



THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

Not reportable

Case Number: JR2211/20

In the matter between:

SOUTH AFRICAN CIVIL AVIATION AUTHORITY

Applicant

and

SOLIDARITY OBO C.J. BEAVITT

First Respondent

**THE COMMISSION FOR CONCILIATION MEDIATION
AND ARBITRATION**

Second Respondent

COMMISSIONER DAVID WILSON N.O.

Third Respondent

Heard: In chambers

Delivered: 17 February 2025

(This judgment was handed down electronically by circulation to the parties' legal representatives, by email, publication on the Labour Court's website and released to SAFLII. The date on which the judgment is delivered is deemed to be 17 February 2025.)

JUDGMENT

FORD, AJ

Introduction

[1] On 21 October 2024, I handed down an order setting aside the third respondent's arbitration award, in respect of substantive fairness but upholding the award in respect of the procedural fairness and the concomitant compensation order.

The parties' respective grounds of appeal

[2] The applicant's review is premised on my findings in relation to procedural fairness and the consequent compensation order. Leave to appeal is sought both in respect of the quantification of the amount and the justification for the order.

[3] The first respondent seek leave to appeal against the whole on the judgment on the other hand.

[4] The applicant points out, correctly in my view, that compensation awarded to an employee cannot exceed 12 months salary.

[5] Section 194(1) of the LRA provides that:
The compensation awarded to an employee whose dismissal is found to be unfair either because the employer did not prove that the reason for dismissal was a fair reason relating to the employee's conduct or capacity or the employer's operational requirements or the employer did not follow a fair procedure, or both, must be just and equitable in all the circumstances, but may not be more than the equivalent of 12 months' remuneration calculated at the employee's rate of remuneration on the date of dismissal.

[6] The amount I contemplated, but for the incorrect calculation, is 12 months remuneration. I intend, in order to give effect to both my contemplation and the LRA, vary the order in the judgment to reflect the correct position.

[7] I have considered the first respondent's application to cross-appeal and am inclined to grant leave, limited to what is set out in this order, bearing in mind that neither party would have had the opportunity to consider the variation order below. To this extent, the parties are at liberty to supplement their respective notices of appeal.

[8] In the premises I make the following orders:

VARIATION OF THE 21 OCTOBER 2024 ORDER

The 21 October 2024, is varied as follows:

1. *The arbitration award of the third respondent is reviewed and set aside and substituted with the following order:*

"The dismissal of the applicant [Mr. C.J. Beavitt] was procedurally unfair, but substantively fair. The respondent [South African Civil Aviation Authority] is ordered to pay the applicant compensation equivalent to 12 (twelve) months' salary on or before 1 November 2024.

2. *I make no order as to costs.*

ORDER GRANTING LEAVE TO APPEAL

1. The applicant is granted leave to appeal only in respect of the question whether a compensation order of 12 (twelve) month's salary on account of procedural unfairness was justified;

2. The first respondent is granted leave to appeal against the whole of the judgment and order as contained in the variation order.

3. I make no order as to costs.

Bart Ford

Acting Judge of the Labour Court of South Africa

Appearances:

For the Applicant:

Mr. S. July (Werksmans Attorneys)

For the First Respondent:

Ms. M.J. Van Rensburg (Solidarity)