

Sneller Verbatim/JduP

IN THE LABOUR COURT OF SOUTH AFRICA

BRAAMFONTEIN

CASE NO: JR680/02

2003.03.18

In the matter between

TUBE SEGAETSHO ARCHIBALD

Applicant

and

COMMISSION FOR CONCILIATION,

MEDIATION AND ARBITRATION

1st Respondent

G.G. SEBOTH A (COMMISSIONER)

2nd

Respondent

DEPARTMENT OF PUBLIC WORKS

3rd

Respondent

J U D G M E N T

REVELAS, J:

1. This is an application brought by the applicant for leave to appeal against a judgment granted on 12 November 2002, wherein I dismissed the applicant's application for review.
2. The main ground of appeal is that the respondents

did not appear in court on the day of the review application, and I therefore erred in drawing an inference when I considered the merits of the matter.

3. It appears that the applicant believes that I was somehow precluded from considering the record in his review application, purely because it was unopposed on the day the matter was argued.
4. However, a review application is not simply for the asking and is not simply granted by default because it is unopposed. The judge must always consider the merits as the merits may possibly reflect negatively on reasoning of the arbitrator in question.
5. The applicant has not addressed, in his heads of argument, any of the grounds upon which he seeks to rely to have the award set aside, or why I erred in granting the application.
6. In my view, there is not even a reasonable prospect that another court would come to a different conclusion, and in the circumstances leave to appeal is refused.

E. Revelas