

HELD AT MBABANE:

CASE NO: 20/89

In the matter between:

PULLEN MANDLENKHOSI PLAMINI

Applicant

VS.

SIZEZE PIPES LIMITED

Respondent

CORAM :

J.A. HASSANALI President

MR VILAKATI

For Applicant

MR FLYNN

For Respondent

MR MOKGOKONG & MR MATSEBULA Assessors.

AWARD

HASSANALI, P.

In this case the Applicant is claiming terminal benefits and compensation from the Respondent Company for his unfair termination.

When the case came up for trial, Mr Vilakazi who represented the Applicant, applied for a postponement on behalf of Mr Landmark, on the ground that one Mr Brian Smith who was the Respondent's witness, was ill in hospital in Johannesburg. I informed him that this was the 2nd date of trial and this date was especially fixed at his (Respondents) request. Therefore Mr Landmark himself should have made this application. In the circumstances the Court refused the application and proceeded to hear this matter exparte. In the course of the hearing, Mr Landmark made an appearance and applied for a postponement. I told him that he should have been in Court when the case was called and made the necessary application himself presenting the Medical Certificate in support of it. Even at this stage he was not able to produce one. Hence his application was refused.

Since this case was not against Mr Smith personally, I in normal circumstances would have asked the applicant and his witness to give evidence,

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followed by the Respondent's witness, after which I may have considered the Respondent's application for a postponement on the ground of Mr Smith's illness.

I now come to the evidence in this case. The Applicant was recruited as a Supervisor by the Respondent Company on 30/11/82. In 1983 he was promoted as Production Manager of the Company. On 26/10/88 Mr Smith the Managing Director summoned applicant to his office where he was accused of stealing Company cement from the Stores. Applicant was then told that he should resign, failing which he would face dismissal. Though the allegation was denied by him, he was eventually dismissed. He also stated that the keys for the said stores were not in his possession but were with another employee, one Mr Kunene. He mentioned that the gate leading to the Stores was always kept locked and the key for it was either with Mr Smith or Mr Kunene. In the circumstances it

was impossible for anyone to remove anything from the stores without their knowledge. He maintained that he was unfairly terminated and as such he was entitled to the following -

50 days severance allowance at E36/95 per day	E1847.50
1 month Salary in lieu of Notice	739.00
20 days additional notice	739.00
42 days leave pay	1410.00
6 days overtime worked on Public Holidays	403.08
6 months compensation	4434.00
	E9572.58

On the evidence placed before Court, I am satisfied that the Applicant was unfairly terminated and as such is entitled to the terminal benefits and compensation claimed by him. In the circumstances I make the following Order -

50 days severance allowance	E1847.50
1 month salary in lieu of notice	739.00
20 days additional notice	739.00
42 days leave pay	1410.00
6 days overtime worked on Public Holidays	403.08
6 months Compensation	4434.00
	E9572.58

My assessors agree with my decision.

This decision is entered as an Award of this Court.

J.A. HASSANALI,

PRESIDENT