



REPUBLIC OF SOUTH AFRICA

Not reportable

**THE LABOUR COURT OF SOUTH AFRICA,
IN JOHANNESBURG**

JUDGMENT

Case no: J 1026/13

In the matter between:

**VANCHEM VANADIUM PRODUCTS
(PTY) LTD**

Applicant

and

**NATIONAL UNION OF
METALWORKERS OF SOUTH
AFRICA**

First Respondent

**THE EMPLOYEES WHOSE NAMES
ARE LISTED IN ANNEXURE "A"
ATTACHED TO THE NOTICE OF
MOTION**

**Second to further
Respondents**

Heard: 18 May 2013

Delivered: 18 May 2013

Summary: (Unprotected strike interdict).

EX TEMPORE JUDGMENT

LAGRANGE, J

Background

- [1] The application to interdict unprotected strike action is dismissed in view of the fact that it is common cause that the striking employees have returned to work. On the papers however, it is clear that the strike was unprotected.
- [2] However, on the question of costs, the employer did issue ultimatums and endeavoured to obtain employees' return to work, but employees only did so at the eleventh hour when the application was due to be heard.
- [3] On the papers, I am not satisfied that the first respondent endorsed the actions of its members or that it did not make an effort to resolve the strike.
- [4] Nonetheless, the employee's action made it necessary for the applicant to launch proceedings and incur costs through no fault of its own, and consequently the second to further respondents should bear the wasted costs of the application.

Order

- [5] The matter is dealt with as one of urgency, and the applicant's non-compliance with the time limits in the court rules is condoned. By the time the matter was heard, the requirements of section 68 of the Labour Relations Act 66 of 1995 had been met.
- [6] It is declared that the strike embarked on by the second to further respondents on 16 May 2013 was unprotected in terms of section 68 of the labour relations act 66 of 1995.
- [7] The second to further respondents are jointly and severally liable for the applicants wasted costs of the application, which they must pay, those paying, the others to be absolved.

- [8] The declaration in paragraph [6] shall operate as an interim order pending the return date on 13 June 2013, on which date the respondents called upon to show good cause why the declaration should not be made final.



R LAGRANGE, J
Judge of the Labour Court of South Africa

APPEARANCES

APPLICANT: D L Williams instructed by Cowan Harper
Attorneys

FIRST RESPONDENT: X Ngako of Ruth Edmunds Attorneys