

IN THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

Not Reportable

Case no: JR 1004/17

In the matter between:

ROSINA MOABELO & OTHERS

Applicants

and

**CHRISTAL CLEAN HYGIENE AND
CLEANING SERVICE (PTY) LTD**

Respondent

Considered: In Chambers

Delivered: 18 October 2019

JUDGEMENT: APPLICATION FOR LEAVE TO APPEAL

NTSHEBE, AJ

Introduction

- [1] The applicants apply for leave to appeal against the whole of the judgement delivered on 22 May 2019 wherein their condonation application in respect of the late filing of the review application, which is more than two years out of time, was dismissed.

- [2] Amongst the grounds in the application for leave to appeal, it is submitted that the period is not excessive and that the explanation is understandable and acceptable.
- [3] The test on whether to grant leave to appeal is whether there are reasonable prospects that another court would come to a different conclusion to that of the court *a quo*.¹
- [4] Having considered my judgement and the written submissions of both parties in the application for leave to appeal, I am not persuaded that there exists a likelihood that, based on the same facts, another court would come to a different conclusion. The applicant's explanation in the condonation application falls short of the test. The delay was long and the explanation was not reasonable.
- [5] In the case of *Government Pensions Administration Agency v General Public Service Sectoral Bargaining Council and Others*² the court per Tlhotlhemaje, J in restating the principles applicable in condonation applications stated as follows:
- “In this case, there is no doubt that the delay by Kekana in referring her dispute to the GPSSBC was excessive in the extreme. She therefore had a greater burden to set out all the facts and circumstances relating to the delay, and most importantly, to provide a satisfactory explanation for each period of the delay. Any period of delay that was unaccounted for would ordinarily result in condonation being refused.”
- [6] Therefore, there was a greater burden on the applicants to set out all the facts and circumstances relating to the delay, and most importantly, to provide a satisfactory explanation for each period of the delay. In this, they failed.

¹ *Glencore Operations South Africa (Pty) Ltd v NUM obo Maripane and Others* [2017] ZALCHB 147 (11 May 2017).

² (JR797/17) [2019] ZALCJHB 98 (15 May 2019).

[7] In conclusion, the applicants have not shown reasonable prospects that another Court would come to a different conclusion and therefore have no prospects of success on appeal.

[8] In the premise, the following order is made:

Order

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

T. Ntshebe

Acting Judge of the Labour Court of South Africa