



THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

Not Reportable
Case No: JR19/22

In the matter between:

THOKA MAKORWANE PATRICK KGOALE

Applicant

and

THABA CHWEU LOCAL MUNICIPALITY

First Respondent

**COMMISSION FOR CONCILIATION,
MEDIATION AND ARBITRATION**

Second Respondent

LETSEMA MOKOENA N.O.

Third Respondent

Heard: In Chambers

Delivered: 3 April 2025

JUDGMENT:

RE-ENROLMENT & APPLICATION FOR LEAVE TO APPEAL

MAKHURA, J

[1] On 20 March 2025, this Court handed down a judgment and order in terms of which the application for leave to appeal was struck from the roll for non-compliance with Rule 67(5) of the Rules Regulating the Conduct of the Proceedings of the Labour Court¹. The applicant has now filed an affidavit seeking the re-enrolment of the application for leave to appeal and the determination thereof.

[2] Rule 67(4) requires the application, and by implication any subsequent process, to be “served” with the secretary to the judge from whom leave to appeal is sought or any judge’s secretary in the seat where the matter was heard. The applicant contends that he served the submissions on the judge’s secretary in terms of rule 9(1)(a)(iv) of the rules of this Court. However, he failed to prove service in terms of rule 9(2)(a) and (b) of the rules because there was no affidavit of service making the necessary averments in terms of rule 9(2)(b). Paragraph 12 of his affidavit does not take the matter any further as the deponent attended the court to “file” the submissions, which must not be misconstrued with service.

[3] Despite the above, I have decided to exercise my discretion to re-enroll the application and determine it in the interest of justice. Having considered the grounds in the application, I have decided to grant the application for leave to appeal.

[4] In the premises, the following order is made:

Order

1. The application for leave to appeal is re-enrolled.

¹ GN 4775a in GG 50608 of 3 May 2024.

2. The application for leave to appeal is granted.

M. Makhura

Judge of the Labour Court of South Africa

LABOUR COURT