



THE LABOUR COURT OF SOUTH AFRICA: JOHANNESBURG

JUDGMENT

Not Reportable

Case no: JS 871/11

In the matter between:

ALAN TULWANA

First Applicant

ROBERT WIEBOSCH

Second Applicant

and

CITY OF JOHANNESBURG

Respond

Judgment Delivered: 07 August 2015

Considered In Chambers

LEAVE TO APPEAL: JUDGMENT

MOLAHLEHI, J

- [1] This is an application for leave to appeal against the judgment of this Court made on 29 April 2015, in terms of which the applicants' claim of automatically unfair dismissal was dismissed. The main case of the applicants was that the respondent had dismissed them for making protected disclosure and in the context where they had reasonable expectation that their fixed term contracts would have been renewed.
- [2] The essence of the reasoning of the Court in dismissing the applicants' claim was that they had failed to show that their dismissal was for an impermissible reason. The Court also found that the employment of the applicants by the respondent came to an end as a result of the effluxion.
- [3] In their application for leave to appeal the applicants have raised several grounds upon which they seek to have the decision of the Court overturned by the Labour Appeal Court. I do not deem it necessary to repeat the same in this judgment. The application is opposed by the respondent who has also made a detailed and well considered submission. In arriving at the conclusion as I do below I have taken into account the submissions made by both parties including the earlier judgment of this Court.
- [4] In terms of s 17 of the Superior Courts Act,¹ leave to appeal should be granted only when there are reasonable prospects that the appeal would succeed or if the Appeal Court is likely to arrive at a decision different to that of the trial Court. The onus is on the applicant to show the Court that the leave to appeal is not based on remote but realistic prospects of succeeding on appeal.
- [5] I am persuaded in the present instance that there are realistic prospects that the Labour Appeal Court could arrive at a decision different to that reached by this Court when dismissing the applicants' claim.

¹ Act number 10 of 2013.

Order

[6] In the premises, the applicants are granted leave to the Labour Appeal Court with no order as to costs.

Molahlehi, J

Judge of the Labour Court Johannesburg

Appearances:

The matter considered in Chambers.