



IN THE INDUSTRIAL COURT OF ESWATINI

RULING

Case No. 396/2018

In the matter between:

NHLANHLA MAWELA

Applicant

And

BAYALA TAXI

Respondent

Neutral citation: Nhlanhla Mawela v Bayali Taxi [2020] *SZIC 12* (11 February 2020)

Coram: **S. NSIBANDE J.P.**

(Sitting with N.R. Manana and M.P. Dlamini
Nominated Members of the Court)

Date Heard: 18 July 2019

Date Delivered: 11 February 2020

RULING

[1] The Applicant has applied to the President that the application for the determination of an unresolved dispute between him and the Respondent that is currently pending before the Court be referred to the Conciliation Mediation and Arbitration Commission (CMAC) for arbitration in terms of **Section 85 (2) of the Industrial Relations Act 2000 (as amended)**.

[2] The application is unopposed, the Respondent having failed to appear before Court either in person or by representation despite proper service having been made on its attorneys.

[3] Applicant seeks a referral of the main application to CMAC because he considers that there are no complex questions of fact that may arise from the matter. He also considers that he is prejudiced by the delay caused by the backlog of cases in the Industrial Court in having the matter heard and finalised.

[4] I have considered the pleadings in the main application. Applicant alleges that the Respondent bought a new car and handed it to a new driver, having sold

the car applicant was using. That, according to the Applicant, is how he lost his employment.

[5] The Respondent alleges that Applicant absconded from work (and not for the first time) and was never dismissed.

[6] I have considered the pleadings as well as Applicant's representative's submissions. It seems to me some disputes of fact will arise regarding Applicant's exit from Respondent's employment. I, however consider that these disputes will not be too complex for arbitration, consideration being given to the fact that the quality of arbitration at CMAC has improved (see **Nathi Gumede (4th July 2012) – "The attitude of the Industrial Court on Labour Arbitration Referrals."**).

[7] I consider that the Applicant's claim is minimal (E22070.) and am convinced that the Respondent will not suffer any prejudice if the matter is referred to CMAC for arbitration.

[8] In the circumstances, the matter is referred to CMAC for arbitration.

I make no order as to costs.



S. NSIBANDE

PRESIDENT OF THE INDUSTRIAL COURT

For Applicant: Mr. Velaphi Magagula (Labour Law Consultant)

For Respondent: No appearance