

IN THE INDUSTRIAL COURT OF SWAZILAND

CASE NO. 143/90

In the matter between:-

ESHEL MANDLENKOSI TSABEDZE

APPLICANT

and

INYONI YAMI SWAZILAND IRRIGATION

SCHEME

RESPONDENT

JUDGEMENT

This is an application by the applicant in which he seeks relief against the Respondent namely that the court award to him the following:-

- | | | |
|-----|-------------------------|----------|
| (a) | Six months compensation | E4914.46 |
| (b) | One month notice | 819.08 |
| (c) | Additional notice pay | 1500.00 |
| (d) | Severance allowance | 2500.00 |
| (e) | Leave pay | 819.08 |

In reply the Respondent has raised preliminary issues which need to be determined before this court can proceed to entertain the trial.

The issues raised are that there has been no proper compliance with Section 50(3); Section 54; Section 58(1) of the Industrial Relations Act. That the Respondent was not heard before the Minister for Labour and Public Service and or the Labour Commissioner granted an extension of time. That the Applicant accepted a sum of E7370.01 in full settlement of any claim against the Respondent.

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Mr. Flynn for the Respondent has submitted that no paper has been filed before court which indicates that the Labour Commissioner has extended time in which to file a dispute and that this is fatal to the action. This Court is reluctant to accept this submission. As mentioned in cause 105/90 in keeping with the decision of Honourable chief Justice Hannah this court was going to order that the Commissioner of Labour be (joined as a party and thereafter give directions as to how this matter is to be handled.

However in view of the further submission by the Respondent that the Applicant and Respondent have already settled this matter and a payment made by the Respondent to the Applicant in full and final settlement in the sum of E7370.01 as shown by annexure A attached to the Respondent answer. This assertion has not been disputed by the Applicant. This Court is precluded from hearing this matter as same has been concluded by the parties.

It is the question of payment by the Respondent to the Applicant in full and final settlement which has determined this matter and not the questions raised relating to Sections 50(3); 54; 58(1) of the Industrial Relations Act.

This too is a case which falls for the granting of costs against the Applicant for being frivolous and

vexatious. The court orders that the Applicant bear the costs of the Respondent in these proceedings.

PRESIDENT OF THE INDUSTRIAL COURT

M.S. BANDA

10/5/91