



IN THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

Not Reportable

Case no: J 2796/16

In the matter between

BUBELE VAKALISA

Applicant

and

THE SOUTH AFRICA WEATHER SERVICE

First Respondent

MS MMAPULA KGARI N.O

Second Respondent

ANNAMART NIEMAN

Third Respondent

Considered:

In chambers

Delivered:

7 September 2017

JUDGMENT

RABKIN-NAICKER, J:

- [1] The applicant applies for condonation for the late filing of submissions in his application for leave to appeal the judgment handed down by this Court on the 6 January 2017. The notice of appeal was delivered on the 18 January 2017 and on that day, a directive was issued referring to Rule 30 (3A)¹ of the Rules

¹ Rule 30 : **Application for leave to appeal to the Labour Appeal Court**

(1) An application for leave to appeal to the Labour Appeal Court may be made, by way of a statement of the grounds for leave, at the time of the judgment or order.

(2) ...

of this Court and Clause 15² of the Practice Manual. Legal submissions should have been filed on or before 1 February 2017.

- [2] The Applicant's submissions were filed on the 17 August 2017, more than six months out of time. The attorney of record for the applicant avers that the reason for this delay was the suspension of services by his erstwhile attorneys due to non-payment of their legal fees. The applicant's current attorneys were only instructed on the 9 July 2017. They attempted to instruct the senior counsel previously briefed in the matter, with no response forthcoming. New counsel was briefed on the 24 July 2017. The reason for the delay is summarised by applicant as follows: "The result of the delay in this matter was caused by the previous attorneys who suspended their services due to non-payment of their legal fees."
- [3] There has been an inordinate delay in filing the submissions and the explanation given for the delay cannot be considered reasonable. This Court adjudicates a great deal of matters, many are brought by indigent litigants. The Rules of Court and Practice Manual of this Court are applied to all parties before it. Litigants can, and regularly do, draft their own pro-forma pleadings and submissions. The applicant in this matter did not take any steps himself to ensure compliance with the rules and practice of this Court.
- [4] The application for leave to appeal contains the submission that there will be no prejudice to the respondents if condonation is granted. This is incorrect as the principle of finality is at issue here, more especially given the Labour

(3A) Unless the judge from whom leave to appeal is sought otherwise directs, the parties' respective submissions in respect of the application for leave to appeal must be-

(a) in writing; and

(b) delivered on or before a date fixed by the judge.

² Clause 15: **APPLICATIONS FOR LEAVE TO APPEAL**

15.1 A copy of any application for leave to appeal filed in terms of Rule 30 must also be served on the secretary to the judge from whom leave to appeal is sought. If the judge's secretary is not available, it may be served on the secretary of any other judge in the seat where the matter was heard.

15.2 Within 10 days of the filing of the application for leave to appeal, the party seeking leave must file its submissions in terms of Rule 30(3A) and the party opposing the leave must file its submissions five days thereafter. An application for leave to appeal will be decided by the judge in Chambers on the basis of the submissions filed in terms of Rule 30(3A), unless the judge directs that the application be heard in open court.

15.3 An application for leave to appeal must be filed with the registrar in charge of appeals.

Relations Act's objective³ of speedy resolution of disputes. I note that the application that gave rise to the judgment sought to be appealed, came to Court on an urgent basis.

- [5] In addition to the above, I have considered the submissions in the application for leave to appeal filed by both parties, as well as my judgment in the matter. I do not believe there are reasonable prospects of success on the merits. The application for leave to appeal does not therefore fall to be heard by this Court.

Order:

- [6] In the premises, the following order is made:

1. The application for condonation is dismissed.

H Rabkin-Naicker

Judge of the Labour Court of South Africa

³ Act 66 of 1995 (as amended)