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IN THE LABOUR COURT OF SOUTH AFRICA

BRAAMFONTEIN

CASE NO: JR1263/01

2002-03-05

In the matter between

ANGLO OPERATIONS

Applicant

and

CCMA

Respondent

J U D G M E N T

Delivered on 5 March 2002

REVELAS J:

1. This is an application for the review of the decision of the second respondent, a commissioner appointed by the first respondent, the Commission for Conciliation Mediation and Arbitration, in an application for condonation for the late filing of dispute with the first respondent, between the applicant and the third respondent, Mr Barrios.
2. On 17 September 2001 the third respondent filed a notice to oppose this review application but subsequently never filed any other response. Today

an application for the postponement of the matter has been brought by a person appearing on behalf of Mr Barrios.

3. I have listened to both parties and submissions made by them and in particular my attention was drawn to the fact that the third respondent, Mr Barrios, feels that justice wouldn't be done and all he wanted is for his case to be heard.
4. On the papers that I have read and on the submissions made by counsel on behalf of the applicant, I am persuaded that the decision to grant condonation of the very late referral, that is i.e. 18 months, was not considered properly and in the circumstances that ruling should be set aside.
5. I accordingly make the following order:
 1. The decision of the arbitrator or commissioner dated 24 July 2001 to condone the late referral of the dispute is reviewed and set aside.
 2. The certificate of outcome under case number GA6000/2001 is set aside.
 3. The question of the late referral in terms of sections 191(1) and 191(2) of the Labour Relations Act is to be considered afresh by a different arbitrator or commissioner.

E. Revelas