

**IN THE LABOUR COURT OF LESOTHO**

**LC/ENF/115/2004**

**LAC/APN/04/05**

**HELD AT MASERU**

**IN THE MATTER BETWEEN**

**BOKANG VINCENT LELIMO**

**APPLICANT**

**AND**

**PRESIDENT OF THE LABOUR COURT  
TEACHING SERVICE COMMISSION  
SEMONKONG HIGH SCHOOL  
TEACHING SERVICE DEPARTMENT  
PS – MINISTRY OF EDUCATION  
MINISTER OF EDUCATION  
ATTORNEY GENERAL**

**1<sup>ST</sup> RESPONDENT  
2<sup>ND</sup> RESPONDENT  
3<sup>RD</sup> RESPONDENT  
4<sup>TH</sup> RESPONDENT  
5<sup>TH</sup> RESPONDENT  
6<sup>TH</sup> RESPONDENT  
7<sup>TH</sup> RESPONDENT**

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**REASONS FOR DECLINING TO ENFORCE  
DDPR AWARD IN REFERRAL A0941/03**

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1. On Tuesday 4<sup>th</sup> July 2006, I was served with the Order of the Labour Appeal Court dated 9<sup>th</sup> ultimo under Labour Appeal Court Application No.04/05. The order requested and directed the President of the Labour Court to:

*“furnish his full reasons for declining to enforce the DDPR Award in referral No. A0941/03 in a form of final order or judgment in order that this court may properly be seized with the matter.”*

- 1.1 These are now the reasons.

2. Even though award No. A0941 has been filed in file No. LC/ENF/115/04, the file itself is in respect of enforcement application for award No. A1505/03 dated 24<sup>th</sup> February 2004. In that referral the applicant had referred a case against the Teaching Service Commission and the Teaching Service Department.
3. The application for the enforcement of the order that applicant be paid M12,892-85 was duly made by the applicant on the 29<sup>th</sup> March 2004.
4. The court called on the respondents by letter dated 30<sup>th</sup> March 2004 to appear before the President/Deputy President on Monday 7<sup>th</sup> June 2004 to explain why they failed to comply with the award in referral case No. A1505/03.
5. On the 7<sup>th</sup> June a representative of the Attorney General Mr. Sekati and a representative of the Teaching Service Commission Mr. Xana appeared before Khabo DP. This is what they are recorded on the court file to have given as reason for failure to comply:  

“07/06/04  
*“Messrs Sekati (Law Office) and Xana before court per court’s summons in terms of section 34. They maintain as the Teaching Service Commission they are not able to abide by the award as they are not the paymasters, the latter being the Teaching Service Department. It therefore turns out that this award has enforcement problems.”*  
*F. Khabo 07/06/04”*
6. It has to be recorded that the award specifically ordered “the Teaching Service Commission..... to pay applicant an amount of M12,892-85 as payment for the unlawfully deducted amounts from his salaries as detailed above.”
7. It appears that the order of Khabo DP of the 7<sup>th</sup> June was in a way an endorsement of a letter that the President had written to the applicant on the 16<sup>th</sup> April 2004. The letter was written even before the date that the respondents were called to appear and explain their default, because another colleague of the applicant a Mr. Mokobocho, had already had a similar enforcement application thrown out for want of jurisdiction.
8. The letter specifically mentioned in the last paragraph that its contents constituted “a review as of course and consequent variation and correction of the DDPR awards you seek to enforce.”

9. Even though referral No.0941/03 never came up for enforcement separately it was duly filed in the enforcement file for referral No.A1505/03 on or around the 14<sup>th</sup> April 2004. This is evidenced by DDPR date stamp which shows that the applicant was issued with a certificate of service of the award in the referral No.A0941/03 on the 14<sup>th</sup> April 2003.
- 9.1 In the normal course the applicant would have filed the certificate together with the award being sought to be enforced on the same day or a few days thereafter.
- 9.2 The fact that I wrote the letter in which I pronounced a review of the awards as of course on the 16<sup>th</sup> April and the fact that I refer to “awards” and not an “award” in that letter is a further confirmation that I was aware of both awards and the decision to review and vary them as therein stated refers to both of them i.e. referral Nos. A0941/03 and No. A1505/03.
10. If for some reason there is doubt whether the reasons contained in my letter of 16<sup>th</sup> April 2004 also apply to the award in referral No.0941/03, I can only say that I stand firmly by those reasons and would apply them with equal force to the reinstatement award. The award in that referral therefore stands reviewed as of course by this court in the same way as the award in referral No. A1505/03 for the reasons outlined in my letter of 16<sup>th</sup> April 2004.
- 10.1 I accordingly annex to these reasons the said letter that I wrote to applicant on the 16<sup>th</sup> April 2004 ostensibly in respect of referral No. A1505/03, which however, the concluding paragraph shows that the intention was that it should apply to referral No. A0941/03 as well.

**THUS DONE AT MASERU THIS 4<sup>TH</sup> DAY OF JULY 2006**

**L. A. LETHOBANE**  
**PRESIDENT**