

IN THE INDUSTRIAL COURT OF SWAZILAND

HELD AT MBABANE CASE NO. 56/96

In the matter between:

SWAZILAND NURSING ASSOCIATION APPLICANT

and

SWAZILAND GOVERNMENT

RESPONDENT

## R U L I N G

The Applicant seeks an order directing the Respondent to recognise it as the exclusive collective employee representative for all Nurses employed by the Respondent.

At the commencement of the proceedings the parties agreed that the issue that required determination by the Court is whether or not there is any merit that since the Respondent has recognised the Swaziland National Association of Civil Servants in law the Applicant is not entitled to recognition because there can be only one organisation operating in an industry.

The brief and agreed history of this matter is that the Applicant applied to the Commissioner of Labour to be registered pursuant to Section 18 of the Industrial Relations Act of 1980 now Section 24 and 25 of the Industrial Relations Act of 1996. On the 29th July, 1994 the Commissioner of Labour issued a Certificate of Registration to the Swaziland Nursing Association. The registration was with effect from the 15th July, 1994.

On the 3rd May, 1996 the Applicant applied to the Respondent for recognition as the exclusive collective employee representative for all nurses employed by Swaziland Government. The Respondent did not reply within 30 days as expected pursuant to Section 43 of the Industrial Relations Act of 1996. On the 4th July, 1996

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the Applicant launched this application in Court seeking an order of recognition from the Respondent.

On the 16th July, 1996 the Respondent replied stating that it could not recognise the Applicant as the Swaziland National Association of Civil Servants was already operating in the Civil Service. In the Respondent's view there could only be one organisation in an industry. This is the point that the parties seek determination as the Applicant's feel that nursing is a distinct and individual sector of economic activity which should have individual representation.

The Respondent says it has difficulty in recognising the Applicant in that although Nurses are in a different industry there is already an Association of Civil Servants recognised by the Respondent and that some members of the Applicant hold Office in the Swaziland National Association of Civil Servants. We are of the considered view that this position has watered down the issue for determination. From the pleadings before Court the Respondent would appear to be saying that the Civil Service is an industry and that in this industry the Swaziland National Association of Civil Servants are the recognised Association. The Respondent the Swaziland Government has engaged employees working for it who are ordinarily referred to as Civil Servants working in the Civil Service as distinct from military service. The Civil Service is not a sector of economic activity as defined in Section 2 of the Industrial Relations Act of 1996. This is a loose grouping of employees working for

government who are engaged in various sectors of economic activity. It is not an industry but covers various industries or sectors of economic activity one of which is Nursing. The reason advanced for refusing to recognise the Applicant by the Respondent does not hold water. Because the Respondent's activities covers various sectors of economic activity it will have to be faced by several Associations representing employees in the various sectors of economic activity. It cannot avoid the situation whether this will be unweildy or not.

We agree with the Applicant that there is nothing legally barring the Respondent from entering into recognition agreement with more than one organisation within the different economic

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sectors of industry. We grant the order sought. We order the Swaziland Government to recognise the Swaziland Nursing Association as the exclusive collective employee representative for all Nurses employed by it concerning all terms and conditions of employment including wages and hours of work.

MARTIN SAMSON BANDA

PRESIDENT - INDUSTRIAL COURT