



REPUBLIC OF SOUTH AFRICA

THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

JUDGMENT

Not Reportable

CASE NO: JR2599/12

In the matter between:

MOKGOSANA LESIBANA SHIRLEY

Applicant

And

SOUTH AFRICAN POLICE SERVICES

First Respondent

SAFETY AND SECURITY SECTORAL

BARGAINING COUNCIL

Second Respondent

FJ VAN DER MERWE

Third Respondent

Heard: 3 July 2015

Delivered: 3 July 2015

Edited: 25 August 2015

EX-TEMPORE JUDGMENT

MALAN AJ

- [1] The matter before me concerns an application in terms of section 145 of the Labour Relations Act, No. 66 of 1995, to have a condonation ruling issued by the second respondent reviewed and set aside.
- [2] *Ex facie* the papers, the review application, was launched on 23 October 2012. This appears to be common cause between the parties. As a preliminary objection, the first respondent has raised the issue that the review application was delivered late. It appears from the ruling (which the applicant seeks to have reviewed) that it was handed down on 23 July 2012 and transmitted by fax transmission by the second respondent to the parties on 24 July 2012. In this regard reliance is placed on page 91 of the record, which is the fax cover sheet dealing with the condonation ruling. This issue was specifically raised by the first respondent in answer to the review application. This allegation has not been dealt with by the applicant.
- [3] I have no reason to doubt the inferences that the first respondent seeks me to draw, *ex facie* at least, from the fax cover sheet. In the circumstances, it appears, at least in my mind, that the documentation supports the first respondent's contention that the ruling was sent to the parties on 24 July 2012. Based on those facts, the review application is indeed two (2) months late. There is no application for condonation before me and also no explanation by the applicant in this regard.
- [4] I am mindful of the fact that the applicant, at that point in time, was represented by attorneys other than the attorneys currently representing him in this court, but despite the lapse of almost three (3) years, no explanation or application for condonation

has been offered to explain this delay or if it was a delay at all, or when the condonation ruling came to the attention of the applicant.

- [5] To add insult to injury, the record of the proceedings also appears to have been delivered late, or rather, after it was delivered, a substantial amount of time of approximately sixteen (16) months lapsed before the record was filed and the supplementary affidavit in that regard. Once, again, this delay is not explained by the applicant. These issues were raised pertinently in the answering affidavit in the relevant paragraphs and is, despite that, not dealt with by the applicant in its replying affidavit and no explanation whatsoever, or attempt at any explanation, is offered. In the circumstances.

I make the following order:

1. The point *in limine* regarding the late referral of the review application is upheld.
2. The review application is dismissed.
3. There is no order as to costs.

MALAN AJ

ACTING JUDGE OF THE LABOUR COURT

APPEARANCES:

For the Applicant: JM Gouws, Johan Gouws Attorneys

For the Respondent: Adv. MJ Ramaepadi, instructed by the State Attorney

Labour Court