

IN THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

Not Reportable

Case No: JR2557/17

In the matter between:

MEMBER OF THE EXECUTIVE COUNCIL:

Applicant

POLICE, ROADS AND TRANSPORT

(FREE STATE PROVINCIAL GOVERNMENT)

and

PUBLIC SERVICE CO-ORDINATING

First Respondent

BARGAINING COUNCIL

DAVID PIETERSEN, N.O.

Second Respondent

POPCRU OBO RM MINNIE

Third Respondent

Decided: In Chambers

Delivered: 05 February 2020

JUDGMENT: APPLICATION FOR LEAVE TO APPEAL

LAWRENCE, AJ

- [1] The Applicant in this matter seeks leave to appeal against my *ex-tempore* judgment handed down on 18 July 2019.

- [2] The Application for Leave to Appeal is not opposed by the Third Respondent.
- [3] The Applicant's grounds of appeal relate to my order dismissing the Applicant's Application for Condonation with costs.
- [4] The Applicant avers that the delay of 14 (fourteen) days is not substantial and the explanation for the delay, coupled with the fact that the Third Respondent had been dismissed for gross dishonesty ought to have compellingly justified the granting of condonation.
- [5] There are a number of other submissions that the Applicant has raised in its application for leave to appeal, which I do not intend traversing in this Judgment.
- [6] Although the Labour Appeal Court (LAC) has previously held in *Martin And East (Pty) Limited v National Union Mineworkers and Others*¹ that a stricter test is applicable for appeals to the LAC, I do believe that in the interest of clarity and fairness, there are reasonable prospects that another Court may come to a different decision particularly in respect of the period of delay.
- [7] In the circumstances, I make the following order:

Order:

1. The Applicant's application for leave to appeal is granted.

IBW Lawrence

Acting Judge of the Labour Court of South Africa

¹ [2014] 35 ILJ 2399 (LAC).