



THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

Not Reportable
Case No: JR191/22

In the matter between:

MARTIN LOUW

Applicant

and

**COMMISSION FOR CONCILIATION, MEDIATION
AND ARBITRATION**

First Respondent

JAMES NGOAKO MATSHIRGA N.O.

Second Respondent

TELKOM SOC LIMITED

Third Respondent

Heard: In chambers

Delivered: 12 November 2025

JUDGMENT: APPLICATION FOR LEAVE TO APPEAL

RAMJI, AJ

- [1] On 5 November 2025, I was provided with the applicant's application for leave to appeal. The application was filed timeously, on 2 September 2025. This is an unopposed application for leave to appeal, according to the records. No written submissions were filed.

- [2] The applicant applies for leave to appeal against my order refusing the application for reinstatement of his review application.
- [3] The reinstatement application was required because a record was not filed within the required 60-day period, and because of a period of inactivity for six months. Therefore, the review application was deemed withdrawn and the file had been archived.
- [4] I considered all factors relevant when seeking reinstatement, and balanced these.
- [5] The applicant contends that I erred in finding that his financial position was not an adequate explanation for the delay. This mischaracterises the decision. The decision was that it was not sufficient for the applicant to broadly and vaguely aver poor health and finances, without any further detail, when the record was filed 13 months late. The period before the alleged illness and financial difficulties was also not explained. The legal standard required when explaining a delay was therefore not met and this ground of appeal has no merit.
- [6] I further considered the prospects of success based on the circumstances of the case. I was, however, confined to what was stated in the pleadings. On prospects of success, the pleadings were as scant as they were in explaining the delay. It is correct that ignoring material evidence or procedural irregularities *may* lead to a decision being set aside on review, *if the material evidence that was ignored or the procedural irregularities resulted in an unreasonable decision*.
- [7] The point is that all the applicant's reinstatement papers stated was that the Commissioner misdirected himself in two respects, and nothing more. The applicant did not plead that these alleged irregularities resulted in an unreasonable decision, and it is not automatically the case that they would. The papers therefore did not lay a basis for me to find that the applicant had any prospects of success, i.e. the affidavit did not contain allegations that *prima facie* established prospects of success. This ground of appeal also has no merit.

Order

1. The application for leave to appeal is dismissed.

B. Ramji

Acting Judge of the Labour Court of South Africa