

# **IN THE LABOUR COURT OF SOUTH AFRICA**

## **HELD AT JOHANNESBURG**

**Case number: JR1551/2006**

**In the matter between:**

**SHORTRIDGE, VINCENT**

**Applicant**

**and**

**METAL AND ENGINEERING INDUSTRIES**

**BARGAINING COUNCIL**

**First Respondent**

**GEVISON, A N.O**

**Second Respondent**

**JETMASTER (PTY) LTD**

**Third Respondent**

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## **JUDGEMENT**

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**NGALWANA AJ**

[1] This is an application for the review and setting aside of a settlement agreement concluded, on the face of it, between the third respondent, on the one hand, and the applicant and two others, on the other.

[2] The applicant avers that the settlement agreement had been negotiated and signed (ostensibly on his behalf and two others) by the National Union of Metalworkers of South Africa but that he never gave

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the union any authority to do so on his behalf. He now seeks to have that settlement agreement set aside and invokes section 145 of the Labour Relations Act, 66 of 1995 (“the Act”) to achieve that result.

[3] The matter has a long and somewhat convoluted history spanning some two or so years and punctuated by a default order of this court, a rescission of that order, a rescission of such rescission order and an application for condonation for late filing of this application. It is not necessary to traverse the detail of these various jousts between the parties for purposes of this judgment.

[4] One of the grounds upon which the third respondent opposes this application is that it has been improperly brought under section 145 of the Act. That section deals with the review of arbitration awards and not the rescission of settlement agreements that have not been made arbitration awards. There is no evidence that the agreement here in issue was made an arbitration award under section 142A of the Act, which would then make it susceptible to review under section 145. Thus, even if this court were to grant condonation for the late filing of this application (which is more than two years late) the applicant still has the problem of having come to this court under the wrong provision. No grounds for review have been alleged or satisfied.

[5] Counsel for the third respondent has suggested in argument that the applicant’s recourse lies against the National Union of Metalworkers of South Africa who purported to conclude an agreement on his behalf without his knowledge or authority. There is merit in that submission.

[6] The other difficulty with which the applicant is confronted is that the settlement agreement was concluded by the union on behalf of two other persons whom he has not joined as parties to this application. It may well be that either one or both of them do not wish to have the settlement agreement set aside. It is impossible to ascertain that detail without hearing from them both on the papers in this application.

[7] While mindful that the applicant is a lay and unsophisticated person (as he himself was at pains to point out) who is not accustomed to the ways of court proceedings, he has not disputed the third respondent’s counsel’s submission that he has throughout the long genesis of this matter been assisted by the National Union of Metalworkers of South Africa and another union called the National Canvass Union of South Africa. There is thus not much scope for an argument that the prosecution

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of this case has been marred by an “inequality of arms”. Even though the court feels a measure of sympathy for the applicant’s predicament, the problems with which this application is beset are simply too many and substantial to condone.

[8] In the result, the application for the review and setting aside of the settlement agreement under section 145 of the Act cannot succeed.

[9] I make no order as to costs.

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Ngalwana AJ

*For the applicant:*                      *Mr V Shortridge (in person)*

*For the 3<sup>rd</sup> respondent:* *Mr B Bleazard*  
*Instructed by:*                      *Brian Bleazard Attorneys*

*Date of hearing:*                      *13 June 2007*

*Date of judgment:*                      *15 June 2007*