THE LABOUR COURT OF SOUTH AFRICA, CAPE TOWN

Not Reportable

Case No.: C575/23

In the matter between:

CARMEN KOEKEMOER	**Applicant**
and	
PRICEWATERHOUSECOOPERS T/A PWC (WORCESTER)	**First Respondent**
THE COMMISSION FOR CONCILIATION MEDIATION AND ARBITRATION	**Second Respondent**
COMMISSIONER C JACOBS N.O.	**Third Respondent**

Heard: 4 September 2025

Delivered: 9 October 2025

JUDGMENT

KAHANOVITZ, AJ

Introduction

[1] This is an application to review and set aside an arbitration award issued on 2 October 2023 under case number WECT 2107-23 by the third respondent (hereafter "the Commissioner"), which upheld the fairness of the applicant's dismissal. This case turns on a decision about the standard of honesty expected from a trainee auditor.

[2] For the review application to be heard by this Court, it must first be reinstated.

[3] There are, accordingly, two separate applications before the Court. The first notice of motion seeks condonation and reinstatement of the review application ("the reinstatement application"). The applicant seeks condonation for the late service and filing of the arbitration record, which was required to be filed within 60 days of the date of receipt of the record. Assuming condonation is granted, the applicant seeks reinstatement of the applicant's review application, retrieval thereof from the archive, as well as condonation of the late service and filing of the applicant's supplementary affidavit. This application is opposed by the first respondent.

[4] The second notice of motion ("the review") - which is of course premised on reinstatement of the archived application - seeks review of the arbitration award made by the Commissioner dated 29 September 2023, as well as remission for the matter to be reheard by a commissioner other than the third respondent. In the alternative, the applicant seeks substitution of the award by the Court with a finding that the dismissal was substantively and procedurally unfair.

Background to the reinstatement application

[5] Applicant launched a review application within the prescribed six-week period. In terms of this court's then-Rules[1] and Practice Manual[2], she was required to obtain

[1] GN 1665 of 1996: Rules Regulating the Conduct of Proceedings in the Labour Court (repealed, effective 17 July 2024).
[2] Practice Manual of the Labour Court of South Africa, 2013 (repealed, effective 17 July 2024).

and file the record within 60 days. The 60-day period expired on or about 6 March 2024.

[6] The applicant failed to file the record by the deadline, and the review application was accordingly deemed withdrawn in terms of clause 11.2.3 of the then-applicable Practice Manual. It was consequently archived.

[7] The applicant ultimately served and filed a complete transcript and record on 7 August 2024. This was approximately 104 days late. The applicant's supplementary affidavit in the review, which was delivered together with the record, was then also outside of the period contemplated in the Rules.

[8] On 18 September 2024, the applicant launched an application to reinstate the review seeking condonation.

[9] The applicant describes the reasons for her lateness under the following headings: 'the enquiry launched by the South African Institute of Chartered Accountants ("SAICA") into the events which led to her dismissal'; 'problems encountered during the festive season recess in obtaining and transcribing the record due principally to deficiencies in the material obtained from the CCMA coupled with additional delays in requiring the translation of a substantial part of the testimony which was conducted in Afrikaans into English'; and 'personal circumstances relating to a serious illness which befell the son of the applicant's attorney during the relevant period'. The applicant submits that she was actively engaged throughout the relevant time period in bringing her review to fruition and not resting on her laurels. The applicant submits that she has accounted for the entire period of the delay.

[10] Emphasis is laid by her on the prejudice that she claims she would suffer were the court to decline to hear the review. She submits that she has good prospects in the main review.

[11] Her heads of argument then, presumably on the assumption that condonation and reinstatement are granted, make submissions on what are called the core grounds of review, that is, the review grounds in the main application.

[12] I will discuss these in due course.

[13] The first respondent opposes the reinstatement application firstly, because the applicant filed documents late on multiple occasions and in each case the period of delay is submitted to be excessive, secondly it is submitted that she has failed to provide a comprehensive and reasonable explanation for the extensive period of delay or for the entire period of delay, and furthermore, that she has not presented a sufficiently compelling case which would entitle her to any relief. In other words, it submits she simply has no prospects of succeeding with the review application. Finally, it is submitted by the first respondent that the interests of justice do not favour the granting of condonation in the light of the principles of expedition and finality.

The law on reinstatement of lapsed reviews

[14] A review application which is deemed withdrawn and archived is not properly before court.[3]

[15] The ordinary principles applicable to applications for condonation also apply to reinstatement applications brought in consequence of the late filing of the record and review.[4]

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[3] *Stilhoek Boerderey (Pty) Ltd v Botha and Others* (JR 1785/19) [2023] ZALCJHB 34 (1 March 2023) at para 5 provides that:
'It is by now settled law that this Court lacks jurisdiction to entertain a deemed withdrawn and/or lapsed review. In order for this Court to regain the jurisdictional power, an application to reinstate must be launched. It has been authoritatively held that an application of this nature is effectively an application to condone the non-compliance. It is trite that condonation is not there for the taking. An applicant for condonation is compelled to explain each and every day of the delay. In casu, Stilhoek was obliged to bring a reinstatement application after August 2020 when the application acquired a status of being deemed withdrawn. It is trite principle that a party seeking condonation must do so immediately after the need to do so arise. The need arose in August 2020, however instead of approaching this Court for an indulgence, Stilhoek busied itself with regularizing the record. This was an exercise in futility because there was no more a review application.'
[4] *MJRM Transport Services CC v Commission for Conciliation, Mediation and Arbitration and Others* (2017) 38 ILJ 414 (LC) at para 22.

[16] In *Madikizela v CCMA and Others*[5], it was held that although an application for reinstatement need not show excellent prospects of success, non-meritorious reviews should not be reinstated so as not to clog the court roll.

[17] There is some debate in the cases as to how much (or rather how little) needs to be said - and how strong the case needs to be - on the applicant's prospects of success in the review in a reinstatement application.

[18] If one of the purposes of requiring a reinstatement application is to gate-keep to curb the continuance of unmeritorious reviews, then it could hardly make much sense for the court hearing the reinstatement application to be furnished with a full record and to hear full argument in the main review.

[19] In this case, I have, however, been required to read the full record and entertain full argument on the main review before making a decision on reinstatement.

[20] I asked the parties to make submissions on the approach that a court is required to take in regard to the reinstatement application if the full review has itself has already been placed before the court and argued.[6]

[21] In *Emfuleni Local Municipality v SAMWU obo Mdluli and Others*[7], the parties agreed to have the reinstatement and review applications set down simultaneously. The Court approached the matter by first dealing with and making a finding on the applicant's reinstatement application, whereafter the Court dealt with the applicant's review application (in circumstances where the Court granted the applicant's reinstatement application).

[22] The parties in this matter agree that the following is the correct approach:

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[5] (D382/22) [2024] ZALCD 42 (7 November 2024) at para 27.
[6] I would not encourage registrars to permit parties to place the full review record before a court required only to decide on reinstatement. It puts the cart before the horse as it obliges additional precious judicial resources to be devoted to wading through a record in what may prove to be an unmeritorious review.
[7] (JR2106/19) [2025] ZALCJHB 172 (5 May 2025).

22.1 the Court must first deal with the applicant's reinstatement application and make a finding on it;

22.2 If the Court grants the reinstatement application, then it must decide the review application;

22.3 if the Court dismisses the reinstatement application, then that is the end of the matter, and the Court need not decide the applicant's review application.

Discussion - The merits of the reinstatement application

[23] I am satisfied that the reasons for delays briefly described above have been satisfactorily explained. There seems to be little doubt that the applicant is committed to having her review heard. She has certainly gone to considerable trouble and expense in obtaining a record, albeit that process has been bedevilled by a number of hurdles.[8]

[24] I was satisfied that, for the purposes of the reinstatement application, the applicant was able to show at least *prima facie* prospects of success.

[25] In the circumstances, the reinstatement of the review is ordered, and I proceed now to decide the review application.

Factual background

[26] The Applicant, who earned a salary of R17 650.00 per month, was employed in terms of a Fixed-term Employment Contract: Learnership, which commenced on 1 January 2022 and would have automatically terminated on 31 December 2024.

[8] It remains an open question as to whether or not an applicant involved in proceedings that were conducted in Afrikaans is required to obtain a translation of those proceedings into English prior to filing the record in the Labour Court. The translation process is expensive and time-consuming. As it turns out, in these proceedings, the translation was obtained and so is not necessary for this Court to decide whether the applicant was indeed required to take these steps. She complains that the first respondent required her to obtain a translation in circumstances where there is nothing in the Rules or Practice Manual that makes this a requirement. The applicant contends that she only decided to translate the record to prevent this 'translation dispute' between the parties from further delaying the proceedings.

She held the position of a Trainee Accountant /Associate in the respondent's Worcester office.

[27] The applicant was dismissed based on the following charge: *'Gross dishonesty in that during the period of July 2022 and August 2022 you made a false statement / submitted a falsified document / gave false evidence by deliberately not following the audit procedure to check EFT's and marking the work as checked in the audit file'*. The applicant pleaded guilty to this charge at her disciplinary enquiry.

[28] According to the first respondent's Disciplinary Code, the sanction for deliberately attempting to mislead the respondent through misrepresentation of a fact, either verbally or in writing, is dismissal on the first instance.

[29] It is common cause that the applicant had in the course of an audit failed to comply with step 4 of the "EFT Test" which required her to contact a beneficiary telephonically to confirm the beneficiary's banking details.

[30] In respect of the relevant audits, the applicant indicated in writing in her audit working papers that step 4 of the "EFT Test" had been complied with, whereas she had failed to perform step 4 of the "EFT Test" by not contacting beneficiaries.

[31] Ms. C. Darlew, a senior manager with the first respondent, testified. She referred to an investigation report which was compiled following irregularities which were discovered.

[32] The "EFT Testing Process" was put in place following the discovery of a method of committing fraud, which had previously come to light, where a perpetrator would, for example, obtain approval for a payment from a manager, in respect of stationery bought from, for example, Waltons. However, just before making the payment, the perpetrator would change the banking details to reflect her own but still use "Waltons" as a reference. On the bank statement, the word "Waltons" will appear, and no one will know, should they only look at the face of the document, that the payment was not made to Waltons but to the perpetrator herself.

[33] To address the above-mentioned type of fraud, associates at the first respondent are required to perform the following procedures, termed the "EFT Test":

33.1 Make a selection of payments from the bank statements;

33.2 Compare the payments to the beneficiaries' banking details obtained from the beneficiary list obtained from the banking system with the proof of payment;

33.3 Obtain the correlating invoice and compare the amount paid to the beneficiary's banking details to that on the invoice;

33.4 Contact the beneficiary telephonically to confirm the beneficiary's banking details.

[34] Darlew testified that if a fraudulent payment has been made, the associate will notice in step 3 that the banking details according to the invoice differ from the beneficiary's banking details.

[35] Darlew explained that phoning the beneficiaries is a vital part of this test and sometimes the only way to truly ensure the integrity of payments made during the year.

[36] The applicant had been coached on the EFT testing process and thoroughly understood what was required of her. It came to the attention of the first respondent that there were two instances or audits where the applicant appeared not to have properly conducted the EFT testing process. One is referred to in the evidence as 'Bossieveld Irrigation Board' and the other as 'Indawo'. A review of the work which she had done on these audits triggered suspicions and led to further investigations.

[37] These investigations revealed that the name of Minette Meiring cited in the applicant's working papers as the accountant of "Van Deventer Meganies" was a

fictitious entry.[9] Darlew then adopted the view that the applicant could no longer be trusted: the purpose of an audit is to determine whether there have been any misrepresentations, and an employee herself guilty of misrepresentation could not be trusted to conduct an audit.

[38] At the time of these revelations, the applicant was working on the Kannaland municipality audit. Mr. M Van Tonder, a partner with the first respondent, testified that the profession stands for ethical, qualitative and honest interaction with clients. He said that retaining the applicant after proof of her misconduct created the potential for reputational damage and litigation against the first respondent. Apart from not doing the required work, the applicant had falsified the documents to create the false impression that the work had indeed been done as was required.

[39] When the applicant was confronted by her employer about the misconduct, she agreed that the information gathered by her employer about her conduct was accurate. She also acknowledged that she had been in the wrong.

The arbitrator's award

[40] The arbitrator said that the applicant contended that her guilty plea on the charge of dishonesty was only because she 'felt guilty' and knew the charges had something to do with her failure to check the EFT payments. She acknowledged that in certain instances she had failed to phone the required people while implying in her working papers that she had done so. She had, however, been very remorseful, and by allowing her to continue on the Kannaland audit, she had been misled by the first respondent, having been brought under the impression that if she worked hard and showed her willingness to work overtime, she would be offered a second chance and not dismissed. She denied that any stricter measures

[9] Meiring was a Facebook friend of the applicant. Applicant claimed to have contacted Meiring to confirm her banking details instead of contacting the person she was actually required to contact as part of the EFT procedure. Instead of contacting the beneficiary she merely inserted Meiring's name to create a paper trail which on the face of it created the impression that the procedure had indeed been properly implemented.

were implemented related to her reporting lines while she was working on the Kannaland audit. The notice of dismissal was the worst day of her life.

[41] The arbitrator said that he understood the case of the applicant to be that the sanction of dismissal was too harsh and should have been substituted with a sanction short of dismissal. The applicant had argued that it cannot be said that the trust relationship was broken, considering: (1) The applicant was not suspended; (2) The delay in prosecuting the matter; and (3) The fact that the applicant was tasked to work on the respondent's biggest audit (Kannaland Municipality) and dismissed the day after her work was done. It was alleged in the arbitration that the first respondent failed properly to consider the applicant's remorse and acknowledgement of guilt in imposing the sanction. The question that naturally arises from these facts, submitted the applicant, is why, if the conduct was so serious, the respondent took two months to charge her and another month to dismiss.

[42] It was also contended by the applicant that the trust relationship cannot be said to have been irreparably tarnished, and this she said was used as a smokescreen to justify the dismissal. The applicant was not suspended and had rendered 'trouble-free' service for almost two and a half months before her dismissal. She also contended that an unreasonable delay took place in prosecuting the matter, and the applicant was severely prejudiced because of the delay, as she truly believed that she was going to get a second chance by being allowed to continue working.

[43] The employer, she argued, failed to consider that she had readily admitted guilt the moment she was confronted with her actions - and throughout the proceedings - she was thus extremely remorseful. It is imperative for a presiding officer to consider this aspect when imposing a sanction. Ahe also argued that at no stage was she aware of the details of the allegations levelled against her. The applicant, accepting that she did 'something' wrong, and wanting to proverbially 'put her best foot forward', merely pleaded guilty as she knew in her own mind what she did was wrong.

[44] It is for these reasons that the employee argued in the arbitration that a finding should be made that the sanction of dismissal was too harsh, and the respondent failed to discharge the onus it bore to prove that the sanction of dismissal was appropriate.

[45] The applicant acknowledged during cross-examination that she was dishonest by not doing the required EFT checks during July and August 2022 relating to Bossieveld Irrigation Board and Imdawo, and that her submissions in this regard on her working papers were false.

[46] The arbitrator found that it appears, on a balance of probabilities, that the applicant acted with intent to deceive, which is illustrated by her reference to her Facebook friend Minette Meiring as the (fictional) accountant who was phoned at Van Deventer Meganies, whilst this is not the case. In this regard, the arbitrator says he also took into consideration Van Tonder's contention that, over and above not doing the required work, the applicant also had the intention to falsely document the work to create the impression that it was completed as required, whilst this was not the case. The first respondent, therefore, proved that the applicant had made herself guilty of gross dishonesty as charged

[47] On the retention of services between the discovery of her dishonesty and her dismissal, it was argued that the failure of the employer to place the applicant on suspension created an expectation that the trust relationship still existed. At the time of the discovery of the dishonesty, she was working on the Kannaland audit. This was a large audit which had been in progress for some time, and the employer took the view that, from an operational point of view, it could not immediately remove her from that audit. Instead, what it did was to inform her managers in that audit about what had happened. They instructed the managers to keep it confidential and to ensure that her work was double-checked. Had this not been done, they would not have been in a position to sign off on the work that she had done in the course of that audit within the required time framework.

[48] The arbitrator found that the nature of the offence indicates the trust relationship is broken beyond repair. Referring to the decision in *Autozone v Dispute Resolution Centre of Motor Industry and others,*[10] the arbitrator found that in the case of dishonest conduct, retention presents operational difficulty as the employer will be hard pressed to place trust in such an employee. Not only has she committed gross misconduct, but the nature of it is in conflict with the interests of the employer, which is mandated to root out discrepancies rather than cause them. The Commissioner found that dismissal was accordingly an appropriate sanction.

Sanction-related review grounds

[49] There are several review grounds advanced in support of the conclusion that the decision on sanction was reviewable. I will for the sake of convenience deal with all of them together, although some seem to have been advanced as distinct grounds of review. ("Sanction-related review grounds.")

[50] As the applicant pleaded guilty, it was obviously not argued that the finding of misconduct was in and of itself reviewable. The focus of the attack was on the decision that dismissal was the appropriate sanction.

[51] The applicant argues that the Commissioner failed to give proper weight to her remorse and plea of guilty. It was contended that her demonstration of genuine remorse was not given any meaningful weight by the arbitrator.

[52] This alleged misdirection is then linked to the alleged further misdirection of an unduly harsh and disproportionate sanction.

[53] The first respondent argues that once dishonesty is established, dismissal is usually an appropriate sanction. Arbitrators have a wide discretion when determining the fairness of the sanction, and as long as the outcome falls in the range of reasonable outcomes, it must be found to be rational.[11]

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[10] (2019) 40 ILJ 1501 (LAC).

[11] Citing *Sidumo and Another v Rustenburg Platinum Mines Ltd and Others* (2007) 28 ILJ 2405 (CC) at para 119. It will be recalled that the focus of *Sidumo* was the decision by an arbitrator on sanction. All of

[54] Aggravating factors need to be weighed up against mitigating factors. Both parties referred this court to the decision in *Hullet Aluminum (Pty) Ltd v Bargaining Council for the Metal Industry and others,*[12] with particular reference being placed by the first respondent on the following passages:

> '[42] Turning to the issue of the seriousness of the offence, the presence of dishonesty tilts the scales to an extent that even the strongest mitigating factors, like long service and a clean record of discipline are likely to have minimal impact on the sanction to be imposed. In other words whatever the amount of mitigation, the relationship is unlikely to be restored once dishonesty has been established in particular in a case where the employee shows no remorse. The reason for this is that there is a high premium placed on honesty because conduct that involves corruption by the employees damages the trust relationship which underpins the essence of the employment relationship. In this regard the Court in *Sappi Novaboard (PTY) Ltd v Bolliers* (1998) 19 ILJ 784 (LAC), held that:
>
> > "In employment law a premium is placed on honesty because conduct involving moral turpitude by employees damages the trust relationship on which the contract is founded."
>
> [43] The same approach was adopted in the case of *Standard Bank of SA v CCMA and Others* (1998) 19 ILJ 903, where the court held that dishonesty in general renders the employment relationship intolerable and incapable of restitution. See also *Central News Agency v CACWUSA & Another* (1991) 12 ILJ 343 (LAC) and *Toyota South Africa Motor (Pty) Ltd v Radebe & Others* (2000) 21 ILJ 340(LAC).'

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the separate decisions handed down in the CC are unanimous that, in deciding a dismissal dispute, a commissioner is not required to defer to the decision of the employer. The commissioner is, however, not given the power to consider afresh what he or she would do but to decide whether what the employer did was fair. In reaching a decision, the commissioner must have regard to all relevant circumstances.

[12] (2008) 29 ILJ 1180 (LC).

[55] First respondent adds that the profession of auditing places an extremely high bar on honesty, and evidence was led that there had been a breakdown in the trust relationship.

[56] In my view, it stands to reason that firms involved in the auditing profession are entitled to insist on high standards of probity and honesty from their professional staff. They can hardly hold out to their clients that books of account have been properly audited if they cannot accept that their own professional staff will diligently and honestly carry out an audit in a manner consistent with the standards and rules set by their employers. The auditing practice in question was implemented to uncover dishonesty, and if that practice is itself conducted in a dishonest manner by an auditor (or a learner auditor), the possible reputational damage to the firm in question is unquestionable. Clients would then expect the firm in question to react accordingly.

[57] The decision on sanction accordingly falls within the range of reasonable outcomes. [13]

<u>The relevance of the evidence before the Commissioner to the effect that the applicant continued working post her admission without suspension (and therefore how one could still conclude that there was a breakdown in the trust relationship)</u>

[58] I have already canvassed the employer's evidence about why, in its view, there was a breakdown in the trust relationship. The applicant, however, argues that there was in truth no breakdown in the trust relationship if one has regard to the conduct of the employer after it discovered the alleged dishonesty of the applicant. If it was genuinely of the view that she could not be trusted, why did it fail to immediately suspend her and instead decide to keep her working on the Kannaland audit?

[13] The South African Institute of Chartered Accountants (SAICA) Professional Conduct Committee, in separate proceedings dealing with the same conduct as that under scrutiny in arbitration, concluded that the applicant was guilty of dishonest conduct and imposed a sanction of *inter alia* a reprimand, 12 months added to any subsequent training contract and attendance at an ethics course.

[59] The arbitrator found that sufficient reasons were given by the arbitrator for his failure to suspend her. The employer argued that keeping her on temporarily posed no risk of tampering with the evidence by her and that the extra supervision put in place on her work on the Kannaland audit sufficiently mitigated any risks in respect of that audit. Because of the supervision, immediate suspension was not operationally required.

[60] It seems to me that, at best, a criticism of the employer could be that, due to its professional duty to complete the Kannaland audit timeously, it took a decision not to immediately suspend the applicant. But, as the arbitrator pointed out, the employer has adequately explained why it acted in the manner in which it did. It did not fail to suspend because it had concluded that there was no breakdown in the relationship of trust. There is, of course, no legal obligation placed on an employer to inevitably place an employee on suspension pending the outcome of a hearing. It so happened that on these facts, the employer decided that doing so would be operationally detrimental, as it could, in either event, manage the risk of keeping her on for the brief extra period that would be required.

Inconsistency

[61] No evidence was produced of any comparable misconduct committed by any other employee. So, the question of unfair and inconsistent treatment did not arise.[14]

Commissioner failed to apply the principle of progressive discipline.

[62] If dismissal - as has been found - was a rational outcome, then it cannot be that a failure to issue a final warning instead of dismissing is grossly unreasonable

[14] If I understand the argument correctly it was also that the employer was less strenuous in some other cases in the policing of any failure to telephonically confirm banking details. To me it appears as if the employer viewed more seriously the dishonest attempt to cover up the failure to telephonically confirm bank details, than simply the question of her failure to confirm banking details. A negligent falute to do this will obviously be treated differently to a deliberate decision to not do so coupled with accompanying subterfuge.

Vagueness and ambiguity of the charge

[63] Here, the allegation is that the charge sheet failed to clearly particularise the misconduct, yet the Commissioner found it adequate.

[64] As the Commissioner pointed out in his finding, the applicant had pleaded guilty. It had never been contended by her that because she had difficulty in understanding what was being alleged, nor that she had difficulty in mounting a defence. If I understand the argument properly, it is that she did not understand that a guilty plea was going to be relied on to sustain a conclusion of dishonesty and not merely a conclusion of failure to follow the prescribed procedure.

[65] It appears to me that the conclusions relating to dishonesty were largely based on the evidence of the employer's witnesses.

[66] In either event, the charges were hardly complicated. They are related to a confined set of facts and a concise set of allegations. *Avril Elizabeth Home for the Mentally Handicapped v Commission for Conciliation Mediation and Arbitration and Others*[15] holds that all that is required is that the employee must understand what is being alleged, and a charge sheet adhering to the criminal standards is not required. An investigation report was also compiled by the employer, which contained all the information relating to the various clients and what she had allegedly done wrong. This report was made available to the applicant and was also read into the record at the disciplinary hearing. The arbitrator found that she was therefore sufficiently informed of the information that she required for the purposes of the disciplinary enquiry. She was also given the opportunity to state a case, cross-examine witnesses, call her own witness and be represented.

[67] This ground of review accordingly fails.

[15] (2006) 27 ILJ 1644 (LC). All that would be required is notification to the employee of any allegations that may flow from an investigation.

Lack of evidence of dishonesty

[68] The applicant submits that the evidence revealed a shortcoming as no fraud or dishonest manipulation on the part of the applicant was proved. The applicant acknowledged during cross-examination that she was dishonest by trying to cover up her failure to complete the required EFT tests. I accordingly fail to understand how it can be submitted that the arbitrator was not entitled to conclude that she was guilty of dishonesty.

[69] I accept it can be argued that the kind of dishonesty here involved is possibly not the same as, or as serious as, for example, theft or fraud for material gain - but proof of misconduct of that nature was neither required nor the measure.

[70] The applicant can possibly consider herself fortunate that her career as an accountant did reach an abrupt end in consequence of her misconduct. She subsequently obtained employment at a different accounting firm, and the accounting body concluded that, insofar as its disciplinary procedures were concerned, the appropriate sanction was a reprimand and a longer training contract than would otherwise have been the case.

[71] As far as cost is concerned, I am mindful of the principle that in this court there is no rule that costs should follow the result. I am indeed of the view that litigating beyond the CCMA outcome was ill considered on these facts and in fairness the employer should not been put to the trouble and no doubt considerable expense of defending itself. On the other hand, given the vast economic differences between the parties it would not be fair to order the applicant to pay the first respondent's costs. In the circumstances I make no order as to costs.

[72] I accordingly make the following orders:

Order

1. The application for the reinstatement of the review is granted;

2. The application for a review of the Commissioner's decision is dismissed;

3. There is no order as to costs.

C Kahanovitz

Acting Judge of the Labour Court of South Africa

Appearances:

For the Applicant:	Adv M. Du Plessis
Instructed by:	Mr. PJ Strydom, PJS Inc. Attorneys
For the First Respondent:	M.Balie, Norton Rose Fulbright Attorneys South Africa Inc