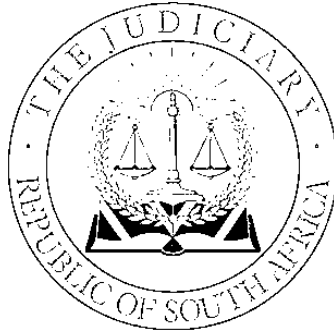




THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

Not Reportable
Case No: JR2405/21

In the matter between:

WBHO CONSTRUCTION (PTY) LTD

Applicant

and

GLEN ALLEN CORMACK N.O

First Respondent

**BARGAINING COUNCIL FOR THE CIVIL
ENGINEERING INDUSTRY**

Second Respondent

ISAAC MHAWU MAPHANGA

Third Respondent

Considered: In Chambers

Delivered: 27 August 2025

JUDGMENT: APPLICATION FOR LEAVE TO APPEAL

MOKWENA, AJ

Introduction

[1] The Applicant seek leave to appeal against the judgment and orders of this Court handed down on the 13 December 2024, and it appears to me that in terms of the grounds for leave to appeal, the bone of contention lies in substantive fairness.

[2] The application for leave to appeal is dated 3 February 2025 and it was served on the third Respondent's attorneys on the even date.

[3] For reasons unknown to the Court, the application only came to this Court attention through an email dated 30 July 2025 at 02:18 PM. The email amongst others stated as follows: *"Good day Judge. Kindly see attached documents for an application for leave to appeal that was filed at court"*. The email is not accompanied by any explanation why it took six months for the application for leave to appeal to receive my attention.

Lateness

[4] The judgment in this matter was delivered on the 13 December 2024 and the application for leave to appeal was only delivered on 3 February 2025. Rule 67 (3) of the Labour Court Rules¹, an application for leave to appeal must be delivered within ten days after the date on which the reasons are given, except that the Court may, on good cause shown, extend that period.

[5] In *casu*, the ten days to file the application for leave to appeal lapsed on 29 January 2025. Therefore, the application is two days late. The Applicant in its application for leave to appeal failed to request an extension of the period as allowed in Rule 67 (3) of the Labour Court Rules.

[6] It seems to me that Rule 67 (3) is instructive in that where a party has failed to comply with the time frames prescribed in the Rule, such a party must obtain leave from the Court to file the application for leave to appeal.

¹ GN 4775 of 2024: Rules Regulating the Conduct of Proceedings of the Labour Court.

[7] Now, the question is whether this Court can *mero motu* extend the period to the 3rd February 2025 when the Application was actually delivered?

[8] In my view to condone the lateness in the absence of an application for extension or condonation would constitute a misdirection on the part of this Court, especially when the Applicant saw no need to make an application for condonation.

[9] Rule 67(3) requires that a good cause must be shown before granting any extension of the period. For that reason, this Court cannot *mero motu* extend the period.

[10] This is strengthened by Phasha v Morudi N.O and others² the Polokwane High court held that: The respondents have served and filed their answering affidavit one day out of time without an application for condonation for late filing of their answering affidavit. Without a substantive application this Court will not mero motu or from an application from the bar grant the respondents condonation application. (Own emphasis added)

[11] Therefore, the Court finds that; the application for leave to appeal is not valid or proper before Court and ought to be rejected by this Court.

Conclusion

[12] In view of what I stated above, the application for leave to appeal should be rejected and found to be unacceptable by this Court. No comment was received from the third Respondent despite delivering a notice to oppose.

[13] Therefore, the following order is made:

Order

² (3046/2018) [2019] ZALMPPHC (7 May 2019) at para 10.

1. The application for leave to appeal is hereby struck off the roll for want of compliance with Rule 67 (3) of the Rules of this Court.
2. There is no order as to costs.

K Mokwena

Acting Judge of the Labour Court of South Africa

LABOUR COURT