

IN THE LABOUR COURT OF SOUTH AFRICAHELD AT DURBANCASE NO:D426/08DATE:9 FEBRUARY 2009

5 In the matter between

BUHLE ZAMOKWAKHE MIYA

Applicant

and

A KALAPARSAD T/A NIKIELS COACH TOURS

First Respondent

COMMISSION FOR CONCILIATION,10 **MEDIATION AND ARBITRATION**

Second Respondent

COMMISSIONER HILDA GROBLER

Third Respondent

JUDGMENT

15

PILLAY D, J

This is an application to review and set aside the award of the third respondent commissioner. The principle complaint against the award is that

20 the commissioner did not allow the applicant a fair opportunity to cross-examine the first respondent, the employer.

The Court has debated at length the evidence from the transcripts with Mr Jafta who appears for the applicant, and it has not found any evidence to

25 support the contention that the arbitrator interfered unduly with the applicant's cross-examination. The arbitrator was keen to hold the parties to her terms of reference and to that extent steered the proceedings.

Furthermore, it is not enough for the applicant to say that he was prevented from asking a question. The applicant has to go further and say that he might have shown that the employer was lying. That case has not been made out in the pleadings. The applicant has failed to establish that in the
5 circumstances of this case, the arbitrator's interventions in the proceedings impeded his cross-examination unfairly. The application for review is dismissed.

10

Pillay D, J

Date of Editing: 22 May 2009

Appearances:

For the Applicant: Mr Jafta – Jafta Inc

For the Respondent: No Appearance

**IN THE HIGH COURT OF SOUTH AFRICA
DURBAN AND COAST LOCAL DIVISION**

HELD AT DURBAN

CASE NO : **D426/08**

DATE :

In the matter between

BUHLE ZAMOKWAKHE MIYA Applicant

and

A KALAPARSAD T/A NIKIELS COACH TOURS Respondent

BEFORE THE HONOURABLE MADAM JUSTICE PILLAY

ON BEHALF OF APPLICANT : MR JAFTA

REPORT ON RECORDING

Clear recording.

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This is, to the best abilities of the transcriber, a true and correct transcript of the proceedings, **where audible**, recorded by means of a mechanical recorder in the matter:

B Z MIYA v A KALAPARSAD t/a NIKIELS COACH TOURS

CASE NO : D426/08

COURT OF ORIGIN : DURBAN

TRANSCRIBER : MRS S M BOYCE

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