

IN THE INDUSTRIAL COURT OF SWAZILAND

HELD AT MBABANE

CASE NO. 167/2000

In the matter between:

SAMUEL DLAMINI

APPLICANT

and

THE PRINCIPAL SECRETARY-MINISTRY OF

WORKS AND TRANSPORT

1ST RESPONDENT

THE ACCOUNTANT GENERAL

2ND RESPONDENT

THE ATTORNEY GENERAL

3RD RESPONDENT

CORAM:

NDERI NDUMA:

PRESIDENT

JOSIAH YENDE:

MEMBER

NICHOLAS MANANA:

MEMBER

FOR THE APPLICANT:

MR. L. M. SEVIELANE

FOR THE RESPONDENT:

MISS Z. MATSE

RULING

10. 07. 2000

The Respondent has raised objection in limine to the urgent application filed by the Applicant in the following terms :

"That the application filed by the Applicant be set aside as irregular and improper for the reason that the Applicant has not complied with the limitation of legal proceedings against the Government Act No. 21 of 1992".

The breach is alleged to be that the Applicant wrote a letter of demand dated the 6th April, 2000 and before the expiry of ninety days (90) in terms of Section 2 (1)(b) thereof, lodged this urgent Application.

Respondent has further submitted that there is no basis to treat this Application on an urgent basis as the refund sought from government was deducted in the month of January 2000 and the Application has been brought four months later.

2

Where an Applicant wishes to lodge an urgent application against Government, he is not obliged to give a written demand. If the Applicant issues a letter of demand to the Attorney-General, unless the Government in writing denies liability, then the Applicant is obliged to wait for ninety days before it can bring any legal proceedings against the Government.

For this reason, coupled with the fact that this Application has been brought approximately four (4)

months from the date when the cause of action arose, the Application must fail with no order as to costs.

NDERI NDUMA

JUDGE PRESIDENT - INDUSTRIAL COURT