



REPUBLIC OF SOUTH AFRICA

Not reportable

**THE LABOUR COURT OF SOUTH AFRICA,
IN JOHANNESBURG**

CASE NO: J2568/10

In the matter between:

RAMADIBA, MOTLATSO ANGELINA

First Applicant

and

LIMPOPO LEGISLATURE

First Respondent

MAAKE, JOSIAS SELLO (N.O.)

Second Respondent

**COMMISSION FOR CONCILIATION,
MEDIATION AND ARBITRATION**

Third Respondent

NGOBENI, EVA (N.O.)

Fourth Respondent

JUDGMENT ON APPLICATION FOR LEAVE TO APPEAL

LAGRANGE, J

Introduction

- [1] The applicant for leave to appeal and the first respondent are cited as they were in the original proceedings in which judgement was handed down on 14 December 2014.

Preliminary issue - the Application to Strike out

- [2] Having filed her notice of her intention to apply for leave to appeal, the applicant did not take further steps to file her submissions as required by paragraph 15.2 of the Labour Court Practice Manual. The first respondent's attorneys noted its opposition to the application and advise the applicant that it would file its answering submissions and/or affidavit once she had complied with the court rules and the practice directive. Instead of going to look at what the Labour Court Rules and the Practice Directive said on the prosecution of an application for leave to appeal, the applicant's Attorney sought direction from the first respondent as to what she should do and threatened to apply to have the offending advice struck out if the first respondent did not provide more detail. When the first respondent's attorneys reiterated what was stated in the notice of opposition, the applicant proceeded to launch an application to strike out the advice in the notice of opposition and applied for the application to be set down for hearing.
- [3] To forestall such a pointless application, the Court drew the applicant's attention to paragraph 15 of the Labour Court Practice Direction and directed the applicant to file her submissions on the application for leave to appeal by 11 March 2015. The applicant was also directed to file heads of argument in support of the application to strike out together with her submissions on leave to appeal if she intended to persist with that application. The parties were also advised that the Court saw no need to set that matter down for a hearing. No heads in support of the application to strike out were filed and accordingly I accept that, that application has been withdrawn.

- [4] The costs of this withdrawn application remain to be determined and should be determined on appeal.

Merits of the appeal

- [5] While I am not persuaded of an inherent merit in the specific grounds for leave to appeal as they relate to my reasoning in my judgement, the unusual history of the case is sufficiently novel to believe it is possible that another Court may come to a different conclusion. Accordingly, I am inclined to grant leave to appeal against the judgement handed down in this matter on 14 December 2014.

Order

- [6] Leave to appeal against the judgement in this matter handed down on 14 December 2014 is granted.
- [7] Costs of the application including the interlocutory application to strike out shall be costs in the appeal.



R LAGRANGE, J

Judge of the Labour Court

(In chambers)

18 March 2015