

IN THE INDUSTRIAL COURT OF SWAZILAND

HELD AT MBABANE

CASE NO. 251 & 252/99

In the matter between:

MICHAEL VILAKATI & 13 OTHERS

APPLICANTS

PHUMZILE DLAMINI & 29 OTHERS

APPLICANTS

and

SWAZILAND GRANITE (PTY) LTD

RESPONDENT

SWAZILAND TREATED POLES (PTY) LTD

RESPONDENT

CORAM:

NDERI NDUMA:

PRESIDENT

JOSIAH YENDE:

MEMBER

NICHOLAS MANANA:

MEMBER

FOR THE APPLICANT:

MR. E. HLOPHE

FOR THE RESPONDENT:

MR. R. CRABTREE

RULING

18.04.2000

The Respondent has raised three preliminary objections to the Applicants' application. Cases No. 251/99 and 252/99 were consolidated for the purposes of argument of the points in limine.

As regards the first point in limine to the effect that the Applicants are not entitled to persist in their claim having withdrawn a similar Case No. 19/99, the objection has no basis in law. The issues for determination have not been the subject of a concluded case here or in any other court. The application is not resjudicata and the same is properly before us. The Respondent was well advised to abandon the objection.

As concerns the objection that no Minister's permission was obtained to extend the period within which the dispute could be reported. We observe that the dispute was reported in terms of Section 41 of the Employment Act No. 5 of 1980. It was not reported in terms of Section 57 (1) of the Industrial Relations Act. The objection is therefore based on a misconception of the relevant law and facts and same is dismissed.

2

Finally, whether the action that led to the abstinence from work by the Applicants was a strike or a mass stay away is neither here nor there. The facts of the case will be canvassed during the hearing on the merits after which all relevant issues will be determined by the court.

The Applicants' application will accordingly proceed to trial.

There will be no order as costs.

NDERI NDUMA

JUDGE PRESIDENT -INDUSTRIAL COURT