



THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

JUDGMENT

Not Reportable

Case Number: J440/14

In the matter between:

SICEBI KHULANU XULU

Applicant

and

BRUNO QUATRO ENGINEERING (PTY) LTD

Respondent

Date heard: 21 August 2014

Delivered: 26 November 2015 - Judgment delayed on request of parties in anticipation of LAC decision on prescription.

JUDGMENT

RABKIN-NAICKER J

- [1] This opposed contempt application came before me on the 21 August 2014. The respondent, it was claimed, was in contempt of an arbitration award which was issued on the 20 June 2008 under case number MEGA 17793.

- [2] Given divergent approaches in the Labour Court in regard to the application of the Prescription Act, the parties asked that I reserved judgment until the Labour Appeal Court handed down judgment in respect of this question.
- [3] The judgment under case numbers JA122/14; JA39/14 and CA 3/14¹ was delivered on 6 November 2015 and dealt with arbitration awards pre-dating the 2014 amendments to the LRA, such as that in question. The court found that the Prescription Act applied to arbitration awards made in terms of the LRA regardless of whether such award was compensatory or a reinstatement award with or without back-pay. Awards under the LRA are subject to a three year prescriptive period and are due on delivery of the Award regardless of whether the award is certified or not.
- [4] In the circumstances the award in this case had prescribed when the application for contempt was launched on 10 March 2013. The contempt application therefore stands to be dismissed. I therefore make the following order:

Order

1. The application is dismissed.

H. Rabkin-Naicker

Judge of the Labour Court of South Africa

¹ *Sizwe Myathaza v Johannesburg Metropolitan Bus Service (Soc) Limited t/a Metrobus, Daniel Maibuk v Concor Plant and Cellucity (Pty) Ltd v CWU obo Peters* respectively

Appearances:

Applicant: Mabaso Attorneys

Respondent: O'Donovan Attorney

LABOUR COURT