



IN THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

Case No: JR 1598/22

In the matter between:

**SOUTHERN AFRICAN CLOTHING AND
TEXTILE WORKERS' UNION**

Applicant

and

**PLUSNET GEOTEX,
A DIVISION OF MASTER PLASTICS LTD**
Respondent

First

**COMMISSION FOR CONCILIATION,
MEDIATION, AND ARBITRATION**

Second Respondent

MARK HAWYES N.O.

Third Respondent

Decided: In Chambers

Delivered: 20 November 2025

RULING: LEAVE TO APPEAL

MABASO, AJ

- [1] Following the dismissal of the Individual Employees in this matter and their subsequent unsuccessful attempt to have the dismissal set aside at the Commission for Conciliation, Mediation and Arbitration, this Court was approached with a review application. It reviewed and set aside the arbitration award that dismissed the Individual Employees' claim. This Court then replaced the arbitration award with an order stating that, *inter alia*, the dismissal was both procedurally and substantively unfair. Consequently, the First Respondent was ordered to reinstate others, whereas some were only to be compensated.
- [2] Now, the First Respondent seeks leave to approach the Labour Appeal Court to challenge this Court's decision. The applicable test for leave to appeal is whether there is any reasonable prospect that another Court, the Labour Appeal Court in this instance, may come to a finding different from that of this Court. It is trite that section 17(1)(a) of the Superior Courts Act¹ provides that leave to appeal may only be granted where this Court are of the opinion that the appeal would have a reasonable prospect of success; or there is some other compelling reason why the appeal should be heard, this will include conflicting judgments on the matter under consideration.
- [3] In *Ramakatsa*², the Supreme Court of Appeal set out the proper approach to the test for leave to appeal in terms of section 17(1)(a) as follows:

“...This Court in Caratco, concerning the provisions of s 17(1)(a)(ii) of the SC Act pointed out that if the court is unpersuaded that there are prospects of success, it must still enquire into whether there is a compelling reason to entertain the appeal. Compelling reason would of course include an important question of law or a discreet issue of public importance that will have an effect on future disputes. However, this Court correctly added that ‘but here too the merits remain vitally important and are often decisive’. I am mindful of the decisions at high court level debating whether the use of the word ‘would’ as opposed to ‘could’ possibly means that the threshold for granting the appeal has been raised. If a reasonable prospect of success is established, leave to appeal should be granted. Similarly, if there are some other compelling

¹ Act 10 of 2013.

² *Ramakatsa and Others v African National Congress and Another* [2021] ZASCA 31 (31 March 2021).

reasons why the appeal should be heard, leave to appeal should be granted. The test of reasonable prospects of success postulates a dispassionate decision based on the facts and the law that a court of appeal could reasonably arrive at a conclusion different to that of the trial court. In other words, the appellants in this matter need to convince this Court on proper grounds that they have prospects of success on appeal. Those prospects of success must not be remote, but there must exist a reasonable chance of succeeding. A sound rational basis for the conclusion that there are prospects of success must be shown to exist."

- [4] Taking into account the applicable principle, this Court considered all the grounds for leave to appeal, as advanced by the First Respondent, and reflected on its judgment in support of the orders in question, but is not convinced that there are reasonable prospects that the Labour Appeal Court would come to a different conclusion on the law and facts.
- [5] Consequently, the application for leave to appeal has no merit; consequently, it should not succeed.

Order:

1. The application for leave to appeal is refused
2. There is no order as to costs.

Sandile Mabaso

Acting Judge of the Labour Court of South Africa