

IN THE LABOUR COURT OF SOUTH AFRICA

HELD AT JOHANNESBURG.

Not reportable

Case number: J2127/10

In the matter between:

ROAD TRAFIC MANAGEMENT

COORPORATION

1ST Applicant

LETSOALO COLLINS NO

2nd Applicant

And

MOYANA HLENGANI JACKSON

Respondent

Judgement

Molahlehi J

- [1] This is an application for leave to appeal against the judgment of this court which was made on 10 November 2010. In terms of that judgment the court treated the matter as urgent and found the suspension of the respondent, Mr Moyana to have been unlawful it went beyond the 60 (sixty) days as prescribed and was never extended by the applicant as required in terms of the SMS Handbook. The court also found that the applicant, (respondent in the urgent application) had failed to extend the 60 (sixty) days of suspension of the respondent required by the SMS Handbook.
- [2] The applicant in its ground for leave to appeal contends that this court erred in finding that:
- 1.1 *the application was urgent*
 - 1.2 *the Court had jurisdiction to determine the unlawfulness (or) otherwise of the suspension*

- 1.3 *the provisions of the SMS Handbook are applicable as binding (in) contractual terms instead of as a guide;*
- 1.4 *the provisions of the SMS Handbook and in particular clause 2.7 (2) are peremptory.*

The applicant contends further that the Court erred in dealing with the suspension provisions of the SMS Handbook without regard to the context in which the suspension occurred including not treating the postponement as an extension of the 60 (sixty) days of suspension.

- [3] In considering whether or not to grant leave to appeal to the Labour Appeal Court I am called upon to evaluate the possibility that another court is likely to come to a different conclusion to the one reached by this court in this matter. In other words I am called upon to determine whether there may be reasonable prospects that another court may come to a different conclusion than the one reached by this court. This court has the power to grant or refuse leave to appeal in terms of section 166 of the Labour Relations Act of 1995.
- [4] I have considered the submissions made by both parties including the authorities referred thereto including my judgment on the matter. I am of the view that my judgement is correct in all respects and thus there is no reasonable possibility that another court is likely to arrive at a decision different to the one made by me.
- [5] It is accordingly my view that the applicant has failed to make out a case for leave to appeal and thus its application for leave to appeal stand to fail.
- [6] In the premises leave to the Labour Appeal Court is refused with no order as to costs.

Molahlehi J

JUDGE OF THE LABOUR COURT

Date of judgement: 5 May 2011

Appearances: The matter was considered in chambers.