

IN THE LABOUR COURT OF SOUTH AFRICA

HELD IN DURBAN

Not Reportable

Case NO: D393/07

In the matter between:

SOUTH AFRICAN REVENUE SERVICES
and

APPLICANT

COMMISSION FOR CONCILIATION, MEDIATION
AND ARBITRATION

FIRST RESPONDENT

COMMISSIONER PAUL SHABANGU

SECOND RESPONDENT

PSA obo CHATROOGHOON

THIRD RESPONDENT

Date of Hearing: 15 September 2010

Date of Judgment: 30 December 2010

JUDGMENT

CELE J

Introduction

[1] In terms of section 166 of the Labour Relations Act,¹ (“the Act”) the applicant seeks leave to appeal against a final decision of this Court in this matter dated 30 December 2010. This court had dismissed applicant’s application to review and set aside an arbitration award dated 13 May 2007 issued in this matter by the second respondent. The applicant was ordered to pay costs of the review application. The third respondent has opposed this application on behalf of its member, Mr Chartrooghoon who is the erstwhile employee of the applicant.

[2] The question is whether the applicant has shown that there are reasonable prospects of success on appeal. Put differently, the enquiry turns on whether there are reasonable prospects of another court concluding differently on the issues raised.

[3] I have considered the grounds of appeal outlined by the applicant in contending that two of the findings made by this Court were arrived at by the adoption of a wrong approach to a collective agreement governing the employment relationship between the parties. There is also the legal challenge to whether or not the decision in *County Fair Foods (PTY) Ltd v CCMA*² was correctly applied in this matter.

[4] Notwithstanding the contrary submissions made by the third respondent in opposing this application, I am of the view that there is a reasonable prospect of success on appeal.

¹ 66 of 1995.

² (2003) 241 ILJ 355 (LAC).

[5] The application for leave to appeal is accordingly granted. Costs shall be costs in the appeal.

Cele J

APPEARANCES

For the Applicant: Advocate Tim Bruinders SC
Instructed by Routledge Modise INC

For the Respondent Mr B Macgregor of Macgregor Erasmus