

ZIMBABWE RURAL DISTRICT COUNCILS WORKERS UNION
versus
MAZOWE RURAL DISTRICT COUNCIL
and
GADAGA N.O

HIGH COURT OF ZIMBABWE
TAKUVA J
HARARE; 25 November and 20 March 2025

**Court Application for Registration of an Arbitral Award In Terms Of Section 98(14) Of
The Labour Act**

T E Mudzuri, for the applicant
M Mavhiringidze, for the 1st respondent

TAKUVA J: This is an application in which applicant seeks the registration of an arbitration award wherein first respondent was ordered to pay USD \$295 200.00 as transport and housing allowances for the period of July 2022 to March 2023, USD\$70434.00 as water allowance for the period July 2022 to March 2024, ZiG \$1771686.00 for the period July 2022 to March 2024 USD \$163779.54 as salaries for the period January to March 2024, USD\$258000 for the period June 2022 to March 2024. Therefore, first respondent is to pay a total of USD\$787413.54 and ZiG 1771686.00.

BACKGROUND FACTS

Applicant referred a labour dispute to a Conciliator for the National Employment Council for Rural District Councils pertaining to non payment of salaries and allowances for the period July 2022 to March 2024. After a certificate of no settlement was issued, the matter was referred to the second respondent who is an independent arbitrator for compulsory arbitration. The parties appeared before the arbitrator who issued an award against the first respondent. The applicant has filed this chamber application for registration of the award. The purpose of registration is clearly enforcement.

APPLICANTS CASE

Applicant contends that since the award sounds in money it is registrable in terms of s 98(14) of the Labour Act. The fact that there exists an appeal or review does not suspend or bar the process of registration. It was also denied that the amount reflected in the award has been paid in full. The suggestion that the process would result in a *brutum fulmen* was challenged by the applicant. On the merits applicant argued that registration is an administrative process to facilitate enforcement of an award. Further, applicant submitted forcefully that as long as the arbitral award has not been suspended or set aside on review or appeal in terms of the Labour Act, there will be no basis upon which a court may decline registration of the same.

FIRST RESPONDENT'S CASE

The argument here was that fundamentally, the award was not registrable because there is an application for stay of execution pending in the Labour Court. Further, it was argued that the amount in the award has since been paid by the first respondent.

The Law and Analysis

It is trite that the role or duty of a court in an application for registration of an arbitral award is to check and ensure that the formalities have been complied with. The requirements were listed and discussed in *Biltrans Services (Pvt) Ltd v The Minister of Public Service, Labour & Ors* CCZ 16/2016 as;

- a) The award must have been granted by a competent arbitrator
- b) The award must sound in money
- c) The award is still extant and has not been set aside on review or appeal
- d) The litigants are the parties to the award
- e) The award must be certified as an award of the arbitrator.

In *Loveld Rhino Trust v Senele Dhlomo Bhala* SC 34/20, it was stated that;

“The noting of an appeal to the Labour Court does not affect the registration of an arbitral award. An arbitral award remains an arbitral award despite registration by the High Court or the Magistrates Court. In terms of s 98(14) of the Act, the application for an interim determination pending appeal does not affect the registration of an arbitral award pending appeal.” (my emphasis).

Also, in terms of s 92 E(2) of the Labour Act, an appeal in terms of the Act does not have the effect of suspending the registration of the arbitral award. Registration is distinct from execution. The Legislature has consciously and deliberately decided that arbitral awards in the

realm of labour relations should be enforced despite any pending appeal and notwithstanding any inconvenience that such enforcement might entail.

In light of the above, any submission that an appeal review or any application for stay of execution suspends the process of registration of an arbitral award lacks merit.

As regards *brutum fulmen*, my view is that it does not come in here. A *brutum fulmen* is a judgment that can not be enforced. In *S v Madzokere & Ors* (B 199 of 2012) (2012) ZWHHC 182 it was held that “such an order will be *brutum fulmen*, that is to say; a harmless thunder bolt of no force or effect. In the unlikely event that such an order was ever to be given, the end result will be highly predictable.”

In *casu*, the concept of *brutum fulmen* is misplaced because the order sought is capable of being enforced.

Finally, I find that the applicant has fulfilled the requirements for the application to be granted. The arbitrator made a ruling on the dispute that was before him. He resolved the issue in favour of the applicant. The applicant was therefore within its rights to seek registration of the award.

However, the record shows that the first respondent approached the Labour Court under LC/H/348/24 and obtained a partial order of stay. What appears from the judgment is that the stay excluded an amount to the June of US\$102700.00, respondent has agreed to be owing. It follows, therefore, that, provisionally, the present application seeks registration of the said amount in terms of the Labour Court judgment.

Accordingly, it is ordered that;

1. The application succeeds
2. The arbitral award in the sum of US\$102700.00 be and is hereby registered as an order of this court
3. The respondent be is hereby ordered to pay the applicant US\$102700.00
4. Respondent pays costs of suit.

TAKUVA J:.....

Lawman Law Chambers, applicants’ legal practitioners
Mavhiringidze and Mashanyare Legal Practitioners, first respondents’ legal practitioners