

**IN THE INDUSTRIAL COURT OF SWAZILAND**

**HELD AT MBABANE**

**CASE NO. 290/04**

In the matter between:

**THABISO GOODMAN HLANZE**

**Applicant**

and

**MEDSCHEME ADMINISTRATORS  
(SWAZILAND) PTY LTD**

**Respondent**

**CORAM:**

**P. R. DUNSEITH : PRESIDENT**

**JOSIAH YENDE : MEMBER**

**NICHOLAS MANANA : MEMBER**

**FOR APPLICANT : L. MAGONGO**

**FOR RESPONDENT : N. J. HLOPHE**

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**J U D G E M E N T – 10/06/08**

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1. The Applicant instituted proceedings in September 2004 claiming payment of compensation for unfair dismissal and statutory benefits.
2. The Respondent opposed the application and informally requested further particulars.
3. Instead of replying to the request, the Applicant's representative filed

an amended pleading. He did not comply with the rules of court in amending the pleading.

4. On 17 November 2004 the court dismissed the application. No reasons appear in the court record. Mr. Hlophe, who appears for the Respondent, informs us that the application was dismissed because the Applicant's amendment was irregular and he never furnished the further particulars. However no application to compel furnishing of further particulars or to dismiss the application for irregularity was ever filed.
5. It remains a mystery as to why the court took so drastic a step as dismissing the application. What is clear is that the application was dismissed on technical, procedural grounds. It was never determined on its merits. Indeed the Respondent had not even filed its Reply.
6. The Applicant now applies for an order rescinding the judgement. He has waited for almost 4 years before doing so. No reasons for the delay have been furnished. Moreover no grounds for rescission have been made out in terms of the rules of court or the common law. The application is more in the nature of an appeal, and this court does not consider appeals from its own judgements.
7. This matter is an example of the wasted time and expense that arises when "labour consultants" presume to litigate for clients without acquainting themselves with the rules of court or basic court procedures. The Applicant's dispute has been sidetracked by a series of mis-steps taken by his representative. Prima facie, there is no reason why the Applicant cannot institute a fresh application for determination of his unresolved dispute. The application which was

dismissed, however, is beyond resuscitation.

8. There is a limit beyond which the Applicant cannot escape the consequences of the ineptitude of his chosen representative. The Respondent has been put to the expense of opposing a stillborn application. It should not have to bear this expense.

The application is dismissed with costs.

The members agree.

**PETER R. DUNSEITH**  
**PRESIDENT OF THE INDUSTRIAL COURT**