



IN THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

Not Reportable

Case No: JR1910/2022

In the matter between:

PULE ISAAC MOLEFE

Applicant

and

**COMMISSION FOR CONCILIATION, MEDIATION
AND ARBITRATION (CCMA)**

First Respondent

NORMAN MATHEBULA N.O.

Second Respondent

SARS CUSTOMS

Third Respondent

Heard: 19 August 2025

Delivered: 13 November 2025

Summary: The review application was dismissed because the Applicant is not entitled to a review of a condonation ruling under the guise of a review of a jurisdictional ruling. The jurisdictional ruling is not susceptible to review, as it is correct in fact and in law. Review dismissed with no order as to costs.

JUDGMENT

COOK, AJIntroduction

- [1] This is an opposed review application in which the Applicant seeks to set aside the jurisdictional ruling dated 2 August 2022 issued under case number JAEK437-2022.
- [2] The Applicant seeks that the matter be referred back to the First Respondent (the CCMA) for a new hearing before a commissioner other than the Second Respondent (the commissioner).
- [3] The Third Respondent (SARS) prays for the dismissal of the review with costs.

Background

- [4] The Applicant, as a customs official, was issued a firearm by SARS.
- [5] On 2 April 2022, the Applicant allegedly used this firearm to shoot his wife, resulting in her death. The Applicant was arrested the following day, 3 April 2022.
- [6] On 4 April 2022, SARS issued a letter to the Applicant notifying him of its intention to terminate his employment and afforded him until 12h00 on 6 April 2022 to provide reasons why his employment should not be terminated.
- [7] On 6 April 2022, the Applicant, through his legal representative, failed to provide the requested reasons. Instead, the representative submitted that SARS's conduct amounted to an unfair labour practice and requested that SARS invoke the provisions of the Dispute Code and Procedure for the Public Service.
- [8] That same day, SARS addressed a letter stating that the Applicant had not provided sufficient reasons despite being offered the opportunity to do so,

given his incarceration following the incident. SARS then proceeded to terminate his employment.

- [9] On 12 May 2022, the Applicant referred an unfair dismissal to the CCMA. The referral was late. Consequently, on 18 May 2022, the Applicant applied for condonation for the late referral of his dispute, which SARS opposed.
- [10] On 9 June 2022, the commissioner issued a condonation ruling concluding that the Applicant had not established good cause for the late referral to be condoned.
- [11] On 24 June 2022, the Applicant applied for the rescission of the condonation ruling, which SARS opposed.
- [12] On 2 August 2022, the same commissioner issued the jurisdictional ruling.
- [13] In the jurisdictional ruling, the commissioner found:

‘In the application for rescission of the rescission application (sic), the Applicant does not articulate any of the grounds for rescission as contemplated in Section 144 of the Labour Relations Act 66 of 1995 (the LRA) as amended. Therefore the CCMA lacks jurisdiction to rescind the rescission application in this matter.’

- [14] The commissioner ruled that the commission had no jurisdiction to entertain the Respondent’s rescission application. The commissioner expressly ruled that the Applicant may approach the Labour Court to review the condonation ruling under Section 158 of the LRA if he so wished.

The review

- [15] On 8 September 2022, the Applicant approached this Court to review and set aside the jurisdictional ruling.
- [16] In terms of the review application, the grounds of review were biased. The

Applicant submitted further that the commissioner appeared to have considered only two requirements, namely the reason for the delay and the prospects of success, and had “*disregarded the rest in arriving at his decision*”.¹

Analysis

- [17] The Applicant seeks to review and set aside the jurisdictional ruling, rather than the condonation ruling.
- [18] The Applicant’s approach was fundamentally misconceived. The Applicant sought to rescind the condonation ruling when the appropriate remedy was to review it. Since the condonation ruling was not granted in the Applicant’s absence, there was no legal basis for a rescission application.
- [19] Despite the commissioner expressly advising the Applicant to review the condonation ruling, the Applicant disregarded this guidance and instead applied to review the subsequent jurisdictional ruling.
- [20] It is evident from the grounds advanced in the review that the real target of the review is the condonation ruling, not the jurisdictional one. The founding affidavit discloses no basis for impugning the jurisdictional ruling.
- [21] The jurisdictional ruling—which simply found that the CCMA lacked the power to rescind its own condonation ruling—is correct² in fact and in law, and is therefore not susceptible to review.
- [22] In argument, the Applicant contended that the matter should be considered ‘in totality’ for justice to prevail. This contention cannot succeed. The notice of motion confines the relief sought to the review of the jurisdictional ruling.
- [23] Further, the condonation ruling was issued on 9 June 2022, and any review

¹ At paragraph 6.6 of the founding affidavit, page 6 of the indexed pleadings.

² *SA Rugby Players Association & others v SA Rugby (Pty) Ltd & others* (2008) 29 ILJ 2218 (LAC); [2008] 9 BLLR 845 (LAC).

thereof should have been launched by 21 July 2022. The Applicant, however, only filed this review application on 8 September 2022—well out of time—and without any accompanying application for condonation.

- [24] Consequently, the Court lacks jurisdiction to entertain such a review. The Applicant is not entitled to shoehorn a review of the condonation ruling under the guise of a review of the jurisdictional ruling.

Costs

- [25] The Applicant was legally represented throughout the process. The legal representative should have properly advised the Applicant to follow the Commissioner's clear guidance and launch a timely review of the condonation ruling.

- [26] Instead, the Applicant pursued a meritless review directed at the wrong ruling, advancing grounds that relate solely to the condonation ruling. The Applicant attempted to reframe the matter as a review of the jurisdictional ruling rather than seeking condonation for the late filing of the appropriate review.

- [27] This misguided review could have been avoided with proper legal advice, thereby preventing unnecessary costs. SARS was compelled to oppose the application, resulting in additional costs ultimately borne by the taxpayers.

- [28] Nonetheless, a costs order against the Applicant would unduly burden him and would not serve the interests of law and fairness. In the circumstances, no order as to costs is made.

- [29] Based on the foregoing, the Court makes the following order:

Order

1. The review application is dismissed.

2. There is no order as to costs.



A.L. Cook

Acting Judge of the Labour Court of South Africa

Appearances

For the Applicant: Adv Manu Mapila

Instructed by: Mapulaneng M N Attorneys

For the Respondent: A Makuwa

Instructed by: Cheadle Thompson & Haysom

LABOUR COURT