



THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

Not Reportable
Case No: J802/2022

In the matter between:

DENNIS NHLANHLA NKOSI

Applicant

and

MINISTER OF WATER AND SANITATION

First Respondent

DEPARTMENT OF WATER AND SANITATION

Second Respondent

Heard: In Chambers

Delivered: 01 September 2025

JUDGMENT: APPLICATION FOR LEAVE TO APPEAL

MOLOTSI, AJ

Introduction

[1] This is an application for leave to appeal against the whole judgment and order delivered on 25 April 2025. The application for leave to appeal was launched by the applicant, Dennis Nhlanhla Nkosi. There is nothing in the Court file which indicates that the application for leave to appeal is opposed by the respondents.

Grounds for leave to appeal

[2] The applicant submitted the following grounds for leave to appeal:

- 2.1. The Court erred by disregarding that the principal issue in dispute was the enforcement of the employment contract in terms of the Basic Conditions of Employment Act¹ (BCEA) and not the Labour Relations Act² (LRA);
- 2.2. The Court erred by applying the wrong test for the enforcement of an employment contract application;
- 2.3. The Court erred by applying irrelevant evidence;
- 2.4. The Court did not consider that the awarding of costs was supposed to have followed the results.

Analysis

[3] The application for leave to appeal is regulated by section 17(1) of the Superior Courts Act³ (Act). Leave to appeal may only be given where the judge concerned is of the opinion that the appeal would have a reasonable prospect of success. The test is a stringent test. The applicant in the leave to appeal must convince the Court that there are sound and rational basis to conclude that there is a reasonable prospect of success on appeal.

[4] The grounds for leave to appeal submitted by the applicant have no merit. The grounds do not come close to meeting the test in terms of section 17(1) of the Act. The grounds for leave to appeal are different from the case that was argued by the applicant during the hearing. The ground for leave to appeal in respect of costs is

¹ Act 75 of 1997.

² Act 66 of 1995, as amended.

³ Act 10 of 2013.

bizarre. There was no costs order made, and the applicant was the losing party. The principle that costs must follow the results does not apply in this Court.

[5] In the result, the following order is made:

Order

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

H Molotsi

Acting Judge of the Labour Court of South Africa