



REPUBLIC OF SOUTH AFRICA

Not reportable

THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

JUDGMENT

Case no: JR 1019/14

In the matter between:

**EFFICIENT ENGINEERING (PTY)
LTD**

Applicant

and

**METAL AND ENGINEERING
INDUSTRIES BARGAINING
COUNCIL**

First respondent

COMMISSIONER N.P. MBEKWA

Second respondent

**UCIMESHAWU obo
JOHANNES MOICHELA**

Third Respondent

Delivered: 11 March 2015

RULING ON LEAVE TO APPEAL

STEENKAMP J

[1] The applicant seeks leave to appeal against my judgment of 4 February 2015.

[2] In that judgment, I found that the conclusion reached by the arbitrator on the evidence before her falls within a range of reasonable outcomes. The application to review her award was therefore dismissed.

[3] This Court was recently reminded of the principles governing leave to appeal by the Labour Appeal Court¹:

““The Labour Relations Act was designed to ensure an expeditious resolution of industrial disputes. This means that courts, particularly courts in the position of the court *a quo*, need to be cautious when leave to appeal is granted, as should this Court when petitions are granted.

There are two sets of interests to consider. There are the interests of the parties such as appellant, who are entitled to have their rights vindicated, if there is a reasonable prospect that another court might come to a different conclusion. There are also the rights of employees who land up in a legal “no-man’s-land” and have to wait years for an appeal (or two) to be prosecuted.

This was a case which should have ended in the Labour Court. This matter should not have come to this court. It stood to be resolved on its own facts. There is no novel point of law to be determined nor did the Court *a quo* misinterpret existing law. There was no incorrect application of the facts; in particular the assessment of the factual justification for the dismissals/alternative sanctions.”

[4] The same principles apply to this case. There is no reasonable prospect that another court will come to a different conclusion, given the strict test on review. There is no novel point of law to consider. The arbitrator decided the matter on the facts. There is no reasonable prospect that another court will overturn her conclusion on review.

[5] The application for leave to appeal is dismissed.

Steenkamp J

¹ *Martin & East v NUM* (2014) 35 ILJ 2399 (LAC).

LABOUR COURT