



REPUBLIC OF SOUTH AFRICA

THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

JUDGMENT

Not Reportable

Case No: J391/2012

In the matter between:

KUBEKA AND 3 OTHERS

Applicants

and

L.H. MARTHINUSEN

Respondent

Heard: 18 December 2014

Delivered: 26 January 2015

JUDGMENT

LE ROUX, AJ

- [1] This matter concerns an application to have an arbitration award issued by an arbitrator under case numbers MEGA 29996, MEGA 29658 and MEGA 29494 dated 12 October 2011 made an order of court.
- [2] This matter came before Bhoola J on 5 February 2013. It was postponed *sine die*, pending the outcome of an application to review the award.

- [3] On 18 December 2014, this application and the review application under case number JR 2862/2011 were both argued before me.
- [4] It was agreed by the parties that if the review application succeeded this application would fall away; if it was unsuccessful the application to have the award made an order of court should succeed.
- [5] In a separate judgment, I came to the conclusion that the application to have the award reviewed and set aside should be dismissed.
- [6] I must therefore consider the application to have the award made an order of court.
- [7] In the light of the agreement reached between the parties I do not propose to deal with the matter in any detail. It is clear that the respondent received the award and failed to comply with it. I have read the papers and it is clear that the only basis on which the respondent opposes the award being made an order of court is the fact that it launched review proceedings. Now that the application to review has been dismissed, this basis for refusing to make the award an order of court falls away.
- [8] I can discern no other reason why the award should not be made an order of court.

ORDER

I make the following order:

1. The arbitration award issued on 12 October 2011 under case numbers MEGA 29996. MEGA 29658 and MEGA 29494 is made an order of court.
2. In affidavits submitted to this court on 18 December 2014 three of the applicants, namely Mr V D Khubeka, Mr MW Mazula and Mr JN Ndlovu quantified the salaries they are entitled to if the award is made an order of court. In a notice dated 14 January 2015 the Respondent agreed that the amount set out in these affidavits were correct. It is ordered that these amounts are payable to the three applicants.
3. No order as to costs is made.

Le Roux, AJ

Acting Judge of the Labour Court of South
Africa