

**IN THE INDUSTRIAL COURT OF SWAZILAND**

**HELD AT MBABANE**

**CASE NO. 260/06**

In the matter between:

**MESHACK DLAMINI & OTHERS**

**APPLICANTS**

And

**MINISTER OF AGRICULTURE & CO-OPERATIVES**

**1<sup>ST</sup> RESPONDENT**

**MINISTER OF PUBLIC SERVICE & INFORMATION**

**2<sup>ND</sup> RESPONDENT**

**CHAIRMAN, CIVIL SERVICE BOARD**

**3<sup>RD</sup> RESPONDENT**

**THE ATTORNEY GENERAL**

**4<sup>TH</sup> RESPONDENT**

**CORAM:**

**NKOSINATHI NKONYANE: JUDGE**

**DAN MANGO: MEMBER**

**GILBERT NDZINISA: MEMBER**

**FOR APPLICANTS**

**W. MKHATSHWA**

**FOR RESPONDENTS**

**N. VILAKATI**

**EX TEMPORE JUDGEMENT 13.11.07**

[1] The applicants in this matter instituted an urgent application for contempt of

court against the respondents.

[2] On the 15 June 2007 the court handed down a ruling in which it ordered the parties to meet within twenty-one days to address the issues that were forming part of the agreement reached between the parties during conciliation at the Conciliation Mediation and Arbitration Commission ("CMAC") and to bring same to finality within seven days of the first meeting.

[3] The matter has since been brought back to court by the applicants by means of a notice of re-instatement. No further papers were filed by the parties. The applicants' attorney made submissions from the bar that the respondents have not fully complied with the court order in that the issues have not been finalized as per the order of the court.

[4] The respondents' attorney also made submissions from the bar and told the court that the respondents have complied with the court order in that they did convene a meeting with the applicants as per the court order and also addressed the issues that form part of the agreement reached at CMAC which was thereafter made an order of this court. She conceded however that not all the issues have been addressed to finality. She submitted therefore that the respondents were not in willful disregard of the court order.

[5] It is difficult for the court to make a definite determination of the matter based on the submissions of the attorneys from the bar. Furthermore, in terms of clause 2.5 of the agreement, the parties,

*"... agreed that the Government will endeavour to address the applicants' prayers with regard to employment status, protective clothing and back pay by the end of December, 2005. "(my emphasis).*

[6] It seems to the court that the burden is on the Government to show or prove to

the court the endeavours that have been to address the issues. That clearly cannot be properly or satisfactorily done orally by submissions of counsel from the bar.

[7] Taking into account all the above-mentioned observations and all the circumstances of the case the court will make the following order:

1. THAT THE RESPONDENTS ARE ORDERED TO FILE AFFIDAVIT(S) OF WHAT THEY HAVE DONE IN THIS MATTER TO COMPLY WITH THE COURT ORDER OF THE 15<sup>th</sup> JUNE 2007 AND TO SERVE THESE DOCUMENTS ON THE APPLICANTS AND TO THE COURT ON OR BEFORE THE 27<sup>th</sup> NOVEMBER 2007.
2. THAT THE MATTER BE PLACED ON THE ROLL ON FRIDAY 30<sup>th</sup> NOVEMBER 2007.
3. NO ORDER AS TO COSTS IS MADE.

The members agree.

**NKOSINATHI NKONYANE**  
**JUDGE - INDUSTRIAL COURT**