

| Sneller Verbatim/HVDM

IN THE LABOUR COURT OF SOUTH AFRICA

BRAAMFONTEIN

CASE NO: JR1160/02

2003-02-07

In the matter between

S MORERWA

Applicant

and

THE COMMISSION FOR CONCILIATION,

MEDIATION AND ARBITRATION

1st Respondent

L H CELLIER N.O.

2nd Respondent

MR PRICE, A DIVISION OF MR PRICE

GROUP LTD

3rd Respondent

J U D G M E N T

REVELAS J:

1. This is an application in which the applicant applied to review and set aside a ruling made by the second respondent, a commissioner of the Commission for Conciliation, Mediation and Arbitration ("the CCMA"), refusing to condone the late referral of the applicant's dismissal dispute to the CCMA.

2. The applicant's referral was seven and a half weeks out of time. The explanation given by the applicant to the commissioner at the time, when he brought the application, where the respondent was not present, was that he did not know that there was a 30 day time period and furthermore that he did not have money to send a fax or referral to the CCMA.
3. In his grounds of review, which lacks any averments which would support a review application, and read more like an appeal, he leads new evidence stating that he handed the matter over to his attorneys who was then lax in processing the matter. He could provide no proof that an attorney was acting on his behalf, neith has he stated any facts to that effect in his grounds of review.
4. I have to consider that the applicant has given two conflicting versions. One to the court and another to the CCMA. In one of the applications he has been untruthful. He has put forward no cogent grounds upon which I could come to the conclusion that the ruling should be interfered with. Commissioners of the CCMA are enjoined to deal with matters expeditiously. Delays as excessive as this one may be refused by a commissioner if he or she has exercised his or her discretion properly, which the arbitrator appears to have done in this matter.
5. Accordingly the application for review is dismissed.

6. In so far as costs is concerned the applicant's case was based on an untruthful version and on that basis I agree with counsel appearing on behalf of the third respondent that I should make a cost order against the applicant.
7. In the circumstances the order reads as follows:
1. The application for review is dismissed.
 2. The applicant is to pay the third respondent's costs for this application.

—

E. Revelas

PRESIDING OFFICER: REVELAS J

ON BEHALF OF APPLICANT:

ON BEHALF OF RESPONDENT: