



NATIONAL UNION OF METALWORKERS OF SOUTH AFRICA

153 Lilian Ngoyi Street (Cnr. Gerald Sekoto)
Newtown
Johannesburg
2001

P. O. Box 260483
EXCOM 2023
Tel: (011) 689 - 1700
Fax: (011) 834 - 4320

IrvinJ@numsa.org.za
gracemm@numsa.org.za

Office of the General Secretary

27 June 2023

TO : VUYO LUFELE

Dear Mr. Lufele

ARBITRATION AWARD CASE NUMBER WECT 18973/22

1. We refer to the above matter.
2. In relation to your disciplinary process it has become important to put the record straight especially in light of leaking to media houses such as Ground-up your disingenuous choreographed solicited award, knowing fully well that all your referrals, including the referral of your alleged unfair labour practice dispute relating to your alleged unfair suspension were consolidated into one referral into one case which was signed by you duly authorized representative Solly Montshioa on the 16th of March 2023.

Having made this commitment you went behind NUMSA's back to re-enroll the same alleged unfair labour practice dispute in relation to your suspension. Such an act and conduct was completely disingenuous and dishonest as there was absolutely no way that NUMSA could have attended to your back door referral given your black and white signed agreement with NUMSA that all your referrals with Mziyanda Twani were consolidated into one.

3. We note that in the leaking of your default award you are making an insinuation in the media that your suspension and disciplinary process have been prolonged without the union effecting disciplinary processes when in essence the union has been scheduling your disciplinary processes. To run away from facing your charges you adopted a very malicious dishonest process where you argued that the union cannot subject you to a disciplinary process because you are a whistle blower against corruption taking place in NUMSA, alleging that you fall under the protected disclosure. You are not telling Ground-up that in the arbitration process that dealt with your so-called protected disclosure the arbitrator by the name of Karen Charles dismissed your claim of your protected disclosure and that what is left now is for NUMSA to schedule your disciplinary process in line with its disciplinary code and that your attempt to hide behind a claim and lie of protected disclosure was dismissed and the arbitrator held that "*The CCMA has no jurisdiction to hear this dispute*". What is left is for you to face your charges in the normal NUMSA disciplinary process.
4. The purpose of this communication is not to address the merits of the arbitration award, so obtained by yourself in the absence of NUMSA as your employer, but simply to highlight the irregular, and mala fide, manner in which you obtained the award and the actions which NUMSA intends to take by consequence thereof.
5. I have already confirmed that you were party to a pre-arbitration agreement concluded under case number ECPE 4382/22, on the 16th of March 2023 in terms of which it was agreed that the status of the unfair labour practice dispute, referred under case number WECT 18973/22, would be determined at the commencement of the arbitration. This is contained in paragraph 1.8 of the pre-arbitration agreement which was duly signed on your behalf by your representative Solly Montshioa, you are in possession of this signed agreement that consolidated your cases which states that "*Parties agree that the status of Mr Lufele's unfair labour practice dispute relating to his suspension, referred under case number WECT18973/22, will be determined at the date that the arbitration is to commence.*" To be blunt to sign such a commitment at the CCMA in Johannesburg and then you go to Cape Town and re-enroll the referral, misleading a Commissioner is contradicting this agreement is most shocking and frighteningly dishonest, one wonders why you think such conduct will win the day.

6. We further confirm that you were copied in numerous email correspondence between our legal representative and the CCMA in which it was confirmed that your unfair labour practice dispute was consolidated with the dispute so referred under case number ECPE 4382/22, which you did not dispute.
7. In light of the aforementioned we submit that by continuing with the arbitration, which was in breach of the agreement so concluded between the parties and having had knowledge of the correspondence exchange between our legal representative and the CCMA, your conduct was nothing other than vexatious and mala fide.
8. We accordingly herewith demand that you consent to a rescission of the arbitration award and that the matter is to be enrolled, with notice to NUMSA, for the parties to present such facts necessary to dispose of your dispute.
9. Should you fail to provide us with your consent to the rescission of the arbitration award, by close of business Friday 30 June 2023, we shall in the application for rescission seek an appropriate order as to costs against yourself.
10. In light of the above take note that you are not to report for duty on 3 July 2023 and that you remain suspended pending the determination of the rescission application which shall be brought within the time periods allowed for in terms of the CCMA rules.

Yours faithfully,



Irvin Jim
NUMSA General Secretary