



IN THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

Not Reportable

Case No: J1993/22

In the matter between:

PUBLIC SERVANTS' ASSOCIATION OF SOUTH AFRICA

obo MEMBERS

Applicant

and

ADVOCATE MARK THYS N.O.

First Respondent

THE SOUTH AFRICAN REVENUE SERVICE

Second Respondent

Delivered: 7 April 2026

JUDGMENT

LENNOX, AJ

- [1] The Second Respondent seeks leave to appeal as against a judgment of this Court in which it was partially successful and partially unsuccessful on opposing the review brought by the Applicant.
- [2] The Court has been favoured with detailed submissions from both the Second Respondent and the Applicant, which opposes the application for leave to appeal.
- [3] The findings herein have been delayed, which the Court regrets and apologies for.
- [4] Having considered the submissions, detailed as they are, the Court must consider whether the requirements of section 17(1) of the Superior Court Act No 10 of 2023 have been met or not.
- [5] In *Seatlholo and others v Chemical Energy Paper Printing Wood and Allied Workers Union and others*,^[3] this Court confirmed that the test applicable in applications for leave to appeal is stringent and held as follows:

*'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 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 s17(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 and others v Crocodile Valley Citrus Company (Pty) Ltd and 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 and East (Pty) Ltd v NUM (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 and another (C 536/15, 6 November 2015).'

- [6] In deciding this application for leave to appeal, the Court is also guided by the *dicta* of the Supreme Court of Appeal where it held in *Dexgroup (Pty) Ltd v Trustco Group International (Pty) Ltd and others* at paragraph 24 that:

'...The need to obtain leave to appeal is a valuable tool in ensuring that scarce judicial resources are not spent on appeals that lack merit.'

- [7] The Court is not of the view that there are compelling interests which require the appeal to be heard in the interests of justice¹.
- [8] Having consider the submissions the Court is of the view that there is no possibility that another Court would come to a different conclusion. To the contrary, the present application has failed to appreciate the judgment as granted. It is a further example of the extent that the Second Respondent has gone to avoid its obligations towards the Applicant and its members, an approach which should not be condoned.
- [9] In the judgment no order was made as to costs. In this matter the Court is inclined to agree with the Applicant that the application should be dismissed with costs.
- [10] The application for leave to appeal is accordingly dismissed and the Second Respondent is to pay the Applicant's costs.

¹ Ramakatsa v African National Congress [2021] ZASCA 31

M.A. Lennox

Acting Judge of the Labour Court of South Africa