



IN THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

Not Reportable

Case no: JR 688/16

In the matter between:

MAMAKI MARIA MOFOKENG

Applicants

and

COMMISSIONER PEHELO MATAKE

First Respondent

COMMISSION FOR CONCILIATION MEDIATION

AND ARBITRATION

Second Respondent

SOUTH AFRICAN NATIONAL PARKS

(GOLDEN GATE)

Third Respondent

Decided: In chambers

Date delivered: 12 October 2018

JUDGMENT – LEAVE TO APPEAL

BODA AJ

- [1] This is an application for leave to appeal to the Labour Appeal Court against the whole of my judgment and order dismissing the condonation application.
- [2] The traditional test for leave to appeal was refined in *Martin & East (Pty) Ltd v National Union of Mineworkers & Others*¹. The Court held that there are two sets of interest to be considered – first, the interest of the appellant, which is entitled to have his rights vindicated if there is a reasonable prospect that another court might come to a different conclusion and the interests of the respondent which may have to wait years for an appeal to be prosecuted. Second, where the matter is resolved on own facts, no novel point of law, no misinterpretation of existing law, the matter must end at Labour Court.
- [3] The threshold for an application for leave to appeal in this matter has simply not been met. I am satisfied in any event that there are no reasonable prospects of success.
- [4] In addition to the reasons contained in my judgment, I wish to emphasize that the equipment used to falsify the deposit slips were found in the applicant's office. The stamped deposit slips bearing her signature were also retrieved from her office. The arbitrator was correct in upholding the dismissal. The award was simply not reviewable.
- [5] In the premises, I make the following order:

Order

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

Boda AJ

¹ [2014] 35 ILJ 2399 (LAC).

Acting Judge of the Labour Court of South Africa

LABOUR COURT