

IN THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

Not Reportable

Case no: JR 1348/17

In the matter between:

CHOKOE SENAGA ANANIAS

Applicant

And

CASHBUILD (PTY) LTD

First Respondent

MAFUJANE TS N.O.

Second Respondent

**COMMISSIONER FOR CONCILIATION, MEDIATION
AND ARBITRATION**

Third Respondent

Decided: In Chambers

Delivered: 01 August 2019

JUDGMENT- APPLICATION FOR LEAVE TO APPEAL

PHEHANE, AJIntroduction

- [1] The applicant is seeking leave to appeal against the order of this Court, handed down on 13 March 2019 in terms of which this Court set aside the arbitration award of the second respondent and substituted it with an order that the dismissal of the applicant is substantively fair and that the applicant should pay the costs. This application is opposed by the first respondent. The first respondent has filed its written submissions.
- [2] The application is launched out of time. No application for condonation for the late filing of this application has been filed by the applicant. On this basis alone, the application should be dismissed.
- [3] However, for reasons of expedience, I have considered the application.

Evaluation

- [4] I have once more considered the order, the written reasons therefore as well as the written submissions filed by the first respondent.
- [5] The applicant has one ground of appeal¹, which is that this Court erred in finding that the first respondent failed to apply his mind in making his arbitration award. The remaining paragraphs 5 to 15 in the application for leave to appeal under the heading “Grounds of Appeal” are extracts from the Court’s reasons for the order. Thus, the said paragraphs do not constitute grounds of appeal.
- [6] I am not persuaded that the applicant has made out a case for the granting of leave to appeal.
- [7] It is a trite principle in our law that in order to be entitled to leave to appeal, an applicant must convince the court that it has reasonable prospects of success

¹ Paragraph 4 of the application for leave to appeal.

on appeal. Further, there has to exist, a likelihood that another court, presented with the same facts, would come to a different conclusion.

[8] I am of the opinion that there is no reasonable prospect of success in this matter for all the reasons set out in the judgment, which I once more confirm. Therefore, there is no reasonable prospect that another court would come to a different conclusion.

[9] 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.

MTM Phehane

Acting Judge of the Labour Court of South Africa