



**IN THE INDUSTRIAL COURT OF ESWATINI**

**RULING**

Case No. 130/2020

In the matter between:

**FRANCE M. DLAMINI**

Applicant

And

**LUJU LWEMASWATI FARMERS ASSOCIATION**

Respondent

**Neutral citation:** France M. Dlamini v Luju Lwemaswati Farmers Association [2020] SZIC 128 (11 November 2020)

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

(Sitting with M.P. Dlamini and E.L.B.Dlamini  
Nominated Members of the Court)

**Date Heard:** 30 July 2020

**Date Delivered:** 11 November 2020

**RULING**

- [1] The applicant was dismissed by the respondent on 19<sup>th</sup> November 2019 for being absent without leave and for dishonesty in that he attempted to write on the attendance register that he was present on days he was not. He was unhappy with his dismissal and therefore reported a dispute at the Conciliation, Mediation and Arbitration Commission (CMAC).
  
- [2] The dispute was not resolved and a certificate of unresolved dispute was issued and the applicant then instituted legal proceedings before this Court for the determination of the unresolved dispute. The respondent opposed the application and filed its reply. The matter currently awaits allocation of trial dates from the Registrar's office.
  
- [3] The applicant has launched the present application wherein he requests that the President orders that the application be referred to arbitration under the auspice of CMAC. The respondent has not filed any papers opposing the application. Regardless, it is still the President's duty to consider whether the matter is one that, and is one that ought to be referred to arbitration.

[4] The applicant's application is premised on two pillars –

4.1 that the amount claimed is substantive and will not cause prejudice to the respondent if the matter is referred to arbitration;

4.2 that the issue of the backlog of cases at the Industrial Court would delay the hearing of the matter whereas the legislature had established CMAC as a mechanism to assist in the speedy resolution of conflicts in labour matters and could assist in having this matter resolved speedily.

[5] I have considered the pleadings in this matter. It appears that there will be some disputes of fact in relation to the allegations of absence as well as the attempt to fiddle with the attendance book. However these disputes are not, in my view, complex. I consider that an arbitrator at CMAC will be in a position to navigate through these issues without too much difficulty.

[6] I also do not consider that there are complex matters of law in the matter.

[7] The amount claimed is not substantial and I consider that there is little, if any prejudice the respondent may suffer by the matter being referred to CMAC for arbitration. In the circumstances I make the following order.

7.1 The application for referral of the unresolved dispute to arbitration under the auspices of CMAC is granted. There is no order as to costs.



S. NSIBANDE

**PRESIDENT OF THE INDUSTRIAL COURT**

**For Applicant:** Mr. S. Dlamini (Selby Dlamini (Labour Law Consultant)

**For Respondent:** No appearance (Richstin Labour Law Consultancy)