



**IN THE HIGH COURT OF SOUTH AFRICA
(EASTERN CAPE DIVISION, GQEBERHA)**

CASE NUMBER.: 1890/2021

In the matter between:

PAUL LOUIS LOUW

Applicant

And

ALEXANDER FREDERICK CARTER

First Respondent

OMBUD FOR FINANCIAL SERVICES PROVIDERS

Second Respondent

JOHANNES THEODORUS OTTO

Third Respondent

DENTON DEAN HENNING

Fourth Respondent

PAUL R JOHNSON

Fifth Respondent

JUDGMENT – APPLICATION FOR LEAVE TO APPEAL

Beshe J

[1] Section 17 of the Superior Courts Act¹ provides that: (1) Leave to appeal may only be given when the judge or judges concerned are of the opinion that the appeal would have a reasonable prospect of success or there is some compelling reason why the appeal should be heard.

¹ Act 10 of 2013.

[2] Following a judgment wherein I dismissed an application for a review pursuant to the provisions of the Promotion of Administrative Justice Act², (PAJA) of second respondent's determination, applicant is seeking leave to appeal the said judgment.

[3] In my judgment I held that:

The applicant did not exhaust the internal remedies at his disposal before lodging the review application;

He failed to lodge the review application within the period stipulated in Section 7 (1) of PAJA and or without unreasonable delay.

Further that he did not make out a case for condonation or extension of the period referred to in Section 7 (1) above. Furthermore, that he did not make out a case or shown exceptional circumstances warranting his exemption from the obligation to exhaust any internal remedy should this be in the interest of justice.

[4] The application for leave to appeal is mainly premised on the merits of the review application and not so much on the requirement of PAJA. The reason for that is not difficult to find. This is on the basis, so it is contended that the applicant was not seeking condonation for the late filing of the review application as well as an exemption from exhausting internal remedies. Applicant having stated that he was doing only in so far as it was necessary to do so, being of the view that he did not need any of these prayers. And that therefore in this regard the court made a "factually incorrect statement". My judgment is also impugned on the basis that I failed to consider the argument advanced in respect of the costs reserved previously.

² Act 3 of 2000.

[5] Applicant's assertion that he did not require condonation for the late filing of the review application is seemingly based on the contention that he only became aware of the second respondent's decision on 5 July 2021. But, as indicated in my judgment, this cannot be accurate. As far back as October 2016, applicant had signalled his intention to appeal the Ombud's decision. Clearly therefore, the review application was launched far beyond the 180 days' period allowed by PAJA. Four years after the proceedings sought to be set aside were concluded.

[6] For reasons stated in my judgment, applicant failed to make out a case for condonation and or exemption from exhausting internal remedies as envisaged in PAJA. I am of the view that there are no reasonable prospects of success on appeal. After an objective analysis of the dispute of fact, I was of the view and still is of the view that the applicant did not produce acceptable evidence to show that he exhausted internal remedies available to him.

[7] Regarding the writ of execution, I was not persuaded that it was "stale" as alleged by the applicant. Rule 66 states that writs of execution of a judgment once issued, remain in force and may, subject to the provisions of Section 11 (ii) (a) of the Prescription Act³ be executed at any time without being reviewed until judgment has been satisfied in full. Section 11 (ii) (a) provides that the period of subscription of any judgment debt shall be thirty years.

[8] As regards my award of costs in respect of the reserved costs, I exercised my discretion in the manner I did after considering the reasons for the matter being postponed on those occasions. As I understand the wasted costs to a large extent were occasioned by the raising of objections / points *in limine* to applicant's papers. These resulted in applicant amending his papers to address

³ Act 68 of 1968.

the points *in limine* raised. As far as I can gather, Part A of the application was not opposed.

[9] For all the reasons stated hereinabove, I am not persuaded that the appeal has a reasonable prospect of success.

[10] Accordingly, the application for leave to appeal is dismissed with costs.

N G BESHE
JUDGE OF THE HIGH COURT

APPEARANCES

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Date Heard : 7 March 2025

Date Reserved : 7 March 2025

Date Delivered : 7 October 2025