



IN THE INDUSTRIAL COURT OF ESWATINI

HELD AT MBABANE

Case No. 186/2017 (B)

In the matter between:

SANDISE HLOPHE

Applicant

and

**SHISELWENI INTERSTATE KOMBI
ASSOCIATION**

Respondent

Neutral citation: Sandise Hlophe vs Shiselweni Interstate Kombi
Association [186/2017] [2018] SZIC 73 (13 July
2018)

Coram: Nsibande JP,
(Sitting with N.R. Manana and M.P. Dlamini
Nominated Members of the Court)

Date Heard: 28 June 2018

Date Delivered: 13 July 2018

RULING

- [1] The Applicant seeks an order directing that the matter be referred to arbitration under the auspices of CMAC as provided for by Section 8 (3) and Section 85 (2) of the Industrial Relations Act of 2000 (as amended).
- [2] The support of his application for referral, the Applicant argued that:
- 2.1 The issues for determination are not complex.
 - 2.2 The amount sought is not substantial being a sum of E41 992.16
 - 2.3 The Respondent will not suffer any prejudice if the dispute is referred to arbitration.
- [3] The Respondent argues that:
- 3.1 The issues involved were complex in that by its very nature the determination of unfair dismissal disputes is complex.
 - 3.2 The Applicant has raised the issue of substantive and procedural unfairness thus the matter requires legal analysis.
 - 3.3 There are numerous disputes of facts such as whether the Applicant was retrenched or unfairly dismissed.

[4] Taking into account the fact that CMAC arbitrators are now all experienced legal practitioners and holders of the LLB degree (**see The attitude of the Industrial Court to Labour Arbitration Referrals – Nathi Gumede**) and looking at the issues involved in this dispute (**whether the purported retrenchment was procedural and whether Applicant was entitled to any payment on retrenchment**) I have no doubt that the Respondent will suffer no prejudice if this matter is referred to arbitration.

[5] Further I notice that the claim is inflated by a claim for underpayments. A claim for underpayments is not complicated in my view. In any event the amount of E41 992.16 is not in my view substantial even for the Respondent.

[6] I therefore order that;

1. **The dispute is referred to arbitration under the auspices of CMAC.**
2. **There is no order as to costs.**



S. NSIBANDE

PRESIDENT OF THE INDUSTRIAL COURT

For Applicant: Mr B. Dlamini
(Fakudze Attorneys)

For Respondent: Ms. T. Dlamini
(Dunseith Attorneys)