



THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

Case No: JR1127/13

Not reportable

Not of interest to other judges

In the matter between:

MINTEK

Applicant

(Applicant in the application for leave to appeal)

and

COMMISSION FOR CONCILIATION,

First Respondent

MEDIATION AND ARBITRATION

BOYCE, TIMOTHY N.O

Second Respondent

COKO , WALTER AND FIVE OTHERS

Third to Further Respondents

(Respondents in the application for leave to appeal)

Decided: In Chambers

Judgment: 18 November 2015

Summary: Application for leave to appeal dismissed with costs.

JUDGMENT - APPLICATION FOR LEAVE TO APPEAL

AC BASSON J.

- [1] This is an application for leave to appeal against the whole of my judgment handed down on 21 October 2015. The grounds on which the applicant seeks leave to appeal are set out in the Notice of Application for leave to Appeal. In essence the applicant is submitting firstly, that this Court erred in holding that the Commissioner had not committed a reviewable irregularity in finding that the individual respondents were not guilty of gross dishonesty and that the dismissal was substantively fair. Secondly, this Court erred in holding that the Commissioner had not committed a reviewable irregularity in finding that reinstatement was an appropriate remedy. Thirdly, this Court erred in making an adverse costs order against the applicant.
- [2] Both parties have filed comprehensive submissions addressing each of these grounds. I have considered each of these grounds in arriving at a decision and I am not persuaded, having considered each of these grounds and the submissions filed on behalf of both parties, that there are reasonable prospects an appeal in this matter will be successful.
- [3] I have in my judgement referred to the most recent authorities in respect of the particular test for reviews of CCMA awards. I am not persuaded that there is a reasonable prospect that another court would grant the review application. I am also not persuaded that another court would have dismissed the review application without costs against the applicant as it is a normal and just outcome that costs should follow when an employer loses against his employee in this court.

Order

[4] In the event the following order is made:

4.1 The application for leave to appeal is dismissed with costs.

AC BASSON

Judge of the Labour Court of South Africa

LABOUR COURT