

UHLOLOJIKHELELE LOMTHETHO OBIZWA NGE LABOUR RELATIONS AMENDMENT ACT 8 OF 2018



ISINGENISO NENHLOSO

Izinguquko ezenzeka kwi Labour Relations Act zihlanganisa izinhlizeko:

- Zokwelula inqubo yokubuyisana kanye nokuxazululwa kwezingxabano phakathi kwamaqembu ngaphambi kokuthi isiteleka siqale;
- Ezinqabela ukuqoqana kwabasebenzi abasesitelekeni ngaphandle kwendawo kamqashi, ngaphandle uma kunemithetho elawula okufanele kwenzeke uma abasebenzi beqoqene (inqubo);
- Ezidinga izinyunyana zabasebenzi kanye nezinhlangano zabaqashi ezibhalisiwe ngokomthetho ukuba zihlinzeke kwimithetho-sisekelo yazo ukuthi amalungu azo avote ngasese ngaphambi kokuthi isiteleka siqale; futhi
- Ezihlinzeka ukuthi i CCMA isungule ithimba elilulekayo labalamuli, ukuthi lizame ukuxazulula isiteleka lapho okwenze njalo kuthathwa njengenzuzo emphakathini.

Zonke lezi zinyathelo zakhelwe ukukhuthaza:

- Indlela enokuthula yokuteleka noma yokukhiyelwa kwabasebenzi ngaphandle, kungekho ukusatshiswa noma udlame;
- Ukuzibandakanya okuphezulu kwabasebenzi nabakhulumeli babasebenzi ezingxoxweni;
- Ukuthathwa kwezinyathelo ngenhloso yokugwema nokuvimbela ukuthi isiteleka siqhubekile isikhathi eside noma sihambisane nodlame.

UKUXAZULULWA KWAMACALA NGOKUBUYISANA (SECTION 135 (2A))

Amaqembu asenalo ilungelo lokuvumelana ukuthi kwaniswe isikhathi esiyizinsuku ezingu 30 okukanye ezingamashumi amathathu esibekwe uMthetho kuxazululwa ingxabano kwisigaba sokubuyisana. Uma singekho lesi sivumelwano, inguquko kwisigaba 135 soMthetho iyamvumela ukhomishana noma iqembu eliyinxenye kulesi sigaba ukuthi afake noma lifake isicelo esibhekiswe kuMqondisi womnyango we CCMA sokwandisa izinsuku, kepha lezi zinsuku zingadluli kumalunga aysihlanu phecelezi 5, ukuqinisekisa ukuthi inqubo yokubuyisana inenjongo okukanye inenhloso.

Umqondisi angakwazi ukuthi asandise isikhathi uma anelisekile ukuthi isidingo sokwandisa isikhathi kungokuqinisekisa ukuthi inqubo yokubuyisana inenjongo; noma inhlalo kokwenqaba kweqembu ukuvuma ukuthi isikhathi sandiswe; futhi kunamathuba amahle okufinyelela esivumelwaneni.

Umqondisi we CCMA akayikhiphi imvume yokuthi kwaniswe isikhathi lapho uMbuso ungumqashi.

UKUQOQANA KWABASEBENZI ABASESITELEKENI NGAPHANDLE KWENDAWO KAMQASHI

Inhlalo yezinguquko kwisigaba soMthetho esingunombolo 69 ukuvimbela ukuqoqana kwabasebenzi abasesitelekeni ngaphandle kwendawo kamqashi, ngaphandle uma kunemithetho ebekiwe yokulawula inqubo ngesikhathi beqoqene. Ngokufanelekile, izinguquko zihlinzeka ukuthi, ukhomishana noma umxhumanisi oqokwe umkhandlu wokuxoxisana eyaziwa nge (bargaining council) kudingeka anqume imithetho elawula inqubo ekumele ilandelwe ngesikhathi sokuqoqana kwabasebenzi abasesitelekeni, lapho ingxabano ingase iholele kwisiteleka futhi singekho isivumelwano phakathi kwamaqembu noma isivumelwano sokuhlanganyela esilawula inqubo ekumele ilandelwe ngesikhathi sokuqoqana kwabasebenzi, noma ukhomishana ehlulekile ukuthola lesi sivumelwano ngaphambi kokuthi kuphele isikhathi esibekiwe uMthetho sokuxazulula amacala ngokubuyisana okuyizinsuku ezingu 30 noma ezingamashumi amathathu ngaphandle uma inwetshiwe ngenye indlela.

Ukhomishana ekunqumeni imithetho elawula ukuqoqana kwabasebenzi kufanele acabange izethulo ezenziwe amaqembu aze emhlanganweni oyisigaba sokubuyisana noma ezenziwe umuntu ongesiye umqashi kodwa lowo muntu elawula izakhiwo lapho ukuqoqana kwabasebenzi abasesitelekeni esaziwa nge (picket) kuhloswe ukuba kwenzeke khona. Ukhomishana ekunqumeni imithetho kufanele futhi acabange isithasiselo esiyisigaba "B" sekhodi ebizwa nge Code of Good Practice: Collective Bargaining, Industrial Action and Picketing, enikeza imihlahlandlela ngemithetho ezenzakalelayo elawula ukuqoqana kwabasebenzi abasesitelekeni eyaziwa nge (default picketing rules).

Izinhlizeko zesikhathana zisebenza ekuhlizweni kwevoti eliqoshiwe neliyimfihlo kumthethosisekelo wenhlangano ebhaliswe yabasebenzi kanye nenhlangano yabaqashi.

AMAVOTI AYIMFIHLO

Ngokwethulwa kwesigaba 95(9) soMthetho ivoti manje selichazwa ngokuthi lihlalanga "noma yiluphi uhlobo lokuvota lwamalungu oluqophiwe futhi oluyimfihlo. UMthetho obizwa nge LRA uhlinzeka ukuthi kudingeka izinyunyana zabasebenzi kanye nezinhlangano zabaqashi ezifuna ukubhaliswa zibe, nesandulela kumthetho-sisekelo wazo esihlinzeka ukuthi kudingeka amalungu avote ngaphambi kokuba angene esitelekeni.

UMthetho weLRA awudingi ukuqhutshwa kokuvota njengemfuneko phambi kokuthi amalungu angene esitelekeni noma avelwe ngaphandle. Isigaba 67(7) soMthetho weLRA sikubeka ngokusobala ukuthi akukho cala elingafakwa elithinta isimo esivikelekile sesiteleka ngenxa yokwehluleka ukwenza inqubo yokuvota.

UKUSUNGULWA KWETHIMBA LABALULEKI ABALAMULAYO

Ukwethula koMthetho oyizigaba ka150A kuya kwi 150E kuhlose ukubhekelela ukuxazulula iziteleka ezingalawuleki, ezihambisana nodlame noma ezingase zibange izimo ezibucayi endaweni noma kuzwelonke.

Izinguquko zihlinzeka ukusungulwa kwethimba labaluleki abalamulayo ukuze liphenye imbanga nesimo sesiteleka noma ukuvalwa kwabasebenzi abasesitelekeni ngaphandle kwendawo kamqashi, futhi likhiphe isinqumo esilulekayo phecelezi (advisory award) lokhu kusiza izinhlangothi ukuxazulula ingxabano.

UMqondisi we CCMA angasungula ithimba labaluleki abalamulayo ngokuthanda kwakhe, uma ethola isicelo esivela kuhlangothi noma ngokwesivumelwano phakathi kwamaqembu, futhi uma ethola umyalelo ovela ku Ngqongqoshe Womnyango Wezokuqashwa kanye neZabasebenzi noma kwiNkantolo Yabasebenzi ukuthi enze njalo, kepha kuphela uma uMqondisi enezizathu ezizwakalayo zokukholelwa ukuthi noma yisiphi isimo kulezi zimo ezilandelayo sikhona.

- Isiteleka noma ukuvalwa kwabasebenzi ngaphandle kwendawo kamqashi akusasebenzi kwizingxoxo zokuhlanganyela ngoba siqhubekile noma kuqhubekile abasebenzi bavalelwa ngaphandle kwendawo kamqashi isikhathi eside futhi asikho isixazululo sengxabano okubonakala sengathi siseduze.
- Kukhona ukwesabisa noma ukusongela okuseduze kokuthi amalungelo oMthethosisekelo angase ephulwe noma aphulwe ngabantu ababamba iqhaza esitelekeni noma abasekela isiteleka okanye ukuvalwa kwabasebenzi abatelekile ngaphandle kwendawo kamqashi, besebenzisa udlame noma ukusatshiswa ukusongela noma ukucekela phansi kwempahla
- Isiteleka noma ukuvalwa kwabasebenzi ngaphandle kubangela thuba eliseduze lokubangela noma lenze kube kubi kakhulu, izimo ezibucayi ezweni noma endaweni, ukwenzela ukusebenza okuvamile okuthuthukisa inhlalakahle nomnotho womphakathi.

Isinqumo esilulekayo sibophezela kuphela uma uhlangothi lwamukele noma luthathwa ngokuthi lwamukele isinqumo esilulekayo phecelezi (advisory award).

OKUNYE (ISIFINYEZO)

Izinguquko zenziwe kwisigaba 32 soMthetho we LRA esiphathelene nezimfuneko ekwandiseni izivumelwano zokuhlanganyela ezaziwa nge (collective agreements) zilawule kwizinhlangothi ezingawona amaqembu emkhandlini wezingxoxo, kanye nokufakwa kwesigaba 32A "sokuvuselela nokwelulwa kwesivumelwano soxhaso lwezimali".

IMITHETHO EFANELE

- Labour Relations Act Amendment Act 8 of 2018