

IN THE LABOUR COURT OF SOUTH AFRICA

HELD IN JOHANNESBURG

NOT REPORTABLE

CASE NO: JR1376/06

In the matter between:

MTSA (PTY) LTD

APPLICANT

AND

COMMISSION FOR CONCILIATION

MEDIATION AND ARBITRATION

1ST RESPONDENT

ADVOCATE R. BRACKS N.O.

2ND RESPONDENT

HARVEY S. RADEBE

3RD RESPONDENT

JUDGMENT

Molahlehi J

[1] This is an application for leave to appeal against my judgment handed down on 5th May 2008 in which I dismissed the application to review and set aside the arbitration award issued by the second respondent under case number GAJB 8996-05 dated 20th May 2006 with costs. This matter was considered on the basis of the papers submitted by the parties.

[2] The applicant in this application for leave to appeal has raised several grounds for leave to appeal. I do not deem it necessary to repeat those grounds in this judgment.

[3] In terms of section 166(1) of the Labour Relations Act 66 of 1995 (the LRA) a party wishing to appeal to the Labour Appeal Court against a judgment of the Labour Court has to obtain leave to do so from the Labour Court. The test to apply when considering whether or not to grant leave to appeal is whether there is a reasonable prospect that another Court may come to a different conclusion to that of the Labour Court.

[4] I have carefully considered the grounds for leave to appeal as set out in the application for leave to appeal to the Labour Appeal Court. I have also considered my judgment including the submissions made by both parties. I am persuaded that another Court may come to a different conclusion to the one reached by me in my judgment.

[5] In the circumstances the following order is made:

- (i) The application for leave to appeal to the Labour Appeal Court against the whole of the judgment is granted.
- (ii) The costs to be costs in the appeal.

Molahlehi J

Date of Judgment: 30th October 2009

Appearances

(Leave to Appeal decided on papers)