

**IN THE LABOUR APPEAL COURT OF SOUTH AFRICA
HELD IN JOHANNESBURG**

Case no: JA46/05

In the matter between

Shoprite Checkers (Pty)Ltd

Appellant

And

The Commission for Conciliation

1st respondent

Mediation and Arbitration

Commissioner B Mbha NO

2nd respondent

Retail and Allied Workers Union

3rd respondent

J Maake

4th respondent

JUDGMENT

ZONDO JP

Introduction

- [1] This is an appeal against an order made by Waglay J sitting in the Labour Court in an application brought by the appellant to have an arbitration award issued by the second respondent reviewed and set aside. The second respondent had issued that arbitration award in a dispute between the appellant, on the one hand, and, the third and

fourth respondents, on the other, about the fairness of the fourth respondent's dismissal by the appellant from its employ on 2 December 2000. The order that was made by the Labour Court reviewed and set aside the second respondent's arbitration award and remitted the matter to the Commission for Conciliation, Mediation and Arbitration ("**the CCMA**"), the first respondent in this appeal to be arbitrated afresh by a commissioner other than the second respondent. The third and fourth respondents had also brought a counter review application against part of the arbitration award. The second respondent's arbitration award was to the effect that the appellant reinstate the fourth respondent and impose what the commissioner called a "**severe final warning**" on him for the misconduct of which he had been found guilty. However, the commissioner had decided that the fourth respondent was not to be paid any compensation. He also did not make the reinstatement order retrospective in its own operation.

The facts

- [2] I now propose to set out the facts of this case as they emerge in the affidavits and the notes of the commissioner. In doing this I am quite alive to the fact that I do not have the benefit of the transcript of the arbitration proceedings but have to make do with the commissioners' notes.
- [3] The facts of this case are very brief. The fourth respondent was employed by the appellant in 1972. There was some disagreement about the position in which he was employed in September/October 2000. The appellant says that he was employed

as a deli supervisor whereas he says that he was employed as a **“perishable controller/manager, promoted on/or about 1972”**.

- [4] As a result of its concern about the problem of shrinkage in its Silverton Store –which is where the fourth respondent was employed – the appellant had video cameras installed inside the store so that it could establish the identify of those responsible for shrinkage in the store. It is common cause that the appellant’s rules prohibited any eating by its employees “in the selling areas, meat markets, prep rooms, service departments, stockrooms of stores or in any area in view of the customers in any other designated restricted area at their workplace. Smoking or eating was permitted only in canteens and offices or areas designated as such by the manager. In this regard Rules 8 and 13 of the appellant’s rules are the relevant rules.

- [5] It was common cause that during the period 4 September 2000 to 21 October 2000 the video cameras had captured three occasions when the appellant could be seen eating in areas in which eating was prohibited. For this he was subsequently charged with misconduct, was found guilty and was dismissed. It is common cause that the monetary value of what the fourth respondent ate on those occasions is unknown. In the first incident the fourth respondent could be seen in the video clip picking up something and putting it in his mouth. This was in the deli area. Thereafter, he could be seen leaving the deli area while busy chewing. In the second incident he could be seen in the video clip walking towards the exit of the deli area and he picked something from a plate and put it into his mouth. In the third incident the fourth respondent

could be seen entering the deli area through the back entrance. He then sits down and starts to eat. He was the only person in that area. He then stands up and throws away a paper and wipes his mouth and hands. It is common cause that shrinkage in this particular store of the appellant had risen from 1.5% to 4%. It is also common cause that the fourth respondent had served the appellant for about 30 years and had a clean disciplinary record.

Disciplinary inquiry

- [6] As a result of the fact that the fourth respondent had been captured in the video cameras eating what the appellant believed were its products and that he was captured on the camera doing so in areas of the appellant's premises in which staff were prohibited from eating, the appellant instituted a disciplinary inquiry in which the fourth respondent was charged with three allegations of misconduct of eating the appellant's food without authorisation in areas where doing so was prohibited. The fourth respondent was found guilty of all the allegations of misconduct that he had faced and was dismissed. He did not appeal against the decision of the disciplinary inquiry.

Conciliation and first arbitration

- [7] The fourth respondent was aggrieved by his dismissal which he regarded as unfair. The appellant regarded the dismissal as fair. A dispute arose between the parties about the fairness or otherwise of the dismissal. The fourth respondent referred the dispute to the CCMA, initially for conciliation, and later, for arbitration. This was to later turn out to have been the first arbitration because later there was another arbitration. I shall refer to this arbitration as the first

arbitration. These arbitration proceedings were under case no GA 12118 in the CCMA.

- [8] The hearing of the first arbitration was apparently set down for the 3rd April 2001. It was heard by a Mr Mathee, a commissioner of the CCMA, under the auspices of the CCMA. On the 3rd April 2001 the commissioner in the first arbitration issued an arbitration award. In terms of that arbitration award the commissioner in the first arbitration found that the appellant's dismissal had been both substantively and procedurally unfair and ordered the appellant to reinstate the fourth respondent with full retrospective effect from the date of dismissal. At the time of the issuing of the arbitration award only a period of just over four months had elapsed from the date of the fourth respondent's dismissal.

The first review application

- [9] On the 10th May 2001 the appellant, aggrieved by the first arbitration award, launched a review application in the Labour Court to have the first arbitration award reviewed and set aside. That review application came before Waglay J in the Labour Court. The Labour Court found that the commissioner in the first arbitration had committed "**gross misconduct in relation to her duties as arbitrator**". It set the first arbitration award aside. The Labour Court decided to remit the dispute to the CCMA to be heard afresh by a commissioner other than the one who had arbitrated the dispute in the first arbitration. The order of the Labour Court was issued on the 10th May 2002. That review application was under case no JR 808/01 in the Labour Court, Johannesburg.

The second arbitration

- [10] In due course the dispute was assigned by the CCMA to the second respondent, Mr B Mbha, a commissioner of the CCMA, to arbitrate the dispute afresh. I shall refer to this arbitration as the second arbitration. The second arbitration took place on the 13th September 2002 and 10 July 2003. On or about 5 August 2002 the commissioner issued an arbitration award in terms of which he found the fourth respondent's dismissal to have been both substantively and procedurally unfair. This does not mean that he found the fourth respondent to have been innocent of the allegations of misconduct for which he had been dismissed. In fact he rejected both that part of the fourth respondent's defence that he had been authorised to taste food and to taste it in the areas where the video clips showed him to have eaten it and that part of his defence which was to the effect that on one of the three occasions shown on the video clips he was eating his own food.
- [11] It may well be that the commissioner did not have enough evidence before him to conclude that on that one occasion the fourth respondent was not eating his food. But on the facts of this case this makes a small difference as the commissioner's findings in regard to the other two incidents appear to be justified or justifiable and reasonable. If the fourth respondent was justifiably or reasonably found guilty of two of the three acts of eating in a wrong area or eating the employer's products without permission, it is really neither here nor there and will not affect anything of substance that in regard to one incident of eating he was innocent. The commissioner found that in terms of the appellant's

disciplinary code, dismissal was not required to automatically follow when an employee had been found guilty of acting in breach of the rule that the fourth respondent was guilty of breaching. He then pointed out that discipline had to be progressive. He took into account that the fourth respondent had thirty years of service and was a **“first offender”**. He said that in the circumstances he felt that the sanction of dismissal was **“severe”**. He then made an award in the following terms:

- “1. The applicant is given a severe (sic) final warning which shall be valid for six months.**
- 2. The company is ordered to reinstate the applicant.**
- 3. No compensation is payable to the applicant due to the fact that he consumed company products without any permission.**
- 4. The effect of this award must be put into operation within fifteen days of its despatch to the parties.”**

The award was said to be dated on the 5th August 2003 but, according to the writing of the commissioner just below his signature in the last page of the award, the award was ‘signed and submitted [on] 07 August 2003’. It is not apparent from the arbitration award when the award was despatched to the parties but it would be reasonable to think that the fourteen days from the date of the despatch of the award to the parties would have expired at some stage before the end of August 2003. This means that in terms of the commissioner’s arbitration award the fourth respondent was to have been reinstated at some stage late in August 2003.

The second review application

- [12] The appellant was aggrieved by the arbitration award of the first respondent. It then brought a second application in the Labour Court to have the award reviewed and set aside in terms of sec 145 of the Act. The fourth respondent was aggrieved by the finding of the fourth respondent that he was guilty of misconduct and the decision denying him any compensation or retrospectivity in the operation of the reinstatement order and the decision that he be given a “**severe**” final warning. Accordingly, he launched a counter-review application to effectively set aside the finding that he was guilty of misconduct and the order that he should not be paid compensation.
- [13] In the first review application the matter had come before Waglay J. The second review application also came before Waglay J. The whole review application brought by the appellant was directed at attacking the commissioner’s finding that the sanction of dismissal imposed by the appellant on the fourth respondent was severe and at the order that the fourth respondent be reinstated.
- [14] The record of the arbitration proceedings that was filed by the appellant with the Registrar did not include the transcript of the oral evidence that was led in the arbitration proceedings. A senior commissioner of the CCMA who was responsible for the safe keeping of relevant tapes had filed a notice to the effect that the tapes were missing. The handwritten notes which had been taken by the commissioner who had arbitrated the dispute were transcribed and the transcript was filed as part of the record of the arbitration proceedings. The arbitration award that the

commissioner had issued seemed on the face of it to have dealt with the evidence in quite some detail. It was common cause between the parties that the acts of alleged misconduct for which the fourth respondent had been dismissed consisted of the fourth respondent eating in parts of the appellant's premises in which staff were not allowed to eat and the only questions were whether the fourth respondent had been authorised to eat in those areas. In respect of one instance the fourth respondent had said that he had eaten his own food.

- [15] Both the appellant and the third and fourth respondents agreed that the commissioner's notes constituted a fair summary of the arbitration proceedings pursuant to which the arbitration award that was sought to be reviewed in the Labour Court was issued. Accordingly, they were prepared to have the review application decided on the basis of the record that was before the Labour Court. There is no indication that the commissioner, that is the first respondent, was consulted to establish what his attitude was to the review application being decided without a transcript of the evidence led in the arbitration but with the benefit of only his notes which both parties agreed constituted a fair summary of the evidence led in the arbitration.

- [16] The Labour Court, per Waglay J, expressed the view that on what was before it, no basis existed to justify an interference with the commissioner's arbitration award. He said in part:

“In this matter having regard to the summary of the evidence I am satisfied that the decision of the second respondent was not one which is open to be reviewed.”

However, he then said:

“However, I am mindful of the fact that there is discontent on the part of both parties, one with regard to the finding of guilt, the other with the imposition of the appropriate penalty. Because of this unhappiness compounded by the absence of a proper record I believe that the best course to follow is to refer the matter to the first respondent for the matter to be arbitrated afresh before a commissioner other than the second respondent.”

He then went on to review and set the arbitration award aside. He said that this was **“based on the allegations made by the parties and the fact that the summarised transcript does not afford me sufficient details to categorically find in favour of one or the other and I believe that in the circumstances it would be inappropriate to allow the award to stand or to grant the relief as sought by either of the parties.”** He made no order as to costs and remitted the dispute back to the CCMA to be arbitrated by a commissioner other than the first respondent.

- [17] If that order given by Waglay J in the second review application was given effect to, the new commissioner who would arbitrate the dispute this time around would have been the third commissioner and the parties and the witnesses who had already testified in the previous two arbitrations before different arbitrators would be called to testify in the third arbitration about the events which had given rise to the fourth respondent’s dismissal. If those witnesses had given evidence in the disciplinary hearing which preceded the fourth respondent’s dismissal and had been cross-examined there,

the third arbitration would have subjected them to cross-examination for the fourth time on the same events.

- [18] The order of the Labour Court in the second review application was issued on the 13th August 2004. That would have been over three and a half years since the fourth respondent's dismissal. What would happen if some important witnesses who had given evidence in the earlier two arbitrations were, for some or other reason, no longer available to give evidence? What would happen if the unavailability of some or other important witness who had testified in the earlier arbitrations led to a result which could not have ensued if he had been available and had given evidence? Of course, the result could well be a miscarriage of justice.

The appeal

- [19] The appellant's case is based on the proposition that the sanction of dismissal was appropriate for the acts of misconduct of which the fourth respondent was guilty and that the commissioner's conclusion that it was not fair was unjustifiable and should be reviewed and set aside. The decision of the commissioner that dismissal was too harsh as a sanction is, broadly speaking, reasonably reasoned. Even if one were to test it on the basis of whether it is justifiable in relation to the reasons given for it, it would, without the slightest doubt, survive the test. If one tests it against the test of unreasonableness in accordance with the decision of the Constitutional Court in **Sidumo & another v Rustenburg Platinum Mines Ltd and others, case no CCT85/06**, as yet unreported, which was handed down on the 5th October 2007, there is no doubt, that it is reasonable because it

cannot be said that a reasonable decision-maker could not reach the same conclusion. In fact I would go so far as to say that there is no prospect that a reasonable decision – maker – including a CCMA commissioner – could, on the facts of this case, find that dismissal was a fair sanction. Any attempt by the appellant to seek a forum that will make such a finding is, in my view, an exercise in futility. Two commissioners of the CCMA – acting separately and independently of each other - have already found that the sanction of dismissal was excessive in this case. Waglay J, sitting the Labour Court, already expressed the view that there was no basis to interfere with the finding of the second commissioner. Now three Judges of this Court have come to that conclusion without any hesitation. There is, in our view, no justification for the appellant to continue to delay the final reinstatement of the fourth respondent.

Cross-appeal

- [20] The third and fourth respondents had brought a counter – review application to set aside the commissioner’s decision that the fourth respondent was guilty of misconduct, that he should be given a **“severe final warning”** and that he should not be paid any compensation or to set aside the decision not to make the operation of his reinstatement retrospective. I have already said above that one of the incidents of the fourth respondent’s eating that was shown in the video clips was one in respect of which he said that he was eating his own food. This evidence does not appear to have been controverted but, even if it was his own food, it seems that eating it where he was shown to have been eating it would still have been a breach of the relevant rule of the appellant prohibiting eating in certain areas in the premises. But even if the matter could

be dealt with on the basis that he was guilty of eating on two rather than three occasions this would not make any material difference to the sanction.

[21] The third and fourth respondents contended in their counter – review application that the commissioner’s decision to impose a **“severe final warning”** on him was unjustifiable and irrational. It was not the third and fourth respondents’ case that, if the fourth respondent was, indeed, guilty of misconduct, the so-called **“severe final warning”** imposed by the commissioner was excessive. Their complaint about it seems to have been based on the contention that the fourth respondent was not guilty of any misconduct at all. In my view there is no proper basis to interfere with the sanction of a **“final warning, severe or not.** The fourth respondent was guilty of either three or at least two acts of misconduct. He should be disciplined for that. The commissioner deemed a final warning that is severe as appropriate. No proper basis to interfere with the commissioner’s decision in this regard has been shown.

[22] The third and fourth respondents also contended in their counter-review application that the commissioner’s decision not to make his reinstatement retrospective or that he should not be paid any compensation was unjustifiable and irrational and should be set aside. In this regard it is interesting to remember that the commissioner who conducted the first arbitration had ordered that the fourth respondent’s reinstatement be with full retrospective effect from the date of his dismissal on the 2nd December 2000. That arbitration award had been handed down on the 3rd April 2001. The arbitration award that is now the subject of these

proceedings was issued in August 2003 – that is about a year and a half later.

[23] The only reason that the commissioner advanced in his arbitration award for his decision that the fourth respondent should not be paid compensation was that “[the fourth respondent had] consumed company products without any permission. In other words it was part of the penalty or sanction that the commissioner imposed upon the fourth respondent for the same misconduct for which he also imposed the “**severe final warning**”. Was it justifiable, rational or reasonable for the commissioner to impose this sanction or penalty in addition to the “**severe final warning**”. I turn to deal with this question below.

[24] The conduct of the fourth respondent for which the commissioner sought to punish the fourth respondent by way of denying him compensation or backpay or the retrospectivity of the operation the reinstatement order was conduct for which he had already punished him by way of a “**severe final warning**”. The fourth respondent had 30 years of service in the company. He had never been found guilty of any misconduct in his 30 years of service in the appellant. In other words he had a clean disciplinary record. As a result of the appellant’s conduct in dismissing him (when he should not have dismissed him), the fourth respondent had already been out of employment for about two and a half years at the time that the commissioner issued the award denying him compensation and not making his reinstatement retrospective.

[25] The fourth respondent had been working for the previous 30 years and suddenly he was without employment for two and a half years. Living without income must be very difficult for anybody. It would even be more difficult for a person who for 30 years had always had a job. The suffering that the fourth respondent must have gone through for that period of two and a half years when he had to live without income is suffering which could not and cannot be undone by any compensation that he could have been or can be awarded or any retrospective operation of the order of reinstatement that could have been made in his favour. What had happened had happened. In other words, even if the commissioner had ordered that the fourth respondent be paid compensation as well or that his reinstatement should operate retrospectively, the fact would remain that he had been subjected to that suffering and indignity for two and a half years. The effect of the commissioner's decision that the fourth respondent should not be paid any compensation or that the order of reinstatement should not operate retrospectively was that it was not only fair that the fourth respondent should be given the so called "**severe final warning**" but it was also fair that he should have gone without income for that length of time and that, furthermore, when he had been successful, he should not be compensated at all for any of that period. In my view such a decision was not justified or rational nor was it reasonable. How do you say on the one hand that an employee should not have been dismissed and, therefore, should have been working and earning income for the period that he was waiting for the arbitration and litigation to come to finality but still say that it was fair that he should **not** have received income. In addition to all that I have said, it must be remembered that the neither the appellant nor anybody

was able to say what the value was of the company food that the fourth respondent ate – in so far as it was company food. It could have been worth R 10,00 or R 20,00. If one has regard to the evidence it seems that on at least two of the occasions which the appellant relied upon the fourth respondent was very much like a customer who, while shopping in a shop such as Shoprite Checkers, picks up a grape here or a grape there and eats it. If one were to assume that the company food that the fourth respondent ate could be valued at R 10,00 – which is possible and that the fourth respondent's monthly salary was R 1000,00, the effect of the commissioner's decision that he should not be paid compensation and that the order of reinstatement should not operate retrospectively is that the appellant does not have to pay him about 33 months salary (from 2 December 2000 – August 2003) – an amount of R 33 000,00 at R 1 000,00 per month. This – in addition to a **“severe final warning”**?

- [26] In my view this can simply not be right. Indeed, it can neither be justifiable nor reasonable. I know that from the appellant's point of view this cannot simply be about the monetary value of the food that the fourth respondent ate. For the appellant, it is probably about a principle and the real problem of shrinkage that it and other similar businesses face every day. I am not ignoring any of this. I am mindful of it but, nevertheless, when all the relevant circumstances are taken into account I am of the opinion that a reasonable decision-maker could not, in the circumstances, of this case, have concluded that an employee who had a clean disciplinary record such as the fourth respondent and had 30 years of service should, in addition to getting a **“severe final warning”**

for this type of conduct, also forfeit about R 33 000,00 for eating food that could well have cost less than R20,00. I do not think that a reasonable decision maker could have sought to impose any penalty in addition to the “**severe final warning**”. If he did, and its effect was that the fourth respondent should forfeit back pay – it probably would not have been more than three months. The commissioner who arbitrated the dispute in the first arbitration had ordered that the reinstatement of the fourth respondent be fully retrospective to the date of his dismissal. At that time the fourth respondent had been out of work for only five or so months. Had the matter ended there, the fourth respondent would have received his full back pay. Instead what happened is that the appellant took that award on review. It succeeded and the matter was referred back to the CCMA to be arbitrated afresh by another commissioner. It was arbitrated by the commissioner. The fourth respondent was once again successful but was not awarded compensation nor was his reinstatement made retrospective in its operation. The appellant once again took the award on review. The Labour Court once again sought to remit the matter to the CCMA to be arbitrated afresh by another commissioner and then there was this appeal.

- [27] It seems to me, having regard to all of the above, that this Court should interfere with that part of the commissioner’s award which ensured that the fourth respondent did not get paid any compensation or back pay. I propose to make an order the effect of which would be that he gets paid full back pay unless that is not competent.

[28] As the third respondent had been dismissed on the 2nd December 2000, the reinstatement would have occurred in August 2003 – two and a half years after his dismissal. Of course he was not reinstated because the appellant then brought a review application in the Labour Court and he brought a counter review application. The judgment of the Labour Court which set aside the commissioner's award and sought to remit the dispute to the CCMA for arbitration by another commissioner appears to have been handed down in August 2004. That was just over three and a half years from the date of dismissal. If that order was implemented, the third arbitration of the dispute would have probably occurred at some stage towards the end of 2004 or early in 2005. If the outcome of that arbitration award was the same as the previous two arbitrations in that the fourth respondent's dismissal was found to have been substantively unfair and the appellant might well have instituted a third review application in the Labour Court because it seems to feel very strongly that, despite everything else in this case, including the fourth respondent's clean disciplinary record over 30 years of service, he should be dismissed, then the litigation in this matter could have gone completely out of control.

[29] The Supreme Court of Appeal has now said that the right to reinstatement of an employee who has been dismissed for no fair reason – for in terms of the Labour Relations Act – no other employee can competently be reinstated – is eroded with each year that he awaits reinstatement. If this view is correct – and I refrain from expressing my view on this principle – then if the matter was referred back to the CCMA and later there was a review application in the Labour Court, an appeal to this Court and further,

then by the time that the litigation came to an end this employee's right to reinstatement would probably have become completely eroded and it would be said that an order reinstating him would be **"impractical"**. In this regard I use **"impractical"** in the sense as used in the SCA's judgment in Republican Press matter. I must stress that when I say this I am not saying that in my view it would be impractical to reinstate the fourth respondent at such a stage. All I am saying is that it is conceivable that, on the approach taken by the SCA in the Republican Press case, it might be said that a reinstatement at that stage would be impractical.

- [30] In the light of the above history and the facts of this case, I am of the view that, even though the commissioner was not given an opportunity to state what his attitude was to the review application in this matter being decided without the transcript of the proceedings before him, the matter can be decided without such transcript and this will not result in any injustice to either party and to the commissioner. In this regard I emphasise that the employer and employee are happy that the record before the Court represents a fair summary of the proceedings that took place before the commissioner. I am also influenced in this regard by the fact that exactly what the fourth respondent did which the appellant contends is misconduct but which the fourth respondent contends is not misconduct is common cause. If what the fourth respondent did constituted misconduct, the question whether dismissal was a fair sanction does not require evidence. The evidence that is relevant is before the Court. That is that previous cases where employees were found guilty of the same misconduct alleged against the fourth respondent were all dismissed and that the fourth respondent had

30 years of service with the appellant had a clean disciplinary record. We also know that commissioner decided that for the two and a half years after his dismissal – that is before the arbitration award was issued – the fourth respondent should receive no compensation. For what the fourth respondent was found guilty of – and I accept that shrinkage is a problem in shops such as the appellant's shops and in similar businesses – to say that an employee who has worked for you for over 30 years and has a clean disciplinary record should be dismissed is, quite frankly, difficult to understand.

[31] To say that the employee should not have been dismissed but now that he was dismissed, he should be in the same position as someone who deserved to be dismissed in the first place and should not be compensated for all the two and a half years during which he was waiting for the outcome of litigation is in my view, unreasonable.

[32] In conclusion I am of the view that the absence of the transcript of the arbitration proceedings in this case should not on the facts of this case, preclude the consideration of the review application by the Labour Court. There had been a lengthy delay in the finalisation of the matter. This was a second review application. There had been two arbitrations in regard to the same dispute. The employer and employee were happy that the commissioner's notes constituted a fair summary of the evidence led in the CCMA. Most of the facts were common cause. Two arbitrators of the Labour Court had expressed the view that dismissal was not an appropriate sanction. A Judge of the Labour Court had expressed the view that

there was no basis to interfere with the commissioner's decision on sanction. This Court was unanimously of view that there were no reasonable prospects that any reasonable decision-maker could reach a decision that dismissal was a fair sanction for the misconduct of the fourth respondent. Litigation had to come to end at some stage. It is not in the interests of justice that the matter should not be dealt with on the merits.

[33] With regard to costs I am of the opinion that each party should pay its own costs. In the result I make the following order:

1. The appeal is dismissed and the cross-appeal is upheld in part.
2. Each party is to pay its own costs in regard to the appeal and cross-appeal.
3. The order of the Labour Court is set aside and replaced with the following order:

“(a) The review application is dismissed.

(b) There is to be no order as to costs.

(c) The counter-review application is granted in part.

(d) The commissioner's decision not to make the operation of the order reinstatement retrospective to the date of dismissal is hereby reviewed and set aside.

(e) There is to be no order as to costs.

(f) The commissioner's arbitration award is amended by the addition of the following order thereto:

“(i) The order reinstating the applicant is to operate with retrospective effect to the date of the applicant's dismissal.”

Zondo JP

I agree.

R Pillay AJA

I agree.

Kruger AJA

Appearances

For the Appellant	:	Adv GA Fourie
Instructed by	:	Perrott, Van Niekerk Woodhouse
For the Respondent	:	Union official
Instructed by	:	Retail And Allied Workers Union
Date of judgment	:	21 December 2007

