

PRESS RELEASE: IMMEDIATE

The Southern African Clothing & Textile Workers Union (SACTWU) has won an important dispute regarding the underpayment of wages at Castellano Beltrame, a textile factory in East London.

For many years, the parties have been negotiating under the auspices of the textile bargaining council. The actual wage rates paid at Castellano Beltrame were higher than the minimum rates prescribed in the council agreement. However, the final percentage wage increase agreed to at bargaining council level was always applied on the higher actual rates of Castellano workers.

In 2003, the company unilaterally decided to base wage its increases at on the bargaining council lower prescribed rates. The company was insistent that they had a right to do so, and claimed that this was allowed in terms of the provisions of bargaining council agreements. The union disagreed, declared a dispute, and referred the matter to arbitration, under the auspices of the Commission for Conciliation, mediation and arbitration.

The matter was heard in arbitration on 1 March 2005, and the union received a ruling last week. Commissioner Floors Brand acted as arbitrator, and ruled that the company had acted incorrectly. In particular, he ruled that the bargaining council agreement explicitly stated that nothing in this agreement shall be interpreted to mean a downward variation in any condition of employment... This meant, ruled the arbitrator, that the agreements specifically envisaged the possibility that there might be conditions at plant level which are more favourable and made it clear that such conditions should not be affected by the provisions of the agreements.

Commissioner Brandt therefore finally ruled that The decision of Castelanno Beltrame management to change the method of calculating the annual wage increases of its employees was not allowed by the provisions of the wage agreements between the parties; The company must rectify the position of the employees retrospectively to 1 July 2003 by re-calculating their annual wage increases based on the prescribed percentages for each year and the actual rates of pay;

The company must make these corrections and pay the employees their back-pay within 45 days from the date that the have received the award. While the final calculations must still be done to determine the exact amount of back-pay due to workers, it is expected that the total payout will amount to tens of thousands of rands. SACTWU is an affiliate of COSATU, and was represented by its local trade union official, Melville Marais. The company was represented by it attorney, Mr Craig Kirchman of Kirchmann Incorporated.

The ruling sets important precedent in that it dismisses the notion that an employer can on its own decide to change the method of calculating wage increases. Specifically, the ruling states in this regard that the respondent decided to change the method of calculatig the employees' annual wage increases without their or their union consent, which was not allowed by the provisions of the substantive agreements...