

IN THE LABOUR COURT OF ZIMBABWE JUDGMENT NO LC/H/45/2014

**HARARE, 19 JULY 2013, 15 OCTOBER CASE NO LC/H/975/2012
2013 & 31 JANUARY 2014**

In the matter between:-

GREEN NZOU	1st APPLICANT
And	
S KAMBADZO	2ND APPLICANT
And	
T PASIPANO	3RD APPLICANT
And	
A MILECHE	4TH APPLICANT
And	
T KASVINGA	5th APPLICANT

Versus

LACONIC TRADING	RESPONDENT
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Before the Honourable L Kudya : Judge

KUDYA J:

This is an application for interim relief in terms of s 92 E (3) of the Labour Act. The Applicants are seeking to have the Court direct the Respondent employer to pay them the retrenchment package which was awarded in their favour by the Minister on 6 November 2012.

The facts of the case are that on 6 November 2012, the Minister issued retrenchment package order in favour of the Applicants, which order is however silent on the quantum in issue. It only refers to the periods/extents to which each of the employees have to be paid as appears below:

“Terms and conditions of the retrenchment.

Service pay	-	1 month salary per year
Severance pay	-	1 month salary.”

The list goes on.

When the employees sought to have the employer pay the package, the employer went on to note an appeal against the Minister's order. The appeal is still pending in this Court and has not been allocated a hearing date yet. In the employees' view the appeal was noted as a way of frustrating the fulfilment of the retrenchment package. It is in the light of that appeal that the Applicants/Employees have now applied to this Court to compel the Respondent/Employer to pay the package pending the determination of the appeal in question.

The argument advanced by the Applicants is that the appeal which has been noted does not have the effect of suspending the retrenchment order and the Respondent has not even applied to have the same stayed pending the appeal. The Court accepts that the legal position as stated by the Applicants is the correct legal position.

However, where they went faulty was to come to this Court to seek Court to ask the employer to comply with the order pending the appeal. If the facts of the case are anything to go by what is clear is that, there is an order in favour of the Applicants which has not been suspended and which in that case awaits enforcement. Unfortunately the route taken by the applicants is not the correct route to have the order enforced.

The law is clear that once a award is made by the labour bodies, Labour Court, Arbitrator alike, it needs to be registered with the High Court or Magistrate for enforcement purposes. Further to that, it is also important that before such registration is effected, the order should be sounding in money. The Applicants have not used that correct route for relief hence what is before the Court is of no force or effect and cannot be upheld. The Applicants are thus advised to use the correct procedure to have the order in question enforced.

In the result since the application is bad at law, it should accordingly be dismissed and each party is to bear own costs.

IT IS ORDERED THAT:

Application for interim relief being devoid of merit, it be and is hereby dismissed.

Each party to bear own costs.

L KUDYA

JUDGE – LABOUR COURT

Antonio & Associates, Respondent's Legal Practitioners