

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

Case no: JR231/06

In the matter between:

MANDLA E SIBAMBA

Applicant

and

**COMMISSION FOR CONCILIATION,
MEDIATION AND ARBITRATION**

First respondent

K MAMBA NO

Second respondent

SOUTH AFRICAN POLICE SERVICES

Third respondent

JUDGMENT

LEEUEW AJ

INTRODUCTION

- [1] The applicant seeks an order reviewing and setting aside the ruling of the second respondent (“the arbitrator”) wherein he refused to grant condonation for the late referral of the dispute to the first respondent (“the CCMA”). The application is opposed by the third respondent.
- [2] The applicant had approached the CCMA in terms of section 191 (2) of the Labour Relations Act No 66 of 1995 (“the LRA”) seeking condonation for the late referral of his dispute on the 29 June 2005, having been dismissed from employment on 30 September 1997 by the third respondent. The referral was three years out of time.

REASONS FOR THE REFUSAL OF THE CONDONATION

- [3] The arbitrator refused the condonation application on the basis that the applicant had not established any reasonable prospects of success and further that he had not given good cause or reasonable explanation for his failure to refer the dispute timeously and in accordance with the Rules of the CCMA. He further held that “it is trite law that civil claims prescribe after three years”.

ARE THERE ANY GROUNDS FOR INTERFERING WITH THE RULING?

- [4] Although there is no transcribed record of the CCMA, it appears from the pleadings filed at the CCMA for the purpose of the condonation application, that the applicant first referred the dispute to the Safety & Security Sectoral Bargaining Council (SSSBC) on the 23 March 2005, and was informed that the forum had no jurisdiction to conciliate and/or arbitrate over his dispute. He then referred the dispute to the CCMA on 29 June 2005.
- [5] Applicant does not explain the reason for the delay from the time of his dismissal on 30 September 1997 up to the 23 March 2005, save to state that he was sent from pillar to post by the third respondent’s employees.
- [6] The arbitrator did not deal with the merits of the case as it would appear there were none presented before him.
- [7] I am of the view that the arbitrator did not misdirect himself in dismissing the application for condonation and have no reason to interfere therewith.
- [8] The application is accordingly dismissed. Each party is ordered to pay its own costs.

M M LEEUW
Acting Judge of the Labour Court

APPEARANCES

For the applicant:	Mandla E Sibamba (in person)
For the respondent:	Adv M B Matlejoane (instructed by The office of the State Attorney - Pretoria)
Date of hearing:	24 October 2006
Date of judgment:	17 November 2006