



THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

Not Reportable
Case No: JR1756/23

In the matter between:

GOITSEONE ROMEO MOLEMA

Applicant

and

**DEPARTMENT OF EDUCATION:
NORTH WEST PROVINCE**

First Respondent

**GENERAL PUBLIC SERVICE SECTOR
BARGAINING COUNCIL**

Second Respondent

PETER GREYLING N.O.

Third Respondent

Decided: In chambers

Delivered: 18 November 2025

JUDGMENT: LEAVE TO APPEAL

ERASMUS, AJ

Introduction

- [1] This is an application for leave to appeal against the whole judgment and/or reasons for the judgment handed down on 5 August 2025 in terms of which the Court, amongst others, dismissed the Applicant's application for review.
- [2] Neither the Applicant, nor the Respondents, filed any written submissions in support of, or in opposition to, the application.
- [3] The application for leave to appeal was decided in chambers as per the Court's rules.
- [4] It is trite that leave to appeal is not simply for the taking.
- [5] Section 17 of the Superior Courts Act¹ regulates instances in which leave to appeal may be granted, and Section 17(1) provides that leave to appeal may only be given where the judge concerned is of the opinion that:

- '(a)
 - (i) the appeal would have a reasonable prospect of success; or
 - (ii) there is some other compelling reason why the appeal should be heard, including conflicting judgments on the matter under consideration;
- (b) the decision sought on appeal does not fall within the ambit of section 16 (2) (a); and
- (c) where the decision sought to be appealed does not dispose of all the issues in the case, the appeal would lead to a just and prompt resolution of the real issues between the parties.'

- [6] In *Seatlholo & others v Chemical Energy Paper Printing Wood & Allied Workers Union & others*² van Niekerk J (as he then was) stated that:

'The traditional formulation of the test that is applicable in an application such as the present requires the court to determine whether there is a reasonable

¹ Act 10 of 2013.

² (2016) 37 ILJ 1485 (LC); [2016] ZALCJHB 72 at para 3.

prospect that another court may come to a different conclusion to that reached in the judgment that is sought to be taken on appeal. As the respondents observe, the use of the word “would” in s 17(1)(a)(i) is indicative of a raising of the threshold since previously, all that was required for the applicant to demonstrate was that there was a reasonable prospect that another court might come to a different conclusion (see *Daantjie Community & others v Crocodile Valley Citrus Company (Pty) Ltd & another* (75/2008) [2015] ZALCC 7 (28 July 2015). Further, this is not a test to be applied lightly – the Labour Appeal Court has recently had occasion to observe that this court ought to be cautious when leave to appeal is granted, as should the Labour Appeal Court when petitions are granted. The statutory imperative of the expeditious resolution of labour disputes necessarily requires that appeals be limited to those matters in which there is a reasonable prospect that the factual matrix could receive a different treatment or where there is some legitimate dispute on the law (see the judgment by Davis JA in *Martin & East (Pty) Ltd v National Union of Mineworkers & others* (2014) 35 ILJ 2399 (LAC), and also *Kruger v S* 2014 (1) SACR 369 (SCA) and the ruling by Steenkamp J in *Oasys Innovations (Pty) Ltd v Henning & another* (C 536/15, 6 November 2015).’

[7] The Supreme Court of Appeal in *MEC for Health, Eastern Cape v Mkhitha and Another*³ stated that:

[16] Once again it is necessary to say that leave to appeal, especially to this court, must not be granted unless there truly is a reasonable prospect of success. Section 17(1)(a) of the Superior Courts Act 10 of 2013 makes it clear that leave to appeal may only be given where the judge concerned is of the opinion that the appeal would have a reasonable prospect of success; or there is some other compelling reason why it should be heard.

[17] An applicant for leave to appeal must convince the court on proper grounds that there is a reasonable prospect or realistic chance of success on appeal. A mere possibility of success, an arguable case or one that is not hopeless, is not enough. There must be a sound,

³ (1221/2015) [2016] ZASCA 176 (25 November 2016).

rational basis to conclude that there is a reasonable prospect of success on appeal.'

[8] Due to the Applicant's lack of compliance with the requirements relating to the filing of written submissions, his application stands to be dismissed on this ground alone. The Court will nonetheless also have regard to the merits of the application for leave to appeal.

[9] I have once again considered my judgment and orders in light of the application for leave to appeal and the grounds contained therein, against the requirements in applications for leave to appeal. No compelling reasons have been referred to necessitating leave to appeal on such grounds. I am furthermore of the view that another Court would not come to different findings on the facts and arguments presented.

[10] In the premises, the order is as follows:

Order

1. The application for leave to appeal is dismissed.
2. No order as to costs.

L. Erasmus

Acting Judge of the Labour Court of South Africa