



REPUBLIC OF SOUTH AFRICA

THE LABOUR COURT OF SOUTH AFRICA, CAPE TOWN

JUDGMENT

Reportable

Case no: C1012/2011

In the matter between:

THEMBEKILE DUNCOR MELANE

Applicant

and

G4S SECURITY SERVICES (PTY) LTD

Respondent

Heard on: 02 February 2012

Delivered on: 9 May 2012

JUDGMENT

EDMONDS AJ

Introduction

[1] This is an application in terms of section 158 (1) (c) of the Labour Relations Act ¹ ('the LRA') to have the settlement agreement arrived at

¹ Act No 66 of 1995

between the parties at the Commission for Conciliation, Mediation and Arbitration, dated 27 January 2006, made an order of court.

- [2] The applicant represented himself and the matter was unopposed.

Background Facts

- [3] The agreement referred to above reads as follows:

‘The above parties wish to record their agreement reached in full and final settlement of all claims arising from the employment relationship/this referral;

The employer agrees to pay the employee a settlement amount of 1 (one) month’s pay equivalent to R1 700.00 (one thousand and seven hundred rands) payment on 3 February 2006. The money would be deposited into his bank account. The employer also agrees to re-employ the employee on condition that he submits a Doctor’s report indicating that he is fit to work.’

- [4] It is apparent from the documents annexed to the affidavit in support of the application that the respondent complied with its obligation to make payment of R1 700.00 (one thousand and seven hundred rands) to the applicant and this was confirmed by the applicant in the course of the proceedings.
- [5] It is the remaining obligation which the applicant seeks to have made an order of court. The applicant states that he has submitted a Doctor’s report indicating that he is fit to work and that, accordingly, the respondent is obliged to re-employ him in terms of the agreement.
- [6] Attached to the founding affidavit, the applicant annexed a note which appears to be written by a Doctor N D Yakon of the G F Jootse

Hospital dated 6 February 2006 in which he concludes that:

‘I think he is a very motivated person and can do any kind of job that will allow him to sit down most of the day or any kind of light duty. He is still on medical follow up, will need to come for his review.’

- [7] In addition, there is a note from a Doctor T Crede of the same hospital dated 19 November 2007 addressed to Mr Du Plessis of the respondent in which he states as follows:

‘I have reviewed the above patient today, and he has asked me to provide you with an update.

His legs have progressed as much as can be expected and further recovery is unlikely. However his ability to work behind a desk is not affected. There have been concerns about his eyesight, but a review by an eye specialist and the provision of spectacles may well solve that problem. If you could assist him and even consider him for a job again, this would be much appreciated.’

Applicable Legal Principals

- [8] Although a period of seven years has passed since the agreement was reached at the CCMA and whilst the debt in the agreement entered into is a debt as contemplated by the Prescription Act 68 of 1969 which would, in normal course, prescribe three years after the date on which it in terms of the agreement became due, section 17 (1) of the Prescription Act states that:

‘A court shall not of its own motion take notice of prescription.’

Order

- [9] In the circumstances, I make the following order:

1. The agreement entered into between the parties under CCMA

case number: WE14869-05 on 27 January 2005 at Cape Town
is hereby made an order of court.

2. There is no order as to costs.

EDMONDS AJ

ACTING JUDGE OF THE LABOUR COURT

APPEARANCES:

For the Applicant: IN PERSON

For the Third Respondent: NO APPEARANCE