

ZIMTILE PRIVATE LIMITED
v
CHINTENGO & 64 OTHERS

SUPREME COURT OF ZIMBABWE
HARARE JUNE 9, 2014

T Muza, for the applicant

Adv E K Mushore, for the respondents

An Application for leave to appeal in terms of s 92 F (3) of the Labour Act [*Cap 28:01*]

ZIYAMBI JA: This application was brought before me in chambers in terms of Rule 5 of the Supreme Court Rules.

The judgment of the Labour Court, sought to be appealed against, made certain findings of law one of which was, that the applicant had ‘casualised labour’ by requiring the respondents to sign successive fixed term contracts.

The Labour Court also found that a legitimate expectation, allegedly held by the respondents to be hired as permanent employees at the expiration of their contracts, was well

founded and that other persons were hired in the respondents' place to do the same work. These findings raised *inter alia*, the issue whether the transfer by the applicant of some of its permanent employees from another station to perform the work formerly done by the respondents would amount to engaging of other persons instead of the respondents as contemplated by s 12B (3) (b) of the Labour Act [*Cap 28:01*].

Further, the Labour Court upheld an award by the Arbitrator ordering the applicants to be reinstated to their former positions or be paid damages *in lieu*. It was the applicant's contention that a casual or fixed term contract cannot mutate into a contract of permanent employment.

I am of the view that the above are important issues of law which are best determined by a bench of Judges as opposed to a single Judge sitting in chambers.

For this reason the application is granted and an order will issue in terms of the draft order filed of record as amended.

Mawere & Sibanda, applicant's legal practitioners

Mabulala & Dembure, respondents' legal practitioners