

Held at Mbabane

In the matter of:-

SWAZILAND MANUFACTURING &

ALLIED WORKERS UNION

APPLICANT

and

SWAZILAND HANDICRAFTS (PTY)LTD

RESPONDENT

RULING

This is an application by the Applicant in which it seeks a declaration that the strike that took place on the 22nd April 1991 at the Respondents workplace was in conformity with the Industrial Relations Act of 1980.

It is a further application that the Court declare any dismissals linked to the strike are illegal null and void.

The Respondent in their reply paragraph 1.02 admit that a strike did take place on 22nd April 1991 and it did take place in conformity with the Industrial Relations Act.

If that is so the Respondent is contradicting itself in paragraph 3.03. The court register shows that the application of the Respondent was filed into court on the 15th April 1991 and served upon the Applicant herein on the 23rd April 1991. Here we are referring to case No. 23 of 1991 in an action between Swaziland Handicrafts (Pty)Ltd vs Swaziland Manufacturing and Allied Workers Union.

The Respondent has submitted that the strike which took place on the 22nd April 1991 was in contravention of Section 64(l) of the Industrial Relations

2

Act. That is the strike took place while proceedings in relation to the dispute to which that action relates are pending before court.

Section 64(1) of the Industrial Relations Act does not state that a party must have notice that an action is pending before court. It states that and we quote;

"No party to a dispute may continue or take strike action or institute a lockout while proceedings in relation to a dispute to which that action relates are pending before the court".

It is left up to each party to determine whether a dispute is pending before court or not. Application number 23rd of 1991 was filed and registered in court on the 15th April 1991. It was pending before court on the 15th April 1991.

It is the decision of this court that it cannot grant the declaration sought by the Applicant. It is further the decision of this court that the strike that took place on the 22nd April 1991 at the Respondents workplace was not we repeat was not in conformity with the Industrial Relations Act of 1980. The resultant dismissals linked to the strike are legal and in keeping with Section 62(1)(c) of the Industrial Relations Act.

This notice of motion is accordingly dismissed. No order is made as to costs.

MARTIN S. BANDA

INDUSTRIAL COURT PRESIDENT