



THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

Not Reportable

Case No: JR1249/22

In the matter between:

**THE FROZEN MERCHANT (PTY) LTD t/a
WALTLOO MEAT & CHICKEN SOUTHDALE
(REG NO: 2018/231465/07)**

Applicant

and

**COMMISSION FOR CONCILIATION,
MEDIATION AND ARBITRATION
COMMISSIONER NTHABISENG
P MANTSHULE N.O**

First Respondent

Second Respondent

ANTONIO MARQUES DA SILVA DOS REIS

Third Respondent

Heard: In Chambers

Delivered: This judgment is handed down electronically by circulation to the parties through their legal representatives' email addresses. The date for the hand-down is deemed to be on 27 November 2025

LEAVE TO APPEAL- JUDGMENT

DJAJE, AJ

[1] This is a leave to appeal application against the whole judgment handed down on 16 October 2025, in which the following order was made:

- '1. The condonation for the late filing of the application for variation is granted;
2. The application for variation is dismissed;
3. The applicant is ordered to pay the costs of the application.'

[2] This application is decided on paper and is not necessary for oral arguments. Both parties filed their written submissions.

[3] The test to be applied in an application for leave to appeal is set out in section 17 (1)(a) of the Superior Courts Act 10 of 2013, which provides that:

- '(1) Leave to appeal may only be given where the judge or judges concerned are 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.'

[4] In the main, this application is based on the argument that the compensation award was not varied after the setting aside of the finding of procedural unfairness. The grounds raised by the applicant in this application do not satisfy the threshold that the appeal would have reasonable prospects of success. These were ventilated and addressed in the judgment. There is also no compelling reason why the appeal should be heard.

[5] This application is opposed, and the applicant has not succeeded. I see no reason why the third respondent should not be awarded costs.

[6] Consequently, the following order is made:

Order

1. Application for leave to appeal is dismissed with costs.

J.T. Djaje

Acting Judge of the Labour Court of South Africa

LABOUR COURT

Appearances:

For the applicant : Mr Clifford Levin

Instructed by : Clifford Levin Inc.

For the Respondent : Mr Thabang Ngobeni

Instructed by : TM Ngobeni Attorneys