

IN THE INDUSTRIAL COURT OF SWAZILAND

CASE NO. 65/91

Held at Mbabane

In the matter between:-

TERESA VILANE

APPLICANT

and

SWAZILAND NEWS

AGENCY (PTY) LTD

RESPONDENT

RULING

This is an application by the applicant in which, she seeks the following order namely that she was wrongfully, unlawfully and unfairly dismissed by the Respondent on false allegations of theft of money.

The Respondent in reply under paragraph 6 have raised a preliminary issue. The issue is that Annexure A attached to the Applicants application does not relate to matter. Annexure A under item 2 states;

"The dispute exists between: -

Applicant: Swaziland Commercial and Allied

Workers Union,

P.O. Box 2524

MBABANE

Respondent:- Swaziland News Agency

P.O. Box 157,

MBABANE "

Then under paragraph 5 it reads "5. In my opinion no useful purpose would be served by continuing to conciliate because:

(i) Applicant submitted that their member Teresa Vilane was victimised for her union activities and was subsequently unfairly dismissed on grounds of dishonesty".

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The Report of a dispute dated 11th February 1991 shows that the parties to the dispute are Swaziland Commercial and Allied Workers Union and Swaziland News Agency (Pty)Ltd.

It is the Respondents application that the Applicant Teresa Vilane has not reported the dispute as required by the Act.

Mr. Lukhele on behalf of the Applicant concedes and properly so that the certificate of unresolved Dispute was badly drafted. That it is the case for the Respondent that the certificate of unresolved. Dispute does not relate to the matter now in court. While the body of the certificate attends to matters of the Applicant the Application itself is not hers.

In her application the applicant has completed form B as required by Rule 3(1)(b) of the Industrial Court Rules 1984. The certificate of unresolved dispute attached thereto is defective in its description of the parties and its reference as to who reported the matter of the dispute to the Labour Commissioner. While the act under Section 50(1)(b) permits the lodging of a dispute by an industry union as recognised by Section 36. In this particular matter the certificate of unresolved Dispute states that a dispute exists between the Swaziland Commercial and Allied Workers Union and Swaziland News Agency. Its not that the Swaziland Commercial and Allied Workers Union have reported a dispute on behalf of a member of the industry union.

The report of the dispute dated' 11th February, 1991 also states that a dispute exists between Swaziland Commercial and Allied Workers Union and Swaziland News Agency (Pty)Ltd.

Teresa Vilane has not reported a dispute to the Labour Commissioner as envisaged in Section 51 (1) of the Industrial Relations Act. If the Industry

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union was reporting the dispute on behalf of a member this fact should have appeared in both the report and the certificate of unresolved Dispute.

The certificate of unresolved dispute that has been attached to this application does not refer to Teresa Vilane and has not been issued in compliance with Section 58(1) of the Industrial Relations Act.

The provisions of part VII of the Industrial Relations Act have not been complied with. This court cannot take cognisance of this dispute pursuant to Rule 3(2) of the Industrial Court Rules. This application is accordingly dismissed for being misconceived.

MARTIN S. BANDA

INDUSTRIAL COURT PRESIDENT

18/6/91