

In the matter between:

SANDI MAJAVU

Applicant

And

LESEDI LOCAL MUNICIPALITY

First Respondent

ISAAC RAMPEDI N. O

Second Respondent

SPEAKER OF LESEDI LOCAL MUNICIPALITY

Third Respondent

NOT REPORTABLE

Case NO:J 1512/17

Decided: In Chambers

Delivered: 8 June 2018

JUDGMENT: LEAVE TO APPEAL

TLHOTLHALEMAJE, J

- [1] The applicant's unopposed application was heard on 20 February 2018. In the application, the applicant (Majavu) challenged the legality of his dismissal from the employ of the first respondent, the Lesedi local Municipality (Municipality). Majavu's main contention was that the Municipal Manager who had initiated the charges of misconduct against him, had been employed/appointed by the Municipality in direct contravention of the provisions of section 54A of the Local Government: Municipal Systems Act.¹ To the extent that this was the case, he contended that the exercise of the Municipal Manager's purported power to dismiss him was invalid.
- [2] The matter was fully argued and judgment was reserved and delivered on 6 March 2018, in terms of which Majavu's application was dismissed primarily on grounds that the were fully set out in the judgment, and which shall not be repeated herein. Majavu has since filed an application for leave to appeal against the whole judgment and order, contending that the Court had erred on various grounds.
- [3] It is trite that when considering applications for leave to appeal, the court *a quo* must be satisfied that there are reasonable prospects that another court, in this case, the Labour Appeal Court, could arrive a different conclusion than that arrived at by the court *a quo*.²
- [4] I have carefully studied Majavu's submissions in seeking leave to appeal and have further reflected on my judgment and the reasons advanced therein. The issues raised in Majavu's submissions in support of his application for leave to appeal are essentially those that were dealt with at the hearing of the main

¹ Act 32 of 2000, as amended

² *S v Smith* 2012 (1) SACR 567 (SCA) (15 March 2011) at para 7 where it was held:

'What the test of reasonable prospects of success postulates is a dispassionate decision, based on the facts and the law that a court of appeal could reasonably arrive at a conclusion different to that of the trial court. In order to succeed, therefore, the appellant must convince this court on proper grounds that he has prospects of succeed on appeal and that those prospects are not remote but have realistic chance of succeeding. More is required to be established than that there is a mere possibility of success, that the case is arguable on appeal or that the case cannot be categorised as hopeless. There must, in other words, be a sound, rational basis for the conclusion that there are prospects of success an appeal'.

See also *Karbochem Sasolburg (A Division of Sentrachem Ltd) v Krieland and Others* (1999) 20 ILJ 2889 (LC) at 2890B; *Ngcobo v Tente Casters (Pty) Ltd* (2002) 23 ILJ 1442 (LC) at 1443 para 2 and *Tsotetsi v Stallion Security (Pty) Ltd* (2009) 30 ILJ 2802 (LC) at 2804 para 14

application and have been sufficiently addressed and dealt with in the main judgment. No purpose would be served by burdening this judgment with a repeat of those issues. Consequently, I hold the firm view that there are no sound or rational grounds for a conclusion to be reached that the Labour Appeal Court could come to a different conclusion to that arrived at by the court a quo.

Order:

[5] Accordingly, the following order is made;

1. The application for leave to appeal is dismissed.

E. Tlhotlhemaje

Judge of the Labour Court of South Africa