

SWAZILAND INDUSTRIAL COURT OF APPEAL

Swaziland Television Authority

Appellant

V

Hlope and 31 others

Respondents

Appeal Case No. 9/2002

Coram	Sapire, J P
	Matsebula, J A
	Maphalala, J A
For Appellant	SIBUSISO SHONGWE
For Respondent	MANDLA MKHWANAZI

JUDGMENT

(04/02/2003)

This is the second time this matter has come on appeal,

On the first occasion we upheld a point of law raised by the Appellant¹ and remitted the case to the court a quo to determine whether in the case of each of the respondents the dismissal was fair or unfair in terms of the Employment Act.

¹Judgment of this court in case No 9/02 (09 08 020

2

The President Judge Nduma carefully considered the cases of each of the Respondents and gave a closely reasoned judgment on 28 08 02. He found that they had indeed been unfairly dismissed having regard to the provisions of the governing legislation and re- awarded the amounts originally awarded.

The Appellant has again appealed. The grounds of appeal are nine in number. It cannot properly be said that any of them can be said to raise a question of law. There is not always agreement as to whether a question is one of law or fact. It is only on questions of law that appeals may be made to this court.

Once the court a quo had followed the directive of this court the orders made consequent thereon were largely a matter of discretion. The court has wide discretionary powers. Section 8 (4) provides that in deciding a matter, the court may make any order it deems reasonable which will promote the purpose and objects of the Act. The order made in the court a quo is one, which it has so deemed reasonable. This court will not and may not interfere with the lower court's discretion except in the case of misdirection or if it had exceeded its jurisdiction.

The court a quo may have taken a different view of the seriousness of the respondents' behavior, than that which we may have. That is no reason for interfering with its decision and substituting an order based on our view.

The appeal is dismissed.

SAPIRE, J P

I AGREE

MATSEBULA, J A

I AGREE

MAPHALALA, J A

4

In casu from the facts advanced before me it appears that the 1st Respondent was dilatory in processing the Applicant's claim. This occurred from the time the appeal judgement was issued by the High Court on the 15th April 2003 to date. This conduct is evidenced by the numerous letters from the Applicant to the 1st Respondent which in most cases were not attended to by the latter. The explanation on behalf of the 1st Respondent that the delay was in view of Government's bureaucracy rings hollow when one looks at what has transpired from the date of the appeal judgment. The Applicant had to launch these proceedings to compel the 1st Respondent to act.

In the circumstances of the case I am of the considered view that the Applicant is entitled to costs at this scale.

In the result, the 1st Respondent is directed to pay the costs of this application on the attorney and own client scale.

S.B. MAPHALALA

JUDGE