PRECIOUS MUKWENGA

and

GRAIN MARKETING BOARD

HIGH COURT OF ZIMBABWE

CHIWESHE JP

HARARE, 7 October 2010

Mr *K*. *Maeresera*, for the applicant

Mr *Machiridza*, for the respondent

CHIWESHE JP: The applicant was employed as a seasonal worker by the respondent. She was engaged on that basis as a creditors clerk from November 2005 to July 2006. The contract was then terminated. She was given her benefits.

She states that she was similarly re-engaged in the same capacity from April 2007 to March 2009. She was then told that her contract had been terminated. During this period she had not been made to sign any contract forms as had always been the case. Aggrieved by this termination of her services she referred the matter to arbitration.

In a default judgment the arbitrator ruled that the respondent reinstates her to her position with full pay and benefits failing which she should be paid terminal benefits in the sum of $7 088.00 through the Ministry of Labour. The payment was to be so made on or before 30 June 2009.

In the present application the applicant seeks to register this arbitral award in terms of s 98 (14) of the Labour Act [*Cap 28:01*]. The applicant has filed opposing papers on the grounds that it has noted an appeal against the decision of the arbitrator which appeal is pending in the Labour Court. Further the respondent has filed with the same court an application for interim relief seeking an order barring execution pending the determination of the appeal. Under these circumstances argues the respondent, registration of the award would be premature.

I agree with the applicant’s submissions that once a certificate is given confirming an arbitral award there is no impediment to its registration as an order of this court in terms of s 98 (14) of the Labour Act. For as long as the arbitral award has not been suspended or set aside on review or appeal in terms of the Labour Act, there is no basis upon which this court may decline registration of the same. Any misgivings that a party may have on the merits of the award or any interlocutory order it may seek must be directed to the court of competent jurisdiction, that is the Labour Court. See *Tuso vs City of Harare* 2004 (1) ZLR at p 3 F, and *Benson Mudzimu vs Dairibord Holdings* HH 204/10, HC 4767/10.

For these reasons the application must succeed. It is accordingly ordered as follows:

1. The arbitration award number 48/09 be and is hereby registered as an order of the High Court.
2. The respondent be and is hereby ordered to reinstate the applicant as a creditors clerk, with full pay and benefits, backdated to 1 April 2007.
3. In the event that reinstatement as order in paragraph 2 above is no longer possible, the respondent is hereby ordered to pay the applicant, through the Ministry of Labour, terminal benefits in the sum of seven thousand and eighty eight dollars twenty cents (US$7 088.20) on or before 30 June 2009.
4. The respondent shall pay the costs of this application.

*Sakutukwa & Partners*, applicant’s legal practitioners

*Messrs Muzangaza, Mandaza & Tomana*, respondent’s legal practitioners