

IN THE INDUSTRIAL COURT OF SWAZILAND

Held at Mbabane.

Case No. 147/91

In the matter between: -

THE MINISTER FOR LABOUR
& PUBLIC SERVICE

APPLICANT

and

SUFIAW

1ST RESPONDENT

and

UNION BANK OF SWAZILAND

2ND RESPONDENT

LTD

RULING

This is an application by the Applicant for an order restraining the Swaziland Union of Financial Institutions and Allied Workers (SUFIAW) (1st Respondent) from continuing with the strikes which commenced on 1st and 7th August, 1991.

The Application has been instituted under Section 63(1) of the Industrial Relations Act of 1980.

On the date of hearing the Applicant raised a preliminary objection. The objection was raised in view of the attendance of the first and Second Respondent, It is the Applicants submission that Section 63(1) of the Industrial Relations Act does not anticipate the presence of other parties. The Applicants further submits that the Court has no discretion to give other parties a chance to be heard That at this stage we are hearing the Minister in terms of his application.

Mr. Mathse for the First Respondent submits that the matter before court affects certain parties. That the purpose of citing and serving with the papers is that

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they come to court. That the application before court is not an ex parte application.

Mr. Keyter for the Second Respondent submits that they are entitled to be before court. That they were cited. They were invited. That we are hearing the Minister in terms of his application.

Mr. Dlamini in answer submits that though the parties were served they are not entitled to be heard on an application moved by the Minister. That under Section 63(1) the parties should not be heard.

The issue that this court at this stage has to determine is whether on an application moved by the Minister under Section 63(1) parties cited or parties served with an application can be heard.

Both the First and Second REspondent have not cited an authority as to why they should be heard on an application initiated under Section 63(1) of the Industrial Relations Act.

The question is are the Respondents entitled to be heard under Section 63(1) of the Industrial RElations Act on an application moved by the Minister. The answer to this question lies in the interpretation of Section 63(1) of the Industrial Relations Act.

We shall quote the relevant portion of Section 63(1) of the Industrial Relations Act and omit the portions that we believe are not applicable.

"(1) If any strikeisthreatened or takenand the Minister considers that the national interest is threatened or affected he may make application to the court ex parte for an injunction restraining the parties.....".

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A strict interpretation under this Section clearly shows that the Minister moves an application ex parte for an injunction no other party is entitled to be heard.

This court has therefore decided that the First and Second Respondent are not going to be heard on this application. We are here referring to the application for an order restraining the parties.

M.S. BANDA

INDUSTRIAL COURT PRESIDENT

19/8/91