

Judgment No. SC 11/11
Civil Application No. 233/09

PHILLIP HLUPENI v UNIFREIGHT (PRIVATE) LIMITED

SUPREME COURT OF ZIMBABWE
HARARE, JANUARY 20, 2010 & MARCH 2011

P Matsundu, for the applicant

Ms M Gwaunza, for the respondent

Before CHIDYAUSIKU CJ, In Chambers

At the hearing of this matter I postponed the matter *sine die* to enable counsel to file Heads of Argument on the legal points raised in this matter. The applicant's counsel filed Heads of Argument but the respondent's counsel has not done so.

Two legal issues are raised on these papers. These are as follows - (i) whether or not this Court has jurisdiction to deal with this application; and (ii) whether or not this Court can quash proceedings commenced by a President of the Labour Court which could not be concluded by reason of the presiding President's death before the conclusion of those proceedings. The Labour Court is a creature of the Labour Act [*Chapter 28:01*] ("the Act"). The Act does not specifically provide for what should happen in the above circumstances. This is an important legal point

that should be determined by the Supreme Court as opposed to a Judge of the Supreme Court in Chambers.

Accordingly I direct that this matter be set down for hearing before a Court of three Judges. I also direct that this matter be set down before the same Court that will hear the matter of *Eric Filon v Public Service Commission and Anor*; see judgment No. SC 8/11.

Wabatagore & Company, applicant's legal practitioners

Gwaunza & Mapota, respondent's legal practitioners