

IN THE LABOUR COURT OF LESOTHO

CASE NO LC 140/96

HELD AT MASERU

IN THE MATTER OF:

CRAYON GARMENTS (PTY) LTD

APPLICANT

AND

LESOTHO CLOTHING AND ALLIED WORKERS UNION

RESPONDENT

JUDGMENT

This is an application in which the applicant is applying for the rescission of the judgment of this court entered on behalf of the respondent on the 5th November 1996. The Originating Application was filed on the 28th January 1996. The respondent having failed to file its answer within fourteen days as it is stipulated in the rules, the applicant union applied for judgment to be entered in its favour by default.

On the 27th February 1997, the respondent filed a notice of motion in which it sought relief in the following terms:

- 1. (a) stay of execution of judgment/award granted against the applicant in default in November 1996;**
- (b) rescission of that judgment/award in LC3/96;**
- (c) reopening the case to enable the applicant to be heard;**
- (d) costs of suit in the event of respondent opposing this application;**

(e) further and/or alternative relief.

2. That prayer 1(a) operate as an interim interdict with immediate effect.

The application was moved on Monday 14th December 1998. The court granted the prayer for stay of execution but declined to rescind its judgment. The reasons for the decision now follow. As it was held in the case of *Lucy Lerata & 26 others .v. Scott Hospital C. of A. (CIV) No.38/5*, the Labour Court is not a court of law. It is a quasi-judicial tribunal exercising judicial functions.

As a tribunal, the Labour Court derives its powers under the statute that establishes it namely the Labour Code Order No.24 of 1992. The powers of the court are listed in Section 24 of the Code. Nowhere under that section is the court empowered to rescind its decisions.

We are supported in this view by the decision of this court in *George Kou .v. Labour Commissioner LC8/94 and LC13/94* in which this court had occasion to refer to the decision of Strydom A.M. as he then was in the case of *F.H. Harrington Steel Erectors (Pty) Ltd. .v. Metal & Allied Workers Union (1989) 10 ILJ 308 at 308-309* where the learned member stated as follows:

“the general principle is that once a court of law has duly pronounced a final judgement or order it has itself no authority to correct, alter or supplement it. The court becomes functus officio and its jurisdiction in the case having been fully and finally exercised, its authority over the matter ceases.”

This decision was taken on review to the High Court where it was confirmed. Mr. Makeka for the applicant had promised to produce a recent decision in South Africa where it was held that the Labour Court can rescind its judgments. He however, never availed that decision. The view that we hold is that even that decision would not move us away from our position that we lack jurisdiction because the decision having been confirmed by our High Court, we can only move away from it if the High Court itself changes it. Accordingly therefore we still hold that this court has no jurisdiction to rescind its decision.

**THUS DONE AT MASERU THIS 17TH DAY OF
DECEMBER, 1998.**

L.A LETHOBANE
PRESIDENT

P. K. LEROTHOLI
MEMBER

I AGREE

K.G LIETA
MEMBER

I AGREE

FOR APPLICANT :
FOR RESPONDENT:

MR MAKEKA
MR BILLY