

IN THE INDUSTRIAL COURT OF SWAZILAND

HELD AT MBABANE

ON THE 7TH APRIL, 1994

BEFORE THE HON.

MR. SAMSON BANDA, PRESIDENT OF THE INDUSTRIAL COURT SITTING WITH TWO MEMBERS.

Case No. 13/93

In the matter between:

MZIKAYIFANI ZEPHANIA ZIKALALA Applicant

And

SWAZILAND GOVERNMENT (W.S.B.) Respondent

BEING: An application by the Applicant for a new hearing date and to proceed by way of an ex parte trial.

WHEREUPON: After hearing Mr. Mazibuko for the Applicant

There being no appearance for the Respondent.

ORDER

On the 21st July, 1993 the Applicant moved an application that this matter be struck off the roll. The Respondent represented by Miss Sikhondze had no objection. The matter was dismissed pursuant to Rule 9 (i) (c) of the Industrial Court Rules.

On the 27th September, 1993 upon application for re-instatement moved by the Applicant, the matter was re-instated to the roll and postponed to the 7th April 1994 for trial. The Respondent was not represented. Today the 7th April 1994 when the matter was called Mr. Magagula who had come to represent the Attorney General on another matter declined to represent the Respondent in this matter on the grounds that he was not instructed. The matter was then stood down to enable the Applicant's representative to get in touch with the Respondent. We have now been advised by Mr. Mazibuko representing

2

the Applicant that he went to the the Attorney General's Offices and saw Miss Sikhondze and asked her to come to Court but that she refused to come: to Court.

It is not for this Court to compel a party to defend its interests before Court in a matter that affects such party. The Applicant has decided to give the Respondent another chance and asked that the matter be postponed for the last time and that if the Respondent does not appear on the new date the matter should proceed ex parte. We feel this is indeed a very fair approach adopted by the Applicant.

This matter is postponed to the 6th May, 1994 at 9.30 hrs for trial. We Order that should the Respondent fail to appear before Court the Applicant will be at liberty to proceed ex parte.

BY ORDER OF THE COURT

Given under my hand and seal of the Court at Mbabane this 7th April, 1994.

S. N. Dlamini REGISTRAR