



Not Reportable

Case NO: C672/15

In the matter between:

ANDRÉ WATSON

Applicant

and

SOUTH AFRICAN RUGBY UNION ('SARU')

First Respondent

COMMISSION FOR CONCILIATION, MEDIATION

& ARBITRATION

Second Respondent

JOSEPH WILSON THEE

Third Respondent

Decided: In Chambers

Delivered: 6 September 2017

JUDGMENT: LEAVE TO APPEAL

TLHOTLHALEMAJE, J

- [1] Following upon a review application as launched by the applicant, judgment was handed down on 30 June 2017 in terms of which the following order was made;

1. "The Arbitration award dated 27 June 2015 issued by the Third Respondent under case number WECT 4145-15 is reviewed, set-aside and substituted with the following order;
 - (a) 'Andrew Watson is found guilty under charges 1 (a), 1 (b) and 1 (c); and 3 as stipulated in the Notice of Arbitration
 - (b) Andrew Watson is to be issued with a Final Written Warning in respect of the guilt finding under charges 1(c) and 3'
2. The First Respondent is ordered to reinstate Watson in its employ, on the same terms and conditions as applicable to his employment prior to his dismissal.
- 3 The reinstatement order as above shall operate with retrospective effect.
- 4 Back-pay due and payable to Watson as a result of the order of retrospective reinstatement as above shall be limited to six months' salary, at the rate of his pay as applicable as at 27 June 2015.
- 5 Each party is to pay its own costs."

[2] The First Respondent (SARU), has since filed an application for leave to appeal to the Labour Appeal Court against the whole of the judgment and the above order. It is trite that the test in determining whether leave to appeal should be granted is whether there is a reasonable prospect that another court (in this case, the Labour Appeal Court), may come to a different conclusion to that reached by the Court whose judgment is sought to be taken on appeal. It can further be accepted that amongst the factors to be considered with such application is whether the matter is of substantial importance to the parties

[3] I have had regard to the submissions made by or on behalf of SARU in terms of Rule 30 (3A) of the Rules of this Court, and the submissions made in opposition to the application. Having had regard to the issues raised by both parties, and in particular the contentious debates surrounding incompatibility and how the Courts must treat it, and the importance of this matter to both parties, I am of the view that there are reasonable prospects that the Labour

Appeal Court may come to a different conclusion to that reached in my judgment.

Order:

[4] Accordingly, the following order is made;

1. The application for leave to appeal is granted.
2. There is no order as to costs

E. Tlhotlhemaje

Judge of the Labour Court of South Africa