IN THE INDUSTRIAL COURT OF SWAZILAND

HELD AT MBABANE **CASE NO. 03/08**

In the matter between:

SICELO DLAMINI **APPLICANT**

And

MINISTRY OF WORKS & TRANSPORT **1ST RESPONDENT**

CIVIL SERVICE COMMISSION **2ND RESPONDENT**

ATTORNEYGENERAL **3RD RESPONDENTNT**

CORAM:

P. R. DUNSEITH	**:**	**PRESIDENT**
JOSIAH YENDE	**:**	**MEMBER**
NICHOLAS MANANA	**:**	**MEMBER**
FOR APPLICANT	**:**	**S MNGOMEZULU**
FOR RESPONDENT	**:**	**S. DLAMINI**

R U L I N G – 11/01/2008

1. The applicant has asked the court to dispense with the normal provisions of the rules of court regarding form, manner of service and time limits and to hear the matter

as one of urgency.

2. The respondent has raised the point in limine that the applicant has failed to set out explicitly sufficient reasons to establish that the matter is urgent and to show that he cannot be afforded substantial redress at a hearing in due course, as required by Rule 15(2) of the Industrial Rules of Court as read with Rule 6(25) of the High Court Rules of Court.

3. The applicant founding affidavit that the papers reveal an unfair labour practice, did that in itself justifies the matter being heard as one of urgency.

4. In the case of **Graham Rudolph v Mananga College (IC Case No. 92/2007)** the Industrial Court pointed out that there is no reason why cases involving alleged unfair labour practices cannot be heard and dealt with in accordance with the normal rules and procedures of the

court, and an applicant that wishes to curtail the normal procedures and time limits must establish that he shall be substantially prejudiced should his matter not be heard as one of urgency.

5. The applicant has not expressly alleged any prejudice in his affidavit before court. Mr. Mngomezulu for the applicant argued that he is being financially disadvantaged by the allegedly unlawful extension of his period of probation and also prejudiced in his continued status as a probationary employee.

6. It has been repeatedly stated by this court that financial prejudice is not a ground of urgency (save in exceptional circumstances which do not apply in the present case)

See: Kenneth Manyathi v Usutu Pulp Co. & another (IC Case 245/2002)
Kenneth Makhanya v NFAS (IC Case 286/2004)

If the applicant is ultimately successful in his claims, the confirmation of his appointment may be backdated, affording him substantial redress in due course.

7. There is no stigma that attaches to probationary status, and there is no prejudice or hardship that the applicant will suffer if he has to wait his turn for his matter to be dealt with by the court according to its normal time limits and procedures.

8. The court is unmoved by Mr. Mngomezulu's argument that the issues are narrow and purely legal and can be speedily disposed of. This is no reason to justify jumping the queue of other litigants who are waiting for their matters to be heard. The court sees a need to discourage litigants from rushing to court and inconveniencing the court and their opponents merely because they feel hard done by. The rules of court must be observed, save in exceptional circumstances. Such

circumstances have not been shown in this case.

9. The application is dismissed with costs.

The members agree.

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PETER R. DUNSEITH
PRESIDENT OF THE INDUSTRIAL COURT