



- (1) Reportable: NO
(2) Of interest to other Judges: NO

Signature

Date

**IN THE LABOUR COURT OF SOUTH AFRICA
(HELD AT CAPE TOWN)**

CASE NO: C34/2025

In the matter between:

TASNEEM GOUS

Applicant

and

ANTHONY DOUGLAS JAMES

First Respondent

GENESIS DISTRIBUTION PROJECTS (PTY) LTD

Second Respondent

In re:

ANTHONY DOUGLAS JAMES

Applicant

and

GENESIS DISTRIBUTION PROJECTS (PTY) LTD

First Respondent

TASNEEM GOUS

Second Respondent

Heard: In Chambers

Delivered: Judgment is handed down by service on the parties, by email, on 6 March 2026.

JUDGMENT

DANIELS J

Introduction

[1] The applicant seeks leave to appeal against the order of this court issued on 24 June 2025 and seeks condonation for the late filing of its application for leave to appeal. To place the application in context, the history is briefly summarised below:

1.1 Following hearings on 9 May and 24 June 2025, I found the applicant guilty of contempt of court for her wilful and *male fide* refusal to comply with a certified arbitration award of the CCMA, which required the second respondent to reinstate the first respondent into its employment. Reasons for the order was issued on 4 September 2025.

1.2 The applicant filed an application for leave to appeal, together with an application for condonation. The application was then withdrawn.

1.3 On 26 September, the applicant filed a second application for leave to appeal. In her application, the applicant alleges that:

1.3.1 There was no employment relationship between the first respondent and the second respondent,¹

¹ This issue was resolved by the CCMA default arbitration award, issued under case reference WECT15761-21, which found that the first respondent was indeed employed by the second respondent. The arbitration award was not rescinded or reviewed by the applicant.

- 1.3.2 The arbitration award was unenforceable because the second respondent was deregistered,
 - 1.3.3 This court misapplied section 200B of the Labour Relations Act No. 66 of 1995 (“LRA”),
 - 1.3.4 This court misapplied the law relating to contempt,
 - 1.3.5 There were procedural irregularities during the hearing on 9 May 2025,
 - 1.3.6 The court was biased against the applicant,
 - 1.3.7 The order of contempt imposed punitive fines and the threat of imprisonment on the applicant.
- 1.4 On 14 November, the applicant filed an application for condonation, for the late filing of the application for leave to appeal, which the first respondent elected not to oppose. Unfortunately, the condonation application only came to the attention of the court during 2026.
- 1.5 Thereafter, the applicant filed an application for my recusal from the application for leave to appeal and ‘any further proceedings.’ The application was heard on 16 January 2026, and judgment delivered on 20 February. That application considered the alleged procedural irregularities during the hearing on 9 May 2025. The application was dismissed.

Legal principles and analysis

- [2] The applicant seeks condonation for the late filing of its application for leave to appeal. It is trite that condonation is not for the asking. There are several factors to be considered, all of which must be considered to determine whether it is in the interest of justice to grant condonation. The

court must consider² *inter alia* the length of the delay; the explanation for the delay; the prospects of success for the party seeking condonation; the importance of the issues; the prejudice to the other party; and the effect of the delay on the administration of justice. In this matter, it is clear, the delay is relatively short. The explanation is reasonable and sufficiently detailed. In essence, the applicant attempted to secure legal representation but struggled to do so. Ultimately, she drafted the application for leave to appeal, and the condonation application, herself. The applicant has prospects of success given that the dispute dealt with unusual circumstances and the order was somewhat novel. Further, the court of appeal may well differ with the court in respect of its approach to section 200B of the LRA. The dispute is of importance to the parties but also has implications for the labour relations community. There is no prejudice to the other parties and there is no adverse impact on the administration of justice. In the circumstances, it is in the interest of justice to grant condonation.

[3] Section 17(1) of the Superior Courts Act No. 10 of 2013 provides that leave to appeal should only be granted by the court a quo where it is of the view that the appeal would have a reasonable prospect of success or there is some other compelling reason why the appeal should be heard. Leave to appeal should not be granted unless there is a sound and rational basis to conclude that there is a reasonable prospect of success.³

[4] The applicant submits there were procedural irregularities in the manner that the court conducted the proceedings, and that the court was biased. Those submissions are without merit and were fully dealt with in my judgment on 20 February 2026. I do not accept that the appeal court

² *Grootboom v National Prosecuting Authority & another* (2014) 35 ILJ 121 (CC) at paras 50 and 51

³ *MEC for Health, Eastern Cape v Mkhitha and Another* [2016] JOL 36940 (SCA) at paras 16 – 17

would come to a different conclusion. Leave to appeal is denied in these respects.

[5] The applicant sets out several other grounds for leave to appeal. She contends that the court held her personally liable under section 200B of the LRA despite the absence of proof of fraud or proof that there were “associated employers”. She contends that the court erred in the manner it applied the principles applicable to contempt. She contends the court erred by directing her to reinstate the first respondent into the employ of a deregistered company. I accept that the court of appeal may differ in its approach to section 200B. I accept also that the appeal court may differ in its approach to the contempt order, given the second respondent’s deregistration. The issues the court engaged with, and its approach, were novel and there are compelling reasons why leave to appeal should be granted.

[6] Once leave to appeal has been granted, the appellant will be required to prosecute its appeal in accordance with the Rules of the Labour Appeal Court, as amended.⁴ Among other things, the appellant will be required to deliver its notice of appeal and to file the appeal record, which it must do so within the prescribed time periods. The record (which should include the transcript of the hearing on 9 May) should be professionally done through a transcription agency which works with the court. I mention all of this solely because the applicant is unrepresented and may not understand the way forward.

Conclusion

[7] As earlier explained, it is in the interests of justice to grant condonation. There are compelling reasons to grant leave to appeal, and there are

⁴ GN4775, G50608, published 3 May 2024

prospects of success on appeal. In the circumstances, an order is made as follows:

- (1) Condonation is granted for the late filing of the application for leave to appeal,
- (2) The application for leave to appeal is granted in relation to issues in paras 1.3.2, 1.3.3 and 1.3.4,
- (3) The costs of the application for leave to appeal are costs in the appeal.

R Daniels

Judge of the Labour Court of South Africa