

IN THE LABOUR COURT OF SOUTH AFRICA

HELD IN JOHANNESBURG

NOT REPORTABLE

CASE NO: JS 113/08

In the matter between:

VICTOR MANNGO

APPLICANT

AND

TRANSNET FREIGHT RAIL

RESPONDENT

JUDGMENT

Molahlehi J

Introduction

[1] This is an unopposed application for condonation for the late filing of the statement of case of the applicant. In his statement of case the applicant states that he was dismissed by the respondent on the 31st December 2007 after his continued employment was made intolerable by the respondent.

[2] Without going into the details of the background facts it would appear that the issue that led to the resignation by the respondent arose from his unhappiness in the manner in which the Afrikaans language was used in meetings at the workplace. His contention in this regard is that Afrikaans was used by some of his seniors in order to marginalise him.

- [3] It is not clear why the applicant has made an application for condonation because in the condonation application itself at paragraph 6.2 he states the following:

“6.2 Jurisdictional ruling was only issued on the 11th February 2008 and this referral is still within the 90 days period.”

- [4] It would seem that the applicant's application was motivated by the letter addressed by the Transnet Bargaining Council dated 11th February 2008 to the South African Railways and Harbours Union which reads as follows:

“Sir

DECLARATION OF DISPUTES: MR V MANNGO, EMPLOYEE NO. FBP 449L: GRADE – CHIEF ADMIN OFFICIAL: SOUTH AFRICAN RAILWAYS AND HARBOUR UNION VERSUS TRANSNET [CORPORATE/SAFETY] HEAD OFFICE – GAUTENG REGION –
Quote [“CONSTRUCTIVE DISMISSAL – ILL TREATMENT I HAVE BEEN RECEIVING FROM MY WHITE (SENIOR) COLLEAGUES – THE ISSUE OF DISCRIMINATION THROUGH WORK AND THE USE OF AFRIKAANS AS MEDIUM OF INSTRUCTION.”]

Attached correspondence received from MR V MANNGO on 07TH FEBRUARY 2008 for your URGENT attention.

The following is brought to your attention:-

- *In terms of the CONSTITUTION and PROCEDURES to be followed, please advise if SOUTH AFRICAN RAILWAYS AND HARBOUR UNION is in a position to declare a dispute on behalf of MR V MANNGO who is a member of S.A.R.W.H.U.*
- *Please also be advised that the Time Period in which to declare a **Dispute is 30 days** from the date after the date of dismissal etc. / See LRA 7.11 FORM: Page 4: Su-Title -7) Date of Dispute (b) > Resignation – Date 31 December 2007.*
- *The Declaration of Dispute was received on the 07TH FEBRUARY 2008 which makes it late and the Council cannot submit this until you have lodged a letter of explanation as to why the Declaration of Dispute is late.*

However the Dispute has been declared as an Employee Equity Dispute and as you are aware Bargaining Councils lack jurisdiction in terms of the LRA.

The Council therefore lacks jurisdiction to pursue the matter and you are advised to refer the Dispute to the Labour Court.”

- [5] It would appear that the union has not referred the dispute for conciliation to the Bargaining Council as the representative failed to produced the certificate of outcome when invited to do so by the Court.

[6] In my view the applicant has failed to show what case the Court is supposed to entertain.

[7] In the premises the case of the applicant is struck off the roll.

Molahlehi J

Date of Hearing : 9th September 2009

Date of Judgment : 15th September 2009

Appearances

For the Applicant : Mr B Netshisumbewa (union official)

APPLICATION WAS UNOPPOSED