

DANIEL MUTIWADIRWA
versus
RUFARO MARKETING (PVT) LTD

HIGH COURT OF ZIMBABWE
DUBE-BANDA J
HARARE; 27 May 2025

Application for registration of arbitral award

Ms. *L. Nyamudeza* for the applicant
Ms. *R. C. Muchenje* for the respondent

DUBE-BANDA J:

[1] After hearing argument, in an *ex-tempore judgment*, I granted an order couched in the following terms:

1. The application be and is hereby granted.
2. The arbitral award issued by the Honourable Linnet Mvududu on 7 March 2024 be and is hereby registered as an order of this court. The award read as follows:
 - i. “I ordered that, upon termination, the claimant is entitled to unpaid wages and benefits.
 - ii. I ordered that the claimant be paid a total of USD\$5 300.00 as unpaid wages for January 2023 and a total of USD\$14 437.00 as benefits being school fees and housing allowance. Parties may agree on the quantum of one vehicle outstanding to the claimant. If parties fail to agree on the vehicle, parties are free to approach this tribunal for quantification.
 - iii. I further ordered that there is no order to costs, each party will bear its costs.”
3. The arbitral award issued by the Honourable Linnet Mvududu on 5 November 2024 be and is hereby registered as an order of this court. The award read as follows:

“I hereby order that the Claimant be paid a total of USD\$54. 000.00 for the outstanding vehicle within thirty (30) days from receipt of this award.”
4. The respondent to pay the costs of this application.

[2] The respondent has requested written reasons for the above order. These are the reasons. This is an application for registration of arbitral awards in terms of Article 35 of the Arbitration Act [*Chapter 7:15*].

[3] The brief background to this matter is that the applicant was employed by the respondent, first as a Finance Executive, and was later promoted to Chief Executive Officer. In January 2023 the applicant was suspended from employment without pay and benefits. On 12 May 2023 he was found guilty of misconduct and was dismissed from employment. The applicant filed a complaint of unfair labour practice before a labour officer. The parties reached a deadlock at conciliation level, and the matter was referred to voluntary arbitration. On 7 March 2024 the arbitrator made an award (“first award”) couched as follows:

- i. “I ordered that, upon termination, the claimant is entitled to unpaid wages and benefits.
- ii. I ordered that the claimant be paid a total of USD\$5 300.00 as unpaid wages for January 2023 and a total of USD\$14 437.00 as benefits being school fees and housing allowance. Parties may agree on the quantum of one vehicle outstanding to the claimant. If parties fail to agree on the vehicle, parties are free to approach this tribunal for quantification.
- iii. I further ordered that there is no order to costs, each party will bear its costs.”

[4] The parties failed to agree on the quantum of one vehicle referred to in the first award. As provided in the award, the parties approached the arbitrator for the purposes of quantification. On 5 November 2024 the arbitrator gave an award (“the second award”) couched as follows:

“I hereby order that the claimant be paid a total of USD\$54. 000.00 for the outstanding vehicle within thirty (30) days from receipt of this award.”

[5] These are the two i.e., the first and the second awards that the applicant sought to be registered as stated above.

[6] In its opposing affidavit the respondent contended that this application must be held in abeyance pending an appeal which had been filed against the second award. Indeed, the respondent had filed an appeal - case number LCH 51/25- with the Labour Court. In its heads of argument, the respondent persisted with the contention that this matter be held in abeyance pending the finalization of the appeal pending before the Labour Court. In addition, it was argued that the awards sought to be registered are employment matters,

and thus this court has no jurisdiction to entertain such matters, and that the awards are contrary to the public policy of Zimbabwe and ought not be registered.

[7] At the commencement of the hearing, the parties informed the court that the Labour Court had dismissed the appeal in LCH 51/25. Therefore, the argument that this application must be stayed pending the finalisation of the appeal fell by the wayside, it became redundant as such no further reference shall be made to it. The argument that the awards are contrary to the public policy and ought not be registered was just opportunistic. I say so because Article 34(2)(b)(ii) of the Model Law, First Schedule to the Arbitration Act [*Chapter 7:15*] states that an arbitral award may be set aside by the High Court only if the award is in conflict with the public policy of Zimbabwe. This means that the contention that an award is contrary to the public policy is only a sword to seek the setting aside of an arbitral award, it is not a shield against the registration of an award. It is for these reasons that the argument premised on public policy is inconsequential. It is of no moment.

[8] Ms. *Muchenje*, counsel for the respondent persisted with the submission that this court has no jurisdiction to entertain this matter on the premise that it arises from an employment dispute. The High Court has jurisdiction in the first instance to adjudicate a matter concerning the registration of an award arising from an employment dispute. The purpose of registering an award with this court is merely to facilitate enforcement, through the office of the Sheriff. This court is not determining an employment matter; it is merely registering an order for purposes of enforcement. In fact, s 98 (14) and (15) of the Labour Act [*Chapter 28:01*] provides an answer to this issue, it states thus:

- “(14) Any party to whom an arbitral award relates may submit for registration the copy of it furnished to him in terms of subsection (13) to the court of any magistrate which would have had jurisdiction to make an order corresponding to the award had the matter been determined by it, or, if the arbitral award exceeds the jurisdiction of any magistrates court, the High Court.
- (15) Where arbitral award has been registered in terms of subsection (14) it shall have the effect, for purposes of enforcement, of a civil judgment of the appropriate court.”

[9] This court is the High Court referred to in s 98(14). Section 98(15) is clear that the registration is for the purposes of enforcement. Therefore, by legislative decree, this court has jurisdiction to adjudicate a matter seeking the registration of an arbitral award arising from an employment dispute. In registering an award, it will not be adjudicating an employment matter. In the face of a specific empowering provision, giving this court

jurisdiction, to argue that it does not have jurisdiction is ill-conceived. It is for these reasons that I granted the order stated above.

DUBE – BANDA J:

Rujuwa Attorneys, applicant's legal practitioners

Mbidzo Muchadehama & Makoni, respondent's legal practitioners