



THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

Not Reportable
Case No: JR845/2021

In the matter between:

NONHLANHLA OCTAVIA SITHOLE

Applicant

and

**COMMISSION FOR CONCILIATION MEDIATION
AND ARBITRATION**

First Respondent

COMMISSIONER NADIA SITHOLE

Second Respondent

ENVIROSERV WASTE MANAGEMENT(PTY)LTD

Third Respondent

Considered: In chambers

Delivered: 08 May 2025

This judgment was handed down electronically by circulation to the parties' legal representatives by email. The date of hand-down is deemed to be 8 May 2025.

JUDGMENT – APPLICATION FOR LEAVE TO APPEAL

BALOYI, AJ

[1] This is an opposed application for leave to appeal against the whole of the judgment and order of this Court handed down on 18 November 2024. In terms of that judgment, this Court dismissed the applicant's application to review and set aside the award made by the first respondent with no order as to costs.

[2] This Court found that the dismissal of the applicant was substantively fair in circumstances where the applicant was absent from work for a period of four days without permission from the employer. Furthermore, the applicant failed to inform her immediate supervisor of her whereabouts.

[3] In this application for leave to appeal, the applicant insists that the reason for her dismissal was as result of the grievance that she laid against her supervisor. As set out in the judgment, the applicant was charged for being absent from work without permission and was dismissed for this misconduct. As stated in the judgment, the grievance has no bearing on the dismissal of the Applicant.

[4] In determining this application, the Court considered the test for applications for leave to appeal, which is well established as set out under section 17(1) of the Superior Court Act.¹ Section 17(1) provides that:

‘Leave to appeal may only be given where the judge or judges concerned are of the opinion that-

- (i) the appeal would have a reasonable prospect of success; or
- (ii) there is some other compelling reason why the appeal should be heard, including conflicting judgments on the matter under consideration...’

[5] Having considered the application for leave to appeal, the test applicable to the application and having reflected on the main judgment, I am not persuaded that the appeal would have a reasonable prospect of success nor am I persuaded that there is any other reason that would compel the matter being sent to the Labour

¹ Act 10 of 2013.

Appeal Court. Accordingly, the application for leave to appeal stand to be dismissed.

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

Order

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

F.I Baloyi

Acting Judge of the Labour Court of South Africa