



IN THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

Not Reportable
Case No: JR 2650/18

In the matter between:

RAND AIRPORT MANAGEMENT COMPANY (PTY) LTD **Applicant**

and

**COMMISSION FOR CONCILIATION, MEDIATION
AND ARBITRATION**

First Respondent

COMMISSIONER BONGE MASOTE N.O.

Second Respondent

SELLO SOUL MATLALA

Third Respondent

Heard: 17 June 2025

Delivered: 18 June 2025

JUDGMENT

LENNOX, AJ

[1] This is a matter in which the Applicant seeks to have an archived file retrieved from the archives. The application is opposed by the Third Respondent.

Background

[2] The present review application was launched in time by the Applicant on 7 December 2018, whereafter a notice of opposition was filed on 11 December 2018 on behalf of Mr Matlala.

[3] The Applicant states that it filed the record of the arbitration proceedings on 6 March 2019 and sent same by registered mail to the Third Respondent on the same date.

[4] On 17 May 2019, the Third Respondent launched an application in terms of what was Rule 11¹, seeking the dismissal of the review application.

[5] An answering affidavit was then filed by the Third Respondent on 28 June 2019.

[6] The Applicant filed its heads of argument on 10 July 2019, whereafter the Third Respondent filed its heads of argument on 19 July 2019.

[7] On 29 January 2020, my brother, Coetzee AJ, granted an Order archiving the review application in terms of paragraph 11.2.3 of the then Practice Manual of this Court² as the record was not filed within 60 days. There is an incorrect reference in the papers before me in which it is suggested that the Order was granted on 4 August 2020. This is not the date on which the order was granted but the date on which the Order was stamped after having been typed.

¹ GN 1665 of 1996: Rules for the Conduct of Proceedings in the Labour Court, repealed with effect from July 2024.

² Practice Manual of the Labour Court of South Africa, effective 2 April 2013, repealed with effect from July 2024.

[8] The present application was then launched on 20 July 2021. The delay is explained in the founding affidavit deposed to by Mr Maddern, the present attorney for the Applicant as follows:

‘I am informed by Mr Coetzee, the airport manager of the Applicant, that the Applicant was labouring under the impression that the matter was still pending before the above Honourable Court and that a date was yet to be allocated for the hearing...’³

[9] Mr Maddern further states that the Applicant only became aware that this was not the case when the Sheriff attended at the Applicant's offices on 1 July 2021 to effect a notice of attachment.

[10] The Applicant specifically states that the record had to be filed by 11 March 2019, and that same was filed and mailed on 6 March 2019.

The Applicant's case

[11] The Applicant submits that the Third Respondent was in possession of the record when he filed his answering affidavit, and that reference to the record is made in the heads of argument filed on his behalf. It further argues that the record had been filed within the prescribed 60 day period and that the Third Respondent was aware of this and as such the application should not have been archived.

The Third Respondent's case

[12] The Third Respondent submits that the Applicant failed to submit to comply with the then Rule 7A(6), which then prejudiced the Third Respondent as the relief which he was given could not be realised and that the review application could not be expeditiously brought before this Court.

[13] Mr Leshaba, who appeared for Mr Matlala, drew my attention to two letters sent to Mr Nel, to which no answer was received.

³ Para 9 thereof.

13.1 The first was sent on 29 April 2019 and enquired as to when the record would be filed, as the time period had expired. In it, Mr Nel was cautioned that an application in terms of Rule 11 might follow.

13.2 The second was sent on 9 September 2020, asking Mr Nel to revert with his client's instruction in response to an earlier letter sent on 13 August 2020 advising that the file had been archived.

Analysis

[14] Annexure "RTM 3" to the founding affidavit herein reflects that the record was indeed filed in Court on 6 March 2019 as evidenced by the Court's stamp.

[15] An affidavit of service was deposed to by Mr Nel, the erstwhile attorney for the Applicant, recording that the "Record Transcript" was sent by registered mail on 6 March 2019 to the Third Respondent's attorneys and attached the certificate thereto. This is in compliance with the former Rule 2(e) of this Court, which provides:

'Service is proved in court in any one of the following ways—

...

(e) by producing the certificate issued by the post office for the posting of the registered letter and an affidavit that the letter posted contained the document concerned.'

[16] Mr Leshaba correctly conceded that service had been proven.

[17] Accordingly, there was no reason for the application to have been archived as service of the record took place within the required 60 day period.

[18] This is not a matter in which costs should be awarded.

[19] Accordingly, the following Order is made:

Order

1. The review application is reinstated.
2. There is no order as to costs.

M.A. Lennox

Acting Judge of the Labour Court of South Africa

Appearances:

For the Applicant:

Mr R Maddern

Wright Rose Innes Inc

For the Respondent:

Mr G Leshaba

MM Mitti Attorneys

LABOUR COURT