



IN THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

Case No: JR2290/2013

In the matter between:

MINISTER OF HOME AFFAIRS

Applicant

and

**GENERAL PUBLIC SERVICE SECTORAL
BARGAINING COUNCIL**

First Respondent

MALUMBETE, VULANI N.O.

Second Respondent

SIMPSON, CLAUDE PETER

Third Respondent

Heard: 15 February 2017

Date of Judgment: 15 February 2017

EX-TEMPORE JUDGMENT

BARNES AJ

[1] This is an application for condonation for the late filing of the applicant's review application. The review application was in terms of the rules required to be filed on or before the 31st of January 2012. It was only filed on the 24th of October 2014. It is therefore approximately 21 months late. This is self-evidently a long delay.

[2] The applicant's explanation for its delay is set out in its answering affidavit at paginated page 12 thereof. The explanation is set out in a full paragraphs. It is to the effect that upon receipt of the award it had to be perused and consideration had to be given to whether review proceedings ought to be brought or not. Thereafter the officer of the State Attorney was instructed, thereafter counsel was briefed, and thereafter the review application was transmitted to the deponent to the founding affidavit who is the Deputy Director Labour Relations in the Department of Home Affairs. He had to consider the application, make comments and return it to the office of the State Attorney.

[3] The deponent states that the affidavit in support of the application was then transmitted back to him for his signature. The following submission is then made in the answering affidavit:

"In the circumstances I submit that the delay was occasioned by logistical matters in view of the fact that our offices are in Pretoria whereas the office of the State Attorney is in Johannesburg and counsel is also based in Johannesburg."

[4] It then goes on to say,

"It was therefore a logistical problem to convene consultations when people are disbursed."

- [5] That is the full extent of the delay, of the explanation for the delay. It is, in my view itself evidently falls dramatically short of the standard that is required for an explanation for delay particularly for such a long period, 21 months in this case.
- [6] In my view this cannot conceivably constitute a reasonable or acceptable explanation for the delay. There being no reasonable or acceptable explanation before this court for the delay it is not necessary for the court to have regard to the applicant's prospects of success in considering the application for condonation. See in this regard *Melanie v Santam Insurance Company Ltd 1962(4) SA 531* Appellant Division.
- [7] For these reasons the applicant's application for condonation for the late filing of its review application is dismissed with costs.

Heidi Barnes
Acting Judge of the Labour Court