



THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

Not Reportable
Case No: J1038/23

In the matter between:

KENNETH MABUNDA

Applicant

and

BOLLORE LOGISTICS

Respondent

Heard: 23 April 2025

Order: 23 April 2025

Reasons: 10 July 2025

REASONS

MAKHURA, J

[1] On 23 April 2025, this Court, after hearing oral arguments from both parties, issued an order dismissing the application to make the settlement agreement into a

Court order. Although the respondent did not file an answering affidavit in opposition, it was represented on the day of the hearing, and I permitted its representative to make submissions.

[2] The applicant, who is unrepresented in the proceedings, filed an application for leave to appeal on 12 May 2025. Although the reasons for the judgment were not provided, the applicant was able to raise 10 grounds on which he seeks leave to appeal. Considering that the applicant is not legally represented, I have decided to provide these reasons for my order, which are outlined below. Furthermore, a directive will be issued directing the applicant to deliver a supplementary application for leave to appeal within 10 days, and to deliver written submissions within 10 days thereafter, per Rule 67 of the Rules of this Court.

[3] This application was brought in terms of section 158(1)(c) of the Labour Relations Act¹ (LRA), to make the settlement agreement dated 16 September 2024 an order of Court. Section 158(1)(c) of the LRA provides that the Labour Court may make a settlement agreement an order of the Court.

[4] Section 158(1A) of the LRA provides that:

‘(1A) For the purposes of subsection (1) (c), a settlement agreement is a written agreement in settlement of a *dispute* that a party has the right to refer to arbitration or to the Labour Court, excluding a *dispute* that a party is only entitled to refer to arbitration in terms of section 22 (4), 74 (4) or 75 (7).’

[5] Sections 74 and 75 of the LRA deal with disputes about essential and maintenance services, respectively, whereas section 22 is about organisational rights disputes. None of these exclusions apply.

[6] The settlement agreement was concluded on 16 September 2024. Prior to the conclusion of this settlement agreement, the parties concluded a separate settlement

¹ Act 66 of 1995, as amended.

agreement under the auspices of the National Bargaining Council for the Road Freight Industry (NBCRFLI) on 4 September 2024.

[7] The settlement agreement that forms the subject matter of this application, which is an expansion of the NBCRFLI agreement, was concluded within the meaning of section 158(1)(c) and 158(1A) of the LRA and therefore the jurisdictional preconditions for this Court to entertain the application have been satisfied.² The settlement agreement required the respondent to pay the applicant R150 000.00.

[8] The common cause facts, as also conceded to by the applicant during the hearing, are that on 13 September 2024, the respondent paid R119 537.92 into his bank account. Further, an additional amount of R30 462.08 was paid into the applicant's bank account on 23 September 2024. The applicant conceded that he received a total payment of R150 000.00. The applicant has discovered the proof of payments, which appear at pages 36 and 37 of the record.

[9] It is therefore obvious that the respondent has complied with the terms of the settlement agreement. Therefore, this application is stillborn. Any order granted by this Court will have no practical effect. The applicant cannot seek to enforce the settlement agreement, which has already been complied with, by issuing a writ of execution nor by instituting contempt proceedings.

[10] During arguments, the applicant submitted from the bar that the respondent owed him additional money. Whether the applicant is due additional payment is irrelevant for determining this application. The applicant's remedy in that regard is certainly not to be found in this application.

² See *Greeff v Consol Glass (Pty) Ltd* (2013) 34 ILJ 2835 (LAC) at para 19, where the LAC held that "A settlement agreement that may be made an order of court by the Labour Court in terms of s 158(1)(c), must (i) be in writing, (ii) be in settlement of a dispute (ie it must have as its genesis a dispute); (iii) the dispute must be one that the party has a right to refer to arbitration, or to the Labour Court for adjudication, in terms of the LRA; and (iv) the dispute must not be of the kind that a party is only entitled to refer to arbitration in terms of s 22(4), or s 74(4) or s 75(7). Those kinds of dispute are excluded".

[11] Accordingly, it was for the above reasons that I dismissed the application to make the settlement agreement an order of court.

M. Makhura
Judge of the Labour Court of South Africa

Appearances:

For the Applicant: Mr K Mabunda (Self)

For the Respondent: Mr R Mogane (Human Resources Manager)