

RAILWAYS ASSOCIATION OF ENGINEEMEN (RAE)

Versus

NATIONAL RAILWAYS OF ZIMBABWE

IN THE HIGH COURT OF ZIMBABWE
NDOU J
BULAWAYO 14 SEPTEMBER 2012 & 31 JANUARY 2013

V. Majoko for the applicant
T. Sibanda for the respondent

Judgment

NDOU J: The applicant seeks the registration of the arbitral award granted in their favour against the respondent. The applicant further seeks an order for costs.

The salient facts of the matter are the following. The parties reached a dispute the issues of which were referred to the Railway Employment Council for conciliation and no agreement was reached. The issues were then referred to the arbitrator for resolution who in turn referred the issues to a specialist, Lawrence Gabilo in terms of Article 26 of the Arbitration Act 1996 for expert opinion. The arbitrator found in favour of the applicant and granted the award on 7 November 2011. An application for registration of the award was made to this court. The application is opposed by the respondent who has since appealed to the Labour Court against the arbitral award. The respondent obtained a provisional order at the Labour Court in the following terms:

“Interim relief sought

Pending the determination and/or finalization of the appeal filed with this court under case number LC/MT/147/11 the applicant be granted the following relief:-

1. The operation of the arbitral award preferred against the applicant be and is hereby suspended.
2. The respondent be and are [sic] barred from executing the award in the event of its registration pending the finalization of the appeal against the arbitral award.”
(Emphasis added)

The applicant is aware of this Labour Court award and it has since responded to it. The Labour Court is seized with the matter rendering this application for registration and execution incompetent and devoid of merit. The parties’ issues are now before the Labour Court and that

court should finalise the appeal and the issue of registration of the award will only arise in the event that the applicant is successful in that court.

Accordingly, the application is dismissed with costs.

Majoko & Majoko applicant's legal practitioners
James, Moyo-Majwabu & Nyoni respondent's legal practitioners