

IN THE INDUSTRIAL COURT OF SWAZILAND

HELD AT MBABANE

CASE NO. 33/2000

In the matter between:

SWAZILAND MANUFACTURING &

ALLIED WORKERS UNION (SMAWU)

APPLICANT

SHISELWENI FORESTRY CO. LTD

RESPONDENT

CORAM

KENNETH NKAMBULE:

JUDGE

DAN MANGO:

MEMBER

GILBERT NDZINISA:

MEMBER

MR. S. DLAMINI:

FOR APPLICANT

MR. M. SIBANDZE:

FOR RESPONDENT

RULING

4/8/00

Applicant Swaziland Manufacturing and Allied Workers Union (SMAWU) served respondents, Shiselweni Forestry Co. (Ltd) with an application for recognition on behalf of the company's pine sawmill workers on 15th December, 1999.

Applicant states that in line with Section 2 of the Manufacturing and Processing Industry Order 1999, these employees working under pine saw mill section of respondent's undertaking should be regulated by this legislation as opposed to the Forestry and Forestry Industry Order 1994.

Respondent states that the company is an incorporated entity in terms of the Company's Act of Swaziland and is engaged in the Forestry Industry and not in the Manufacturing Industry. Respondent further states that the company recognises Swaziland Agricultural Union as the exclusive bargaining machinery of

- a) Daily rated agricultural and forestry workers
- b) Daily rated sawmill and processing workers, and
- c) Daily rated maintenance and administration workers.

He refers the court to Article 3.2 of the recognition agreement. They therefore state that it would be unworkable both for the respondents and the workforce to have unions for each and every department of workers in the undertaking.

Respondent makes an example that at the workplace there are receptionists, security guards, drivers, cleaners etc. If all these different categories of workers could apply for recognition it would be total chaos and the company business would be stalled.

It is clear from the recognition agreement that sawmill and processing workers are covered as members of the Swaziland Agricultural and Plantations Workers Union. This union was accorded recognition as the

sole collective bargaining agent for all unionisable employees of the company, including employees working under pine saw mill section of the company.

There is no evidence that the Swaziland Agricultural and Plantations Workers Union and respondent has made another agreement excluding the daily-rated sawmill and processing workers from the terms of the recognition agreement.

There is also no evidence stating that the Swaziland Agricultural and Plantations Union is aware of this application. As an interested party this union was supposed to be joined as a party to this application.

For these reasons we find that:

(1) The union representing the interests of employees in this company, the Swaziland Agriculture Plantations and Allied Workers Union (SAPWU), has been recognised by respondent in terms of Section 43 of the Industrial Relations Act 1 of 1996 and as such all unionisable employees in the undertaking are represented by that union and no other union may purport to represent employees in the same undertaking until the amendment of the existing recognition agreement.

(2) Respondents' business is that of growing, harvesting and conversion of plantation trees. These operations are part of an integrated forestry business and more than 80% of the company's employees are directly involved in the planting and harvesting of trees, the company therefore falls under and is governed by the forestry and forest Industry Wages Order and its employees do not fall under the manufacturing industry.

(3) The application is dismissed. No order as to costs. Members concur.

KENNETH NKAMBULE

JUDGE(INDUSTRIAL COURT)