

IN THE LABOUR COURT OF SOUTH AFRICA
(WESTERN CAPE HIGH COURT, CAPE TOWN)

CASE NO: C588/2009

DATE: 13 August 2009

5 In the matter between:

GOLDEN ARROW BUS SERVICES Applicant

and

SATAWU Respondent

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JUDGMENT

PILLAY D, J

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This is an application to confirm the Rule Nisi granted the day before yesterday interdicting an unprocedural strike. The strike is by bus drivers who are employees of the Golden Arrow Bus Services (Pty) Limited. It affects transport in the Western Cape on a significant scale.

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In May 2008 the employees had embarked on an unprocedural strike; they were interdicted. In July 2009 they again embarked on an unprocedural strike, which resulted in the strike being resolved with the parties concluding an agreement

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on 31 July 2009. Hardly a month goes by and the employees are on strike again. They do not oppose the granting of the interdict, save that the Union resists any order for costs against it.

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Mr Abrahamse, the Union official, gave evidence in order to verify the Union's stance that it did not support the strike and that it had distanced itself from the strike. Having heard his evidence the Court is not convinced that the Union or Mr
10 Abrahamse had done enough firstly, to inform the applicant or its representatives that it distanced itself from the strike. Secondly, it did not do enough to persuade its members to desist from striking, or to inform them of the consequence of persisting with the strike. Thirdly, Mr Abrahamse exercised
15 poor judgment in electing to attend a meeting of the Provincial Development Council instead of attending to the strike. He made no attempt to extricate himself from either the meeting of the Provincial Development Council or of the V and A Waterfront meeting.

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In so conducting itself the Union insidiously supported the illicit conduct of its members.

However, to impose a cost order on the Union will damage the
25 Union as an organisation even further. From Mr Abrahamse

evidence it is clear that the Union has human capacity problems. There may be other problems also arising from this incapacity which impact on the Union's ability to make appropriate interventions, to be firm with its members, to be
5 circumspect about the choices it makes and to take responsibility for the actions and decisions of its members. It clearly lacks the capacity, strength and foresight in guiding its members in pursuing their grievances.

10 There is no doubt that the individual workers on strike must bear the costs of this application. They must be aware that their illegal conduct comes with a price. For the time being that price is a proportional share of the costs incurred in this application. If they persist in their illegal conduct that price
15 increases as the prospect of them being cited for contempt becomes a reality. Another reality that is also within sight is a possibility of their dismissal if the strike continues.

Having said that the applicant employer needs to be aware that
20 strikes do not happen for no reason. Even though the demand of the workers is illegal, a prudent employer would look to the causes of the discontent with a view to resolving them finally. These sporadic skirmishes are not good for the company, for the workers or for the economy of this region. It is also not
25 good for other workers who rely on this transport to deliver

services to poor people.

So I urge the parties to seriously apply themselves towards resolving this dispute properly and finally in the next few days,
5 so that this Court does not have to hear these disputes year after year, week after week.

The order I grant is the following;

10 The rule is confirmed, the individual employees to pay the cost of the application.

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PILLAY D, J

For the Applicant: Mr B Conradie from Edward Nathan
Sonnenbergs

For the Respdents: Mr E Abrahmse Union Official