

# Victory for SATS Workers

## Dispute is over

The South African Transport Services (SATS) dispute ended dramatically on the 5 June 1987 with management agreeing to meet most of the demands raised by more than 18000 workers after they were dismissed on the 22 April 1987. The out of court settlement is as follows:

1. All workers who were dismissed as a result of the strike will be re-employed on or before the 15 June 1987.
2. Workers will not lose any benefits as a result of the strike and will return to work with full retention of all pensions, medical benefits and travelling, length of service as well as disciplinary record as at the date of termination of service. However they will lose their bonuses.
3. No worker will be victimised for having been on the strike.
4. Workers in detention will be re-employed on their release.
5. Workers will have the right to democratically elect their own representatives.
6. SATS facilities at Delmore and Kaserne hostels will be upgraded at a cost of about R10 million.
7. A major breakthrough amongst the black workers has been that they do not enjoy permanent status as SATS employees, as opposed to white workers who qualify after 2 years of service. Permanent status will be now granted to all employees irrespective of race.

## Developments before the settlement

Soon after the dismissal of the strikers, South African Railways and Harbours Workers Union (SARHWU) lawyers launched an application on behalf of three members of SARHWU in the Johannesburg Supreme court, for their case to be declared invalid on the grounds that an invalid law was used. According to Themba Khuzwayo, the Assistant General Secretary, SATS dismissed workers using the regulation gazetted by the Minister of Transport, which could not overrule the act governing the conditions of employment in SATS. In addition SATS did not follow its in-house disciplinary procedure. This case which was suppose to be heard on the 25 May was postponed to the 9 June. Apparently SATS legal team was still preparing its response.

### The legal argument

The court case rested on the special gazette that was published soon after the strike started. Before the strike, there were two categories of employees in SATS. The permanent and non-permanent workers. Most of the strikers had non-permanent status. The SARHWU legal team argued that the Minister of Transport was entitled to issue regulations for one category, i.e. permanent workers, whereas the General Manager is the person responsible for issuing regulations for the non-permanent category. This was rather a technical argument as there is no clear cut procedure which stipulates who should deal with whom between the General Manager and the Minister.

The second argument was that the SATS Conditions of Employment Act lays down procedures for the dismissal of permanent workers and that these should apply to all workers in the railways, and that the Act itself has more authority than regulations issued in terms of the Act, because it is passed by Parliament which is a higher authority than the Minister. On this basis an argument that was to follow was that the regulations that lay down different procedures for dismissing workers were actually in conflict with the nature of the Act. In fact, even for SATS management having to use two sets of conditions of employment was problematic. Mr. Moolman, the Deputy General Manager in charge of personnel, suggested the phasing in of one set of service conditions:

"SATS still has two sets of conditions of service , one for whites, the other for non-whites, which is anathema. (1)"

The third argument was also based on the Act. According to the Act, when the Minister issues a regulation, he must exercise his discretion and 'apply his mind' to the consequences. In practice he must look at each individual worker, his disciplinary record and years of service at SATS to substantiate the fairness of the dismissal. Nevertheless the Minister decided to dismiss 16000 at once.

### Out of court settlement

SARHWU had also instructed its lawyers to find out whether an out-of-court settlement could be reached with SATS. This was agreed and the state attorney together with SARHWU's legal team got in-

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involved in low key discussions to reach a settlement. It was at this stage that SATS attitude towards the strike and out-of-court negotiations became inconsistent. SATS attributed the prolonging of the strike to intimidation by small group of SARHWU members, while the Minister of Transport was reported saying that the parastatal was aiming at a smaller and better paid staff. This widened the gap between the two parties; as strikers were demanding the re-engagement of the entire workforce in their previous jobs, and on the same conditions and rates applicable before the strike. SATS gave a legal understanding that it would not fill the strikers jobs permanently until the dispute was resolved. On the 27 April SATS was reported as proceeding with the court hearing. This dashed hopes for an early out-of-court settlement.

### SATS attempts to break the strike

Days after the mass dismissal, SATS management aided by the state began its efforts to break the strike. Over 400 SARHWU members and officials were detained. This included the President: Justice Langa, the Transvaal Regional Secretary: Johannes Ncgobo, and the Education Officer: Mike Roussos. Most officials were detained after the bombing of Cosatu House. In Kroonstad SARHWU offices were closed down, in East London union offices were burnt by right-wing elements.

### Eviction

After the mass dismissal management did not immediately evict workers from the hostels, but on the 27 May management was reported as having issued eviction notices to 9000 hostel dwellers. SATS ordered workers wanting to retain their hostel accommodation to re-apply on the 16 June. According to SARHWU, the state knew that workers will not leave their hostels on the 16 June because of this days political significance. The union also claims that food trucks organised by SARHWU were refused entry into hostels.

### SABC propaganda

Throughout the strike, the SABC has been the bosses' and the states' mouthpiece, to attack both COSATU and SARHWU. Allegations ranging from intimidation, torture and murder were made. COSATU was reported to have taken the SABC to the Media Council over biased reporting against the Federation:

"We have at our last press conference warned SABC that we would take further steps against them if they continued broadcasting what we believe was distorted and inaccurate information. Throughout the railway strike, and even after our warning, SABC has made no real attempt to get COSATU's side of the story." (2)

### SATS court application

To confirm its allegation about assaults and torture, SATS brought an urgent application against COSATU and SARHWU. However this application was later withdrawn.

### Why SATS backed down

The answer can be found in a combination of legal leverage wielded by SARHWU lawyers, division within SATS management on the issue of reform on the railways and of course, workers initiative and militancy displayed during the strike.

### Legal terrain

Soon after the strike began a special amendment to the SATS Condition of Employment Act was gazetted. This tightened up provisions that allowed the Minister of Transport to dismiss workers on strike. This was unnecessary from SATS point of view as strikes on the railways were already outlawed by the Act and railway management could have used common law to dismiss the strikers - as so many companies do in the private sector.

But SATS clearly intended the gazette as a warning to the strikers. According to the union, SARHWU's lawyers immediately investigated, found a strong case for arguing the hastily drafted amendment to be ultra vires and kept it in store to be used as union ammunition if the dismissals materialised.

When the dismissal did take place in April, the lawyers immediately launched an application by three of the strikers in the Johannesburg Supreme Court for their dismissals to be declared invalid on the grounds that an invalid law was used. The union's hand was strengthened when the state attorney agreed that the outcome of the test case would apply to all dismissed workers. Thousands of workers were waiting anxiously in their hostels for a result. A union spokesperson described the position:

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"This was the real sword hanging over SATS head. They knew we had a strong case and would have been severely embarrassed had they lost the case. As the date for the court hearing came closer, management showed more and more a willingness to discuss a settlement".

### Conditions of employment

One major discovery made by SARHWU via their legal team was that the document on conditions of employment on the railways was chaotic. The conditions of employment are made up of the Acts and regulations that are issued in terms of the Act by the Minister and General Manager, and were found to be a "jumble of regulations", a bureaucratic nightmare that made no sense at all. According to COSATU, "These conditions were contained in a bulky document, which was outdated and in a chaotic condition. These were scribbblings, pastings, deletions and amendments inserted in the document which was impossible to understand ... SATS were so embarrassed by the state of this document that they asked for ten weeks to compile a proper copy." (3)

### Division within SATS management

Failure by SARHWU officials to persuade workers to go back to work created an opportunity to understand the dynamics within SATS management. After the I.C.W.I.M. church delegation met SATS management at SARHWU's request it became clear that there were different attitudes towards the strike in management circles. According to SARHWU, "While people like Bart Grove, the Director General of SATS, linked the strike to "part of a revolutionary strategy" against South Africa and were interested to see it destroyed, SATS Deputy General manager, Dr Anton Moolman, was willing to resolve the strike by negotiations with workers". Dr Anton Moolman, had in fact participated in an inquiry into SATS labour relations a few months before the strike which recommended the introduction of an industrial council to facilitate collective bargaining on the railways along the principles used in private sector. Another development that took place ten days before the workers were dismissed was the publication of an astonishing article that appeared in the SATS official journal "Momentum" by Prof Nic Wiehahn, architect of South Africa's labour reform and head of the SATS inquiry into labour reform, which argued for a limited right to strike and the extension of the principle of collective bargaining to the public sector.

The Department of Manpower has also some months before the strike recommended the investigation of dispute and conciliation procedures within the public sector.

"The categories of workers and employers to be excluded from the right to strike and lock-out should be restricted to essential services. However, the NMC deems it necessary to investigate further the criteria that should be adopted for the purpose of determining which employers and employees are involved in the provision of essential services, and who should therefore be prohibited from instituting a strike or lock-out ..., furthermore the possibility of providing alternative dispute resolution mechanisms for these workers needs further investigation."

### Workers initiative

The initiative to prolong the strike was taken by workers themselves. Attempts by SARHWU officials to persuade the strikers to return to work failed dismally. "Workers were furious with me when I suggested that they return to work. I was asked if (as an official) I know exactly what the conditions were like in SATS." (4) At the beginning of the strike, the shop-steward council consisting of all shop-stewards from affected depots and stations was the main organisational structure utilised by workers to discuss and resolve day to day problems that resulted during the strike. The negotiating team was chosen out of the shop-steward council. Discussions on this level strengthened workers unity as shop-stewards used to report-back to the respective constituencies or obtain new mandates on issues that were to be decided by the majority of the strikers.

### Contacts with the community

Committees of shop-stewards from the shop-steward council were also given tasks of contacting the township organisations, to explain why workers went on strike, and rally support for the strike. Soweto, Tsakane and Western Cape are some of the places visited, Support varied according to the place. In Soweto much was received in a form of practical support. Hundreds of commuters started using taxis and buses. It was at this stage that Commissioner Street in central Johannesburg peak hours was characterised by long queues of stranded workers waiting for taxis. Many com-



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muters who continued using trains took advantage of the absence of ticket examiners (who were on strike) by riding free of charge. It is not clear whether the commuters reaction was a spontaneous or conscious demonstration of support for the strikers. According to the union commuters were reacting consciously in support of the strikers, but nevertheless SATS was badly hit.



photo: SARHWU demonstrate during the strike [Afrapix]

### Publicity committee

One important committee that also developed was the publicity committee. This structure consisted of shop-stewards who produced various pamphlets that were distributed during the strike - one of which called on people to stop buying train tickets. This committee also responded to various allegations which were reported on the commercial press and also kept all press cuttings.

### White scabs and skills

Prolonging the strike meant confrontation the state but also, more

importantly, disruption and losses for SATS. According to SARHWU, "Already the PWI railtrack - the busiest in the reef - was posing maintenance problems for SATS. White scabs could not maintain railtracks. This is one of those tasks in SATS which is still riddled with racial discrimination. One white supervisor instructs from fifteen to twenty black workers, even though in reality the workers know how to do the job. Besides railtracks, locomotives had to be serviced, and most of the skilled workers responsible for that task were on strike. It is in this context that SATS dismissed some white scabs after re-employing the strikers. A dismissed white worker described his experience as follows, "I was told to move out of my room at the railways hostel in Elandsfontein .. The hostel father said he was instructed by 'Pretoria' to tell us to go ... I felt really good to be earning a regular income even if it was only R15 a day ... but now I am no use to anyone." (5) Surely SATS is more worried about the profitability of SATS and not the plight of white workers. White scabs were at first used to run most of the depots and stations, at the same time they were to boost votes during the white general election. SATS needs experienced, productive workers and the strikers were now the right people to do the job.

#### Not easy to replace

According to SARHWU, "most workers had acquired skills and have a lot of experience with regard to SATS operations. They work as artisans, from the locomotive department up to the electricity department, even though they are paid at lower rates. SATS knew that it would be blunder to get rid of the skilled black workers. This is the reason why SATS was never quick in evicting workers in the SATS hostels as employers would do after having dismissed workers, and this is why strikers are re-employed".

#### Support and solidarity

Some COSATU affiliates had difficulties in giving concrete material support to the SATS strike, but it was claimed by SARHWU that Paper Wood and Allied Workers Union (PWAU) and Food and Allied Workers Union (FAU) workers did at times refuse to handle SATS goods, while some Chemical Workers Industrial Union members negotiated with their management to have company transport provided instead of using trains. The COSATU national office was also involved in negotiations which resulted in the out-of-court settlement, and in fighting the propaganda onslaught by SABC.



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Unfortunately practical working relationship between railway unions, especially SARHWU, and National Union of Railway Workers (NURW) posed problems. Even though ordinary members of both unions were on strike struggling against SATS management, leadership was locked up in differences that prevented cooperation between them. According to SARHWU the difficulty was caused by NURW allegations that SARHWU was using intimidation to force NURW membership to join SARHWU, and it was on this basis that no solidarity action took place. (See NURW statement on solidarity).



photo: Workers reapply for their jobs after the strike [Afrapix]

International support

International support was brewing for SATS strikers. The British National Union of Railwaymen (NUR) was reported as having set up an organisation called Rail Against Apartheid. Revell, a chairman of Rail Against Apartheid said, "An emergency resolution banning the purchase of all South African goods was taken during a regional Scottish trade union meeting when they heard about the

shooting of six SATS workers.

### Future for SARHWU

There is a hard struggle for both the union and its members to defend gains made during the strike. Even after the settlement reached, the Minister of Transport was reported on SABC saying that the settlement reached had nothing to do with SARHWU. It was a settlement reached between SATS and its employers. This is non-sensical given that SARHWU's legal team acted on instruction from the union whose members are SATS employees. It is clear that SARHWU must struggle to be recognised by SATS. At present Blatu is still viewed by SATS as the majority representative union. A SARHWU challenge to have a ballot to prove representativity has been ignored by SATS so far.

### Growth in membership

Despite the non-recognition of SARHWU by SATS management, the union has increased in membership. According to the union spokesperson at the beginning of the strike there were 8000 members in the Transvaal. Now membership is 22 000 members in the Transvaal. SARHWU has a major task of consolidating its membership. A union organiser claimed that "an emphasis is going to be made with reference to holding shop-steward council meetings regularly". This is an attempt to produce more worker leaders to curb the shortage of organisers. Also union resources are to be centralised.

### Not sticking to settlement

Barely one week after the end of the railway strike, SATS bosses were accused of violating the settlement reached to end the three months dispute. SARHWU claimed some of its members were transferred to lower category jobs despite assurance by SATS that strikers would not be discriminated against and that they would be guaranteed their original jobs without loss of benefits. Workers have also claimed that jobs held by white scabs who are still employed by SATS are not being returned to black workers. At Jan Smuts Airport 78 workers were denied the right to apply for re-employment in terms of the agreement signed by SATS and SARHWU members, but later were re-employed after the matter was dealt with through SARHWU's lawyer. With reference to other violations SARHWU has decided that worker leadership in various stations and

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depots should deal with the issue, but at the same time the union telexed the Minister of Transport, Mr Eli Louw, making him aware of the violation and requesting him to enquire into the matter, and a report be given to the union. To what extent will this carry weight remained to be seen. Days after the telex was to the Minister harassment of railway workers still continued. On the 30th June 1987 seven workers, five of whom were part of the negotiating committee which represented workers during the strike were detained, while workers responded by writing telexes and letters to the authorities. The union expressed fear about the development - "In requesting workers, who doubted SATS sincerity, to end the strike, we had to convince them that the statement was not simply a ploy to facilitate detentions".<sup>6</sup> The union warned that there could be serious problems if workers are proved right. In the meantime most of the workers originally detained, including officials, are still in jail, and its likely that they might spend more time in gaol. Furthermore some strikers who have returned to work have been detained.

### The present situation

What appeared to be victory for workers, turned out to be a state 'ploy' to intensify harassment while at the same time maintaining operation of SATS. The state intends to establish a 'stable' working environment through destruction of the union's worker leadership. The reluctance to recognise SARHWU is a stubborn attempt to force workers to accept Black Trade Union (Blatu).

### References

1. Financial Mail, 31 May 1987.
2. COSATU Statement, 4 June 1987.
3. COSATU Statement, 5 June 1987.
4. An interview with SARHWU official.
5. The Star, 23 June 1987.
6. New Nation, 8 July 1987.