IN THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

Reportable

CASE NO: JR 2029/15

In the matter between:

MAPITSI GLADYS SEGONA **Applicant**

and

THE EDUCATION LABOUR RELATIONS COUNCIL **First Respondent**

E MAREE **Second Respondent**

MPUMALANGA DEPARTMENT OF EDUCATION **Third Respondent**

Heard: **13 January 2017**

Delivered: **07 February 2017**

Summary: **Bargaining Council Arbitration proceedings – review of proceedings, decisions and awards of Arbitrators – unfair labour practice proceedings – Arbitrator ruling Applicant bore onus and refusing to compel employer to provide further particulars – ruling on onus correct and Applicant not requiring further particulars to prepare for Arbitration – no gross irregularity shown.**

Bargaining Council Arbitration proceedings – review of proceedings, decisions and awards of Arbitrators – test for review – assessment of evidence and legal principles by Arbitrator – assessment and determination reasonable – Award upheld.

Bargaining Council Arbitration proceedings – review of proceedings, decisions and awards of Arbitrators – Employer's witness asserted Applicant responsible as Accounting Officer of school where Applicant was not Accounting Officer – Commissioner not finding Applicant responsible because of position as Accounting Officer but rather because of involvement – no error of law found – Award upheld.

JUDGMENT

BECKENSTRATER AJ:

Introduction

[1] This matter came before me as an unopposed review application in which the Applicant sought to review and set aside an Arbitration Award of the Second Respondent (the Commissioner) of the First Respondent, the Education Labour Relations Council (the Council). The Award relates to a dispute the Applicant had referred to the Council against her employer, the Third Respondent, about her demotion from the position of Principal to the position of Deputy Principal, which demotion had taken place pursuant to a disciplinary hearing. In the Award the Commissioner found that— "*The Applicant failed to discharge the onus in proving that the conduct of the Respondent in demoting her subsequent to a finding of guilt at a Disciplinary Hearing amounted to an unfair labour practice*" and dismissed the dispute.

[2] The Applicant seeks to review the Award on several grounds which are considered below.

Background

[3] The Applicant was employed by the Third Respondent as the Principal of Langalibalele Primary School in the Mpumalanga Province.

[4] Around 2008 the Third Respondent conducted investigations into complaints made against the Applicant apparently by the School Governing Body (the SGB) and members of the local community. One of the investigators, Mr Kgomphiri (Kgomphiri) interviewed, amongst others, the Applicant during the course of the investigation.

[5] Pursuant to the resulting report the Applicant was charged by the Third Respondent during December 2008 with seventeen charges of misconduct. In terms of Charge 1 it was alleged that the Applicant was guilty of misconduct in terms of section 18(1)(f) of the Employment of Educators Act 76 of 1998 in that she unjustifiably prejudiced the administration, discipline or efficiency of the Department of Education, the State or a school, by taking computers donated to the school and placing them at her home for a period of more than two years. Charge 2 was never proceeded with. Charges 3 to 5 related to allegations of misconduct in terms of section 18(1)(ee) of the Employment of Educators Act alleging that the Applicant committed acts of dishonesty by under-banking various amounts of the school's income during the 2005 year (Charge 3), the 2006 year (Charge 4) and the 2007 (Charge 5). Charges 6 to 17 related to allegations of dishonesty pertaining to claiming reimbursements without supporting documentation.

[6] At the subsequent disciplinary hearing the Applicant was represented by Mr Ntuli who also represented the Applicant later at the Arbitration and in this Court. Various witnesses, including Kgomphiri gave evidence at the disciplinary hearing. At the hearing the Applicant's representative did not ask question of the witnesses and the Applicant did not testify. However, argument was presented on her behalf.

[7] On 4 May 2009 the Applicant was found guilty of Charges 1, 3, 4, 5, 6 and 8 to 17.

[8] As a result of this the Applicant was not dismissed, but rather demoted to the level of Deputy Principal and removed from Langalibalele Primary School to be placed at another school where she could be "*supervised thoroughly*".

[9] The Applicant noted an internal appeal against this decision. That internal appeal was, however, dismissed on 13 April 2010.

[10] On 5 May 2010 the Applicant referred a dispute to the Council. In accordance with the Council's standard referral form she categorised her dispute as relating to "*misconduct*" (rather than a dispute about an unfair labour practice).

[11] For reasons that are not explained in the papers before Court, the Arbitration eventually came before the Commissioner for hearing for the first time in February 2014. The Commissioner herself indicated some dismay at this delay, but no explanation is apparent for it.

[12] Before the Arbitration came before the Commissioner, the Applicant had requested further particulars from the Third Respondent. There is an unresolved dispute on the record about whether the Third Respondent's representative had ever formally answered this request. The Third Respondent's representative, however, maintained that the request for particulars related to issues of "*the merits*" of the disciplinary charges and disavowed any obligation to answer them in substance. At one of the early sittings the Applicant also raised a point *in limine* which, it appears, the Commissioner dismissed. The record does not record the nature of this point or the Commissioner's ruling on it.

[13] At the outset of the Arbitration Mr Ntuli argued that the Third Respondent bore the onus insofar as it was the Third Respondent that had alleged misconduct. The Commissioner ruled that because the dispute before her related to the

Applicant's demotion pursuant to a Disciplinary Enquiry, the Applicant bore the onus and had the duty to begin.

[14] Mr Ntuli further sought answers to his further particulars. The Commissioner ruled that the hearing would proceed without the further particulars being formally answered.

[15] In relation to Charge 1 the Applicant testified that at some unidentified date and place there had been a meeting of the parents who had instructed her to keep the computers safe (away from the school which had been the subject matter of two recent burglaries). The parents said no one should be told where the computers would be kept and only the Treasurer of the SGB knew about it. Because of this she had kept the computers at her home for a period of two years.

[16] Martha Madibata (Madibata) was called by the Applicant in relation to this charge. She testified that at some unspecified date and place there was a meeting to discuss burglaries at the school where it was resolved that the computers should be kept somewhere safe until it was safe to bring them back to the school. It was agreed that the location of those computers should not be disclosed as otherwise the children would ascertain the location and steal them. The Third Respondent led no evidence in relation to this charge.

[17] In relation to Charges 3, 4 and 5 the Applicant testified that she was not involved in the receipting or banking of monies and had not been dishonest. Kgomphiri testified at the Arbitration and essentially presented his report. He relied upon receipts, estimates of income from the school and banking records to demonstrate that there had been an under-banking for 2005, 2006 and 2007. He testified that when he had interviewed the Applicant during the investigation she had admitted that she had been involved in receipting the money. While the original receipts were not available at the time of the Arbitration he said that he had considered the original receipts at the time of the investigation. He pointed out that many copies of the receipts reflected the Applicant's signature. He did

not know who had banked the school's money. In cross-examination he confirmed that it was not his allegation that the Applicant was dishonest as he was not the person who had drafted the charges. He was of the view that the Applicant was responsible for the under-banking as the Accounting Officer of the school.

[18] In her subsequent Award, the Commissioner found that the Applicant had not discharged the onus on her in relation to Charges 1, 3, 4 and 5 and accordingly found her guilty of those charges. She found the Applicant not guilty in relation to the remaining charges. Because of this latter finding I make no further mention of those charges. The Commissioner's finding in this regard was, naturally, not challenged in this application. It is, however, unfortunate that the full record of evidence relating to those numerous other charges burdened the record before the Court.

[19] The Commissioner was critical of the Applicant's evidence, recording at paragraph 80 of the Award that: "*The Applicant's version can be summarised by stating that she* '*saw no evil, heard no evil and spoke no evil*'". She was not impressed with the lack of detail and corroboration for the Applicant's claims to innocence.

[20] In relation to Charge 1 the Commissioner found the Applicant's version "*rather suspect*" and reasoned that in several regards her evidence was not corroborated by Madibata whom she also found to be an unconvincing witness. She then found:

> "The [Third] Respondent did not call a witness to testify to this charge. The Applicant's verison, however, failed to convince me that she had legitimate reason/s to have the computers at her home. She admitted she had the computers at home for 2 years and as mentioned her reason for doing so was not proven.

> The Applicant is thus guilty of Charge 1 in that she unjustifiably prejudiced the administration, discipline and efficiency of the Department by taking donated computers to her home for at least 2 years. By doing so, she deprived learners/educators and the school in general from benefitting from the computers which in turn prejudiced the smooth running of the Respondent".

[21] In relation to Charges 3, 4 and 5 the Commissioner recorded that—

> "the crux of the Applicant's version of these charges amounts to a claim that she did not under-bank and was therefore not dishonest. Her version rests on the claim that she did not receive monies and thus could not have taken any monies for herself".

The Commissioner felt that there was no reason to reject Kgomphiri's evidence. She also noted Kgomphiri's evidence that the Applicant had informed him during the investigation that she had received monies and that her signature appeared on copies of many of the receipts.

[22] Paragraph 101 of the Award then reads as follows:

> "Is it dishonest to under-bank school monies as stated in the charges? It is my view that if a person handles monies as the Respondent did, she accepts responsibility for this. This would include the responsibility to correctly do the banking thereof even if this part is handled by another person. If this is not done and money cannot be accounted for, it leads to the conclusion that such a person was dishonest".

[23] It is this Award that is brought on review to this Court. The Applicant has set out several grounds of review which are separately considered below.

<u>Onus</u>

[24] The Applicant contended that the Commissioner committed a gross irregularity in procedure by ruling that the Applicant bore the onus. This contention was based

upon the manner in which the Applicant had completed the Council's standard referral form. She had indicated that the nature of her dispute was "*misconduct*" rather than an unfair labour practise. Bargaining Councils and the CCMA do not, however, entertain disputes relating to "*misconduct*". They entertain disputes about dismissals or sanctions short of dismissal arising from misconduct. Mr Ntuli conceded in Court and, indeed, before the Commissioner that the dispute was about an unfair labour practice relating to demotion.

[25] The Commissioner was accordingly correct to find that the Applicant bore the onus (see: *Department of Justice v CCMA & Others*[1] and *NEHAWU obo Manyana & 1 Other v Masege* N.O. *& Others*[2] at paragraph 36 and the authorities collected there). There is consequently no merit in this ground of review.

No prejudice demonstrated in relation to Charge 1

[26] The Applicant contended that the Commissioner had committed a gross irregularity by finding that there was proof of prejudice in relation to Charge 1. Mr Ntuli's argument was that there was only one item of direct evidence led on this point and that was the Applicant's statement that "*there was no need of those computers there*". It was argued that the Commissioner had failed to consider this evidence.

[27] Firstly, I think the prejudice in question is self-evident. If the learners at the school could not benefit from the computers then the donation of the computers would not have been accepted. In the circumstances, as the Commissioner found, keeping those computers away from the school for two years "*deprived learners/educators and the school in general from benefitting from the computers which in turn prejudiced the smooth running of the* [Third] *Respondent*".

---

1 *(2004) 25 ILJ 248 (LAC) at para 73.*
2 *[2014] ZALC JHB 124 (8 April 2014).*

[28] In my view the Commissioner cannot be faulted for accepting the self-evident prejudice over the Applicant's vague, uncorroborated and improbable statement that there was no need for the computers.

[29] Secondly, the matter before me is a review application. In accordance with the famous *Sidumo Test* the question is thus whether the decision reached by the Commissioner is one no reasonable decision-maker could reach. As elaborated on in *Herholdt v Nedbank Ltd (COSATU as amicus curiae)*[3]:

> "The reasons [of the Commissioner] are still considered in order to see how the Arbitrator reached the result. That assists the Court to determine whether that result can reasonably be reached by that route. If not, however, the Court must still consider whether apart from those reasons, the result is one that a reasonable decision-maker could reach in light of the issues and the evidence.
>
> . . .
>
> Material errors of fact, as well as the weight and relevance to be attached to particular facts, are not in and of themselves sufficient for an award to be set aside, but are only of any consequence if their effect is to render the outcome unreasonable".

[30] The mere fact that the Commissioner did not expressly mention the Applicant's statement that the computers were not needed does not mean she did not have cognisance of this statement. Commissioners are obliged in terms of section 138(7)(a) of the Labour Relations Act[4] to give brief reasons. In the Award, the Commissioner herself records:

> "It is not my intention for purposes of this award to verbatim and/or fully reflect all arguments/submissions/evidence submitted on behalf of the parties. All arguments/submissions/evidence were considered and were recorded".

---

[3] [2013] ZASCA 97; 2013 (6) SA 224 (SCA); [2013] 11 BLLR 1074 (SCA); (2013) 34 ILJ 2795 (SCA) at paras 12 and 25.

[4] 66 of 1995.

I do not think the Award reflects that this is one of those matters where the Commissioner failed to take into account material evidence before her. The Applicant's above statement, to my mind, carries little weight in determining whether the state or the school suffered prejudice.

[31] In *Head of the Department of Education v Mofokeng & Others*[5] the Labour Appeal Court held the following:

> "Irregularities or errors in relation to the facts or issues, therefore, may or may not produce an unreasonable outcome or provide a compelling indication that the arbitrator misconceived the inquiry. In the final analysis, it will depend on the materiality of the error or irregularity and its relation to the result. Whether the irregularity or error is material must be assessed and determined with reference to the distorting effect it may or may not have had upon the arbitrator's conception of the inquiry, the delimitation of the issues to be determined and the ultimate outcome".

[32] I am not convinced the Commissioner overlooked this evidence. However, even if she did do so, this evidence had no distorting effect on the Arbitrator's understanding of the issues before her or the outcome and did not amount to a reviewable irregularity.

[33] This ground of review accordingly fails.

<u>The Commissioner's failure to order the Respondent to provide further particulars</u>

[34] The Applicant argued that the Commissioner's refusal to order the Third Respondent to respond to the Applicant's request for further particulars amounted to a gross irregularity. The transcript reveals that the Commissioner took into account the nature of the particulars requested and that most of the questions were aimed at obtaining details of the misconduct alleged by the Third

[5] *[2015] 1 BLLR 50 (LAC)* at para 33.

Respondent (rather than particularity pertaining to an unfair labour practice). Insofar as the request related to evidence the Commissioner found that the Applicant could subpoena any witnesses or documentation she required. The Commissioner was furthermore aware that the Applicant's demotion had been preceded by a disciplinary hearing where all the evidence had already been led and at which the Applicant had been represented by the same representative. The Commissioner was also aware that there had been a pre-arbitration conference and an exchange of documentation.

[35] Mr Ntuli noted that the Commissioner said that the requesting and furnishing of further particulars is something that did not "*involve the Commissioner*". When the Commissioner was, however, pushed to make a ruling she ruled that the request went "*to the merits*". In context, the Commissioner meant that the request related to the merits of the misconduct and not the merits of the unfair labour practice.

[36] It is evident from the request for further particulars that it was, in essence, designed to emphasise the Applicant's grounds of defence. In those circumstances I don't believe the Applicant was entitled to a formal response. A response was not necessary to prepare for the Arbitration. Moreover, because of the Applicant's and Mr Ntuli's involvement in the disciplinary enquiry no prejudice was suffered by the Applicant as a result of the further particulars not being answered. Indeed, in this Court Mr Ntuli could not indicate in what way the Applicant was prejudiced by this.

[37] Again, this ruling cannot be said to be one that no reasonable decision-maker could make and there is no basis on which to review it.

<u>Error of law</u>

[38] This constituted the Applicant's main ground of review. Mr Ntuli argued that the Award had been tainted by a material error of law. In evidence Kgomphiri had contended the Applicant was responsible for the under-banking of funds as the

Accounting Officer of the school. Relying upon *Schoonbee & Others v MEC for Education, Mpumalanga and Another*[6] Mr Ntuli then argued that Kgomphiri and the Third Respondent had been misguided in charging the Applicant because that Judgment had held that the Principal of a school is not its Accounting Officer. The argument was then advanced that it was legally impermissible for the Third Respondent to charge the Applicant in relation to Charges 3, 4 and 5 because responsibility and accountability for school finances lay with the SGB, not the Principal.

[39] The Applicant's contention, however, does not withstand scrutiny. While it is correct that Kgomphiri contended that the Applicant was liable for the under-banking as the Accounting Officer of the school, the Commissioner did not rely upon this contention in the Award. Rather she found that:

> "If a person handles money as the Applicant did, she accepts responsibility for this. This would include the responsibility to correctly do the banking thereof even if this part is handled by another person".

The Commissioner thus found the Applicant liable in relation to the under-banking because of her involvement in that process and not because of any alleged obligations as an Accounting Officer.

[40] Mr Ntuli also contended in oral argument that it was not competent for the Third Respondent to charge the Applicant in relation to financial issues, because it is the SGB and not the Principal that is responsible therefor. In this regard he relied upon the *Schoonbee* Judgment. Section 16A of the Employment of Educators Act[7] now spells out the responsibilities of public school principals. However, the conduct in this matter and the *Schoonbee* Judgment pre-date that Section. Something, therefore, needs to be said about this.

[6] *2002 (4) SA 877 (T). (Schoonbee)*
[7] Act 76 of 1998 as amended by Act 31 of 2007 and Act 15 of 2011.

[41] Firstly, while the *Schoonbee* judgment did find that the Principal was not the Accounting Officer of the school, it did not absolve Principals of all responsibility in respect of financial issues. Rather at 884B-I the following was stated:

> "In my view, the proper interpretation is to regard the principal as having a duty to facilitate, support and assist the SGB in execution of its statutory functions relating to assets, liabilities, property, financial management of a public school and also as a person upon whom the specific parts of the SGB's duties can properly be delegated. On any of these interpretations the principal would be accountable to the SGB. It is the SGB that would hold the principal accountable for financial and property matters which are not specifically entrusted upon the principal by the statute ...
>
> In my view, there should be no confusion in identifying the two roles played by the [Principal and Deputy Principal], on the one hand, as ex officio members of the SGB and, on the other, as employees of the [Department]. As and when the [Department] acts against the [Principal and Deputy Principal] they must have regard to those dual capacities. It is a misapprehension of that duality which led to the [Head of Department's] acting as he did. The [Head of Department] sought to hold liable the [Principal and Deputy Principal] for the statutory obligations of the SGB. This is not legally permissible ... Should the [Head of Department] be disenchanted by the expenditure patterns of the principal, I think it is the SGB that must be invited to deal with and account for each such proprietary or financial matter as may earn the displeasure of the [Head of Department]. Acting properly, the [Department] as employer is entitled to hold liable and accountable the principal and his deputy in terms of the Employment of Educators Act, 1998 and also under the Schools Act for their duty to manage the school professionally".

[42] The Commissioner found that the Applicant had personally been involved in receiving money and issuing receipts for it and, at the very least, was aware of it being banked. She then must have been doing this on the instruction of or on behalf of the SGB to whom she owed a duty of facilitation, support and assistance. It is within the rights of the Third Respondent as the employer to ensure that such duties were properly and honestly discharged.

[43] I do not read the *Schoonbee* judgment as stating that where misconduct has been committed in respect of a duty delegated by the SGB to a Principal it is only the SGB that can take action in that regard. Provided the disciplinary action is contemplated in the Employment of Educators Act, the Judgment accepts that the Department can take disciplinary steps. This would depend on the misconduct in question and whether there is a nexus between that misconduct and the employment relationship. Thus misconduct "*outside of the workplace*" may be grounds for disciplinary action[8]. So too misconduct towards a co-employee or customer may be grounds for disciplinary action even where the employer itself is not the victim of the misconduct[9]. The present matter is one of these such circumstances.

[44] I thus do not see that the Commissioner has made any error of law and this ground of review fails.

<u>Error of fact in relation to Charge 1</u>

[45] The Applicant argued that the Commissioner did not properly take into account her evidence in relation to Charge 1 that "*at a parents' meeting it was decided that if new computers were bought in it would not be made known and that the computers would be placed at a safe place*". The Applicant argues that the Commissioner did not properly record her evidence or that of Madibata. From this the Applicant argues that the Commissioner erroneously found that she did not have a legitimate reason to keep the computers at her home whereas the Applicant contended that she did so on the instructions of the parents.

[46] As I have indicated above, however, the transcript reveals that the Applicant's evidence in this respect was vague. It is the Applicant's argument that not even the parents were told where the computers would be kept and only the Treasurer and the Applicant knew they were at her home. Ably led by Mr Ntuli during the

[8] Consider *City of Cape Town v SALGBC (2) (2011) 32 ILJ 1333 (LC); Dolo v CCMA & Others (2011) 32 ILJ 905 (LC).*
[9] See *First National Battery v CCMA & Others (2010) 31 ILJ 1203 (LC)*.

Arbitration the Applicant did, indeed, give this testimony. However, before doing so she had also testified "*that is what I said to them* [the parents]*. We purchase the computers I would take them to my place and lock them there and in the garage at my house*".

[47] The transcript further reveals that Madibada's evidence was vague to the extent that she could not recall even the approximate dates of the meetings. She testified that parents were called to a meeting where, because of burglaries at the school, a resolution was taken that certain computers would be kept safe by the Principal and that the parents should not be told where the computers were stored. There was, however, no detail given of this event. Madibada did not confirm that permission was given to the Applicant to store the computers at her house. Interestingly, Madibada testified that sometime later a rumour circulated that the computers had been used to start a school in Bronkhorstspruit and she had taken part in the toyi-toying protests against the Applicant.

[48] It is not surprising that in the circumstances the Commissioner found that Madibada was not a convincing witness and that the Applicant's version was "*rather suspect*". It is not generally the function of a reviewing Court to interfere with credibility findings of a Commissioner unless the record indicates that such findings are not well-founded. In this matter the record supports the Commissioner's findings. The Commissioner found that the Applicant had not discharged the onus. Against the background highlighted above this is not a finding no reasonable Commissioner could make and this ground of review falls to be rejected.

<u>Failure to have regard to relevant evidence in relation to Charges 3, 4 and 5</u>

[49] Under this heading the Applicant contended that the Commissioner had failed to take into account that there was no direct evidence of dishonesty in relation to Charges 3, 4 and 5. During cross-examination Kgomphiri had been asked to explain what was meant by the allegation of dishonesty. He had responded that he did not state that the Applicant was dishonest as he was not the author of the

Charge Sheet. In the circumstances the Applicant contended that the Commissioner could not reasonably have made a finding of dishonesty against the Applicant.

[50] Whether or not the Applicant can have been said to be dishonest in relation to the under-banking of school fees depends, in my view, not upon the say-so of a forensic auditor but upon a consideration of the totality of the evidence. The Commissioner's reasoning for finding the Applicant dishonest is set out in paragraph 101 of the Award quoted above. The question is whether such a decision is one that no reasonable decision-maker could make given Kgomphiri's evidence.

[51] The under-banking the Commissioner found had been proved had to be considered against the following background:

[51.1] The under-banking had gone on for three years.

[51.2] During the forensic investigation the Applicant had apparently told Kgomphiri that she had received the money on behalf of the school and issued receipts for it. This evidence of Kgomphiri was never disputed.

[51.3] When faced with these allegations and those of under-banking at the Disciplinary Enquiry, the Applicant had not proffered any conflicting version.

[51.4] At the Arbitration the Applicant, in her testimony, simply denied any involvement in the receipting of money.

[51.5] While the original receipts were not present at the time of the Arbitration it was evident from the available copies that many of them bore the Applicant's signature.

[52] In these circumstances, the Applicant's evidence at the Arbitration that she had no involvement in the receipting of monies must be rejected.

[53] The case advanced by the Third Respondent called for a proper explanation for the under-banking from the Applicant. This need for an explanation arises, as set out above, not because the Applicant was the school's Accounting Officer, but because she was a school official factually involved in the handling of its finances. Even in circumstances where the employer bears the onus (which was not the situation before the Commissioner) Brassey[10] notes the following:

> "There are circumstances in which an inference of misconduct is permissible unless explained away by the evidence. In a case of this nature, the employee will bear an evidential burden to tender the requisite explanation and, if he declines to do so or it is inadequate, the inference of guilt will stand. At common law this has long been recognised. For example, a till operator can be expected to account for money in his possession and will be guilty of misconduct if he can give no explanation for shortages. The same principle is reflected in the following passage from *Mzeku & Others v Volkswagen SA (Pty) Limited & Others*: 'It is common cause that the Appellants refused or failed to perform their duties for a period of over two weeks. Once this is common cause, the Appellants must provide an explanation for their conduct ... Once there is no acceptable explanation for the Appellants' conduct then it has to be accepted that the Appellants were guilty of unacceptable conduct ...'." (Footnotes omitted)

[54] Given the under-banking of school funds for three years, the Applicant's involvement in the receipt of such monies and what must be seen as her dishonest attempts to disavow any involvement the Commissioner's inference of dishonesty is reasonable. Consequently this ground of review also fails.

<u>Order</u>

[55] Given what is set out above, I make the following order:

---

[10] Brassey "Unfair Dismissals and Unfair Labour Practice" in Brassey et el, *Commentary on the Labour Relations Act, (*revision service 2: 2006), vol 3 at A8-142.

1. The application is dismissed.

Beckenstrater AJ

Acting Judge of the Labour Court of South Africa

<u>Appearances:</u>

For the Applicant: Mr Ntuli

Instructed by: Errol Ntuli Attorneys