



THE HIGH COURT OF SWAZILAND

HELD AT MBABANE

Civil Case No. 2108/07

In the matter between

THE MOTOR VEHICLE ACCIDENTS FUND

Applicant

and

BONGANI S. DLAMINI

1st Respondent

MLAMULI SIMELANE & 16 OTHERS

2nd Respondents

THE CONCILIATION MEDIATION AND
ARBITRATION COMMISSION

3rd Respondent

Coram

Banda, CJ

For the applicant For the
respondents

Mr. Musa Sibandze Mr.
Muzi Simelane

RULING

[1] This is an application to hear the matter by way of urgency. The applicant prayed for the following relief:

(1) That the matter be heard by way of urgency and that the court dispenses with the normal rules of court in respect of the forms of service, notice as provided for in the Rules.

(2) That a rule Nisi do issue returnable on Friday 13th July 2007 calling upon the Respondents to show cause why:

(1) the decision of the first respondent dated 15th May 2007 ordering the applicant to deliver to the second respondents the KPMG report on review of salaries and benefits within seven days should not be reviewed, corrected and/or set aside as irregular.

(2) the decision to hand over the said report should not be stayed pending the outcome of the present review application.

[2] The respondents have raised points of law against the application. Respondents have contended that the matter is not urgent and that the applicant's arguments in support of the application cannot be sustained.

[3] Urgent applications are governed by the Rules of this Court and in particular Rule 6. Rule 6(25) (a) & (b) provides in the following terms:

"(a) In urgent applications, the Court or a judge may dispense the forms and service provided for in these rules and may dispose of such matter at such time and place and in such manner and in accordance

with such procedure (which shall as far as practicable be in terms of these rules) as to the Court or judge, as the case may be, seems fit

(b)In every affidavit or petition filed in support of an application under paragraph (a) of this sub-rule, the applicant shall set forth explicitly the circumstances which he avers render the matter urgent and the reasons why he claims that he could not be afforded substantial redress at a hearing in due course."

[4j] The provisions of this Rule are mandatory in effect and they require the applicant to set out in the affidavit or petition clearly the circumstances which make the matter urgent. The applicant is also required to set out clearly in the affidavit or petition the reasons why he claims he could not be afforded substantial redress at the hearing in due course. These reasons must appear *ex facie* on the papers and should not be left to be inferred from the papers brought to court or from what is said from the bar. The applicant's basis for the application in this

matter is that he would not be afforded substantial redress at the hearing because the respondents would already be in possession of the report. The applicant has not set out clearly how the respondent's possession of the report would deny him substantial redress at the hearing.

[5] I am satisfied and I find that the applicant has not fully complied with the provisions of Rule 6(25) paragraphs (a) 8s (b) because the reasons why the matter is urgent has not been explicitly given as required by the Rule. I would, therefore, dismiss the application with costs.


R. J. ICE

Pronounced in open court this 26 day of August 2007