

IN THE INDUSTRIAL COURT OF SWAZILAND

HOLDEN AT MBABANE.

CASE NO: 16/1990.

In the matter between:

JOHN HENDERSON Applicant

VS.

WATERFORD KAMHLABA SCHOOL Respondent

C O R A M: J.A.

HASSANALI President

MR MOTSA For Applicant

MR MATTIS For Respondent

MR MATSEBULA & MR DLAMINI Assessors.

AWARD

(Delivered 23 August, 1990)

Hassanali, P.

In this case the Applicant is claiming from the Respondent School the sum of E605/33 being the balance of his July salary.

The facts briefly stated in this matter are as follows –

The applicant was employed by the School as Head of its Physical Education Department and drew a salary of E1816/= per month. On 20/6/89 he was selected by the Swaziland Squash Association with the approval of the Swaziland National Sports Council, to represent the country in Squash at Botswana. The School was informed of his selection and the applicant was granted leave but without pay which fact was communicated to him, by the Headmaster. When he received his salary for July he noted that a sum of E605/33 had been deducted.

The Respondent did not tender any evidence in support of its case nor submit any explanation as to how the amount of E605/33 was arrived at.

Mr Motsa representing the applicant argued that the deduction was unjust, unreasonable, discriminative and inequitable and therefore the said amount should be refunded to the applicant. However if the Court took the opposite view, it should then decide whether or not the School had correctly computed the amount

in view of the fact that a day's salary should have been only E.60/54 and that the amount for 6 days would be E362.24. He further argued that since the Respondent had failed to advance any explanation regarding this, the Court should accept the applicant's computation and Order the Respondent to refund the balance amount of E243/09 to the applicant.

Though the deduction appears to me to be unjustified in view of the fact that the applicant was selected to represent the country, the Court is unable to intervene in the matter since it is an established rule that the Management has the undoubted right to control its own affairs. Therefore a matter of this nature falls within the purview of the employer's prerogative.

However, I would like to emphasize that it would have been a sporting gesture and a salutary principle had the School not deducted the said amount, knowing fully well that the applicant was going to represent the country. This undoubtedly would have helped to promote a friendly relationship between Employer and Employee. In the future in order to avoid a situation of this nature, it would be advisable for the Swaziland National Sports Council to resolve this Issue for once and for all

On the question relating to the underpayment of E243/09 I have no other alternative but to accept the computation submitted to Court by Mr Motsa in view of the fact that no argument was advanced against it by the Respondent. Therefore I hold that the Respondent underpaid the applicant in the sum of E243/Q9 and I accordingly order the Respondent to pay this amount to the Applicant.

This Order is entered as an Award of this Court. My Assessors agree with my decision.

J.A. HASSANALI,

PRESIDENT.