

IN THE INDUSTRIAL COURT OF SWAZILAND

CASE NO. 1/88

In the matter between:

SWAZILAND MANUFACTURING AND ALLIED WORKERS UNION		Applicant
Vs		
COMMISSIONER OF POLICE		Respondent
CORAM	J. A. HASSANALI	President
	S. MOTSA	For Applicant
	N. RWEYEMAMU	For Respondent
MESSRS DEED DLAMINI AND A. M. NKAMBULE		Assessors.

AWARD

Delivered on 10-03-88

Hassanali, President

This is an application by the applicant for an Order directing the Commissioner of Police, the Respondent to issue the applicant Union with a permit to hold a meeting with the Swaziland Settling Co. Union members on 9/1/88 at Salesian High School.

Just before the conclusion of the Inquiry, Mr Motsa tried to introduce document which purported to be a permit issued to the Union on a previous occasion. Mr Rweyemamu objected to this on the ground that Mr Motsa was introducing new evidence.

Sac. 16(1) of the Industrial Relations Act No.4 of 1980 states that the Court shall not be bound by the rules of evidence or procedure which apply in civil proceedings and may disregard any technical irregularity which does not or is not likely to result in a miscarriage of justice.

I have perused this document and I feel that the introduction

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of it would not in any way result in a miscarriage of justice. I thereby overruled the objection. However, this document forms part of the proceedings and is annexed to the applicant's application which fact had been overlooked by the parties.

The Swaziland Manufacturing and Allied Workers Union, the applicant, through its Executive officer Mr Siphon Motsa applied to the Commissioner of Police on 7/12/87 for a permit to hold a meeting of its Union members on 12/12/87, to discuss an Order made by this Court. Since no reply was received from the Commissioner, Mr Motsa on 11/12/87 met one Mr William Dlamini a police officer who informed him that his application had been refused on the ground that he had failed to state the Agenda for the meeting. On 22/12/87 the applicant again applied for a permit to hold another meeting on 2/1/88 at Salesian High School. This too was refused on the ground of Royal Summons.

Mr Motsa representing the applicant's Union argued that it Commissioner of Police for a permit to hold Union meetings though he did just that in the past. He further argued that of the Proclamation 1973, he

said he had no such authority to do so since these provisions only referred to meetings of a political nature.

Clause 12 of the said Proclamation provides that the meetings of a political nature and no processions or xxx demonstrations shall be or take place in any public xxx with the xxx written consent of the Commissioner of Police and consent shall not be given if the Commissioner of Police had reason to believe that such xxx procession or xxx

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stratification, is directly or indirectly related to political movements or other riotous assemblies which may disturb the peace or otherwise disturb the maintenance of law and order.

It seems to me that the provisions contained in the said clause refers only to meetings that are of a political nature and not to meetings organised by trade unions. Therefore it is understood that Trade Unions could hold meetings, which are not of a political nature without first obtaining permission from the Commissioner.

I now turn to Sec.2 of Police and Public Order Act 17 of 1953 (relating to public meetings) which I think is relevant to this matter -

Public meeting is defined to mean public gathering for any purpose in a public place but does not include -

i)

ii)

iii) 2 gathering or assembly of members of a trade union registered under the law relating to trade unions convened and held exclusively for a lawful purpose of that trade union.

iv)

The provision in this Section is so positive in its language that I see no way other than to infer that this had been provided to exempt the meetings of trade unions from the admit of the law contained in Sec.3 of the said Act.

I also refer to Sec 73 of the Industrial Relations Act No.4 of 1988 which reads as follows.

No person hold Government office or acting or purporting to act on behalf of anyone holding such office shall exercise

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any power conferred by or under any law in such a way as to Impede the exercise of rights conferred or recognised by this Act.

By this it could reasonably be inferred that the intention of the Legislature is to prevent any person laying any impediment in the growth of trade unionism in Swaziland.

Taking the above factors into consideration, I venture to state that trade unions can hold their meetings without applying to the Commissioner of Police for permission provided such meetings are not of a political nature.

In view of the above reasons, I find that there is no necessity for me to order the Commissioner of Police to issue a permit to the applicant union.

In the circumstances the application is refused.

J. A. HASSANALI

President.