBASENI.....RESPONDENT

AWARD

*(Made by the Legal and Corporate Affairs Committee of the Board of Directors of
EWURA at its meeting held in Dar es Salaam on 26th February, 2018)*

1.0 Background Information

On 3rd November 2017, Mr. Samuel Sumayan on behalf of the East Africa Driving School of P.O. Box 1474, Maji ya Chai, Arusha Region ("the Complainant"), lodged a complaint at the Energy and Water Utilities Regulatory Authority ("EWURA") ("the Authority") against GAPCO Petrol Station of P.O. Box 7610, Moshi located at Maji ya Chai, Embaseni Area, in Arusha Region ("the Respondent"). The Complainant complains on being supplied with diesel instead of petrol in this vehicle with registration number

T778 AWT Toyota Town Ace model on 19th October, 2017 and thus causing damage to the said vehicle. The Complainant argues that they requested the Respondent to service and repair the damaged vehicle but the Respondent did not cooperate.

The Complainant filed a complaint with the Authority and prayed that the Respondent be ordered to compensate them for the cost they incurred in repairing the vehicle amounting to TZS 601,200.00.

Upon receipt of the complaint, the Authority ordered the Respondent to submit its defense to the complaint within twenty-one [21] days as required by the EWURA (Consumer Complaints Handling Procedures) Rules, GN 10/2013. On 23rd November, 2017, the Respondent filed its defense stating that the Complainant reported the matter to them on 21st October, 2017 attaching the sales receipt dated 19th October, 2017. The Respondent further argues that the Complainant complained on being supplied with off specification petroleum product whilst the cause of action in the complaint is on being sold the wrong petroleum product.

Furthermore, the Respondent in an attempt to resolve the matter requested his manager to collect the sample of the petroleum product from the Complainant's vehicle in order to determine whether the problem was off specification or the wrong petroleum product. The Respondent argues that the Complainant did not allow the sample to be taken from his vehicle until the Respondent received summons from EWURA.

Mediation meeting involving both parties was conducted on 29th December, 2017 at EWURA Norther Zone Office, Arusha. During mediation, the Complainant explained that after refueling the vehicle, it travelled on five kilometers from the Respondent's petrol station and started smoking. The Respondent argues that the Complainant reported the matter to the Respondent on 21st October, 2017 and on 22nd October, 2017 the Complainant went to the Respondent's petrol station to identify the pump attendant who attended him but he failed. The Respondent confirmed seeing 3 litres of diesel in a bucket at the Complainant's premises. At the conclusion of the mediation session the matter was settled on the following terms:

- (a) that the Respondent shall pay the Complainant the compensation for loss suffered amounting to TZS 155,000.00 instead of TZS 601,201; and
- (b) that the Complainant shall withdraw all other demands against the Respondent.

The agreed points were reduced into writing as required by Rule 13 (4) of the Energy and Water Utilities Regulatory Authority (Complaints Handling Procedure) Rules, GN. No 10/2013 and contained in the Settlement Form.

2.0 **Decision**

The parties have reached an agreement and, pursuant to Rule 13 (4) of the Energy and Water Utilities Regulatory Authority (Complaints Handling Procedure) Rules, GN. No 10 of 2013, the said agreement is registered as an Award of the Authority. Each party shall bear its own costs.

GIVEN UNDER SEAL of the Energy and Water Utilities Regulatory Authority
(EWURA) in Dar es Salaam this 26th day of February, 2018.



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NZINYANGWA E. MCHANY
DIRECTOR GENERAL