

Registrar of Labour Relations' New Court Appeal

By Simunye Workers Forum

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The SWF and CWAO note that the Registrar of Labour Relations has decided to waste tens, maybe hundreds of thousands of rands of public money in appealing the Labour Court decision that ordered him to register the SWF as a trade union by 12 July 2023. (See attached court documents).

In June 2022, the Registrar rejected the SWF's application to register as a union on the grounds that SWF consciously resolved not to have positions such as general secretary, president, and deputy president. Instead, it has a Standing Committee which takes minutes of all meetings, keeps an attendance register, and controls the collection and spending of membership fees. Each meeting elects a different chairperson and a secretary, at least one of whom is a woman. This ensures that everyone gets a chance to develop skills in meeting procedures and prevents domination by any particular workplace or grouping.

In a case brought by SWF at the Labour Court in June 2023, the SWF successfully argued that it was a genuine trade union and should be registered. In ruling in favour of the SWF and awarding costs against the Registrar, Judge Andre van Niekerk said:

“The emergence of trade unions that eschew traditional structures is inevitable. Since the LRA was brought into operation in 1995, the labour market has changed radically. Workforces, once homogenous, have fragmented and segmented into core and marginal groups where new, less secure forms of work have emerged. New forms of worker organisations will inevitably emerge to meet these challenges and better serve the interests of the more vulnerable.”

Ever since the Labour Court ruled in favour of the SWF, literally hundreds of casualised workers have been sending in membership forms to join the SWF. This is because there is no other union willing to represent these workers. Without a union, casualised workers are excluded from having skilled and experienced representatives (even trained fellow workers) represent them in bargaining for wage increases or negotiating health and safety improvements at work or represent them in the CCMA and Bargaining Council. These fora all repeatedly tell casualised workers that they can only be represented by a registered trade union.

The Registrar still insists that he will only register trade unions that have office bearers that are elected for long terms of office. This despite the rampant corruption that has taken place in so many unions as a result of national office bearers taking control of union bank accounts, some of which had built up hundreds of millions of rands in reserves since they formed in the late 1980s. We also note that Judge van Niekerk said in his ruling:

“The Registrar is not the gatekeeper for traditional forms of trade union organisations, nor is it his function to question the wisdom of the SWF’s choices.”

The CWAO said it was not surprised by the Registrar’s appeal. “The DEL has for years been nothing but a sidekick of the bosses’ class. It is not so much defending traditional forms of worker organisation as it is defending a cosy arrangement between sellout trade unions and bosses who use these trade unions to exert more control over and extract more profit from workers. Militant, fighting worker formations, regardless of their form, threaten this arrangement”, said CWAO.

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This press statement was released by Simunye Workers Organisation on 16 July 2023.