



(1) Reportable: No
(2) Of interest to other Judges: No

Signature

11 June 2026
Date

THE LABOUR COURT OF SOUTH AFRICA, CAPE TOWN

CASE NO: C415/2023

In the matter between:

UNATHI NTANTALA

Applicant

and

SAFETY AND SECURITY SECTORAL

BARGAINING COUNCIL

First Respondent

MTHUTHUZELI NDZOMBANE

Second Respondent

THE MINISTER OF POLICE

Third Respondent

Heard: 11 June 2026

Delivered: 11 June 2026

Summary: An application to review and set aside an arbitration award finding the applicant's dismissal substantively fair. The review application was filed late, and condonation was sought. In the absence of a complete record of the arbitration proceedings, it is not appropriate to determine whether condonation should be granted for the late filing of the review application. The review application is deemed withdrawn, archived and lapsed.

JUDGMENT

GANDIDZE, J

Introduction

- [1] In August 2023, the applicant, Mr Unathi Ntantala, who appeared in person on the hearing date, filed an application to review and set aside an arbitration award issued under the auspices of the Safety and Safety Sectoral Bargaining Council (Bargaining Council) in case number PSSS436-19/19. The award is dated 20 October 2020. Accordingly, the review application was filed almost three years after the award was issued, despite the requirement to file within six weeks of its issuance. This explains why it was accompanied by an application to condone the late filing of the review application. At the time, the applicant was legally represented.
- [2] On 17 October 2023, the Minister of Police (the Minister), the applicant's former employer, filed a notice of opposition to both applications. The Minister is represented by the State Attorney.
- [3] It is unclear when the Registrar issued the Rule 7A(5)¹ Notice advising the applicant's then-attorneys that the Bargaining Council had filed the record. What is known is that on 8 February 2024, the applicant's attorneys uplifted the record from court, and on 20 March 2024, the record, together with a Rule 7A(8)(b) Notice, was filed. However, that record was incomplete, and the applicant's attorneys conceded as much, delivering an (unsigned) application to condone the late filing of the record.
- [4] The applicant's attorneys undertook to deliver a complete record by 7 June 2024 and, a day before that date, sought consent to extend the filing of the full record to 20 June 2024. The consent was granted.

¹ In terms of the Rules of the Labour Court, which applied at the time and were repealed with effect from 16 July 2024.

- [5] Another extension was sought to file the record by 30 June 2024, and consent was again granted. Despite this, no record was filed by 30 June 2024.
- [6] On 1 July 2024, the applicant's attorneys withdrew as attorneys of record.
- [7] The State Attorney did not hear anything further about the application until 14 May 2026, when a set-down notice was received. That remained the position on the date of the hearing.
- [8] Initially, Mr Ntantala informed the court that he was unaware that his attorneys of record had withdrawn. When asked when he last spoke to them, he initially said it was in 2024. Later, he stated that 'to be honest it was last year' and then also stated that to be 'honest even this year'. The question was asked to determine whether Mr Ntantala was aware that a complete record in the review proceedings had not been filed. He informed the court that he had paid his previous attorneys to obtain the transcript of the record. He was adamant that his attorneys had informed him that the next step was for the Registrar to set a date for the hearing of the condonation application.
- [9] Ms Matsala, instructed by the State Attorney, filed a Practice Note stating that the only issue capable of determination is the condonation application. The court disagrees, as this is a jurisdiction issue.
- [10] When the matter was heard, there was no indication that the applicant had taken any steps to ensure that a complete record was filed. In fact, there was no indication that the applicant intended to file one. In the absence of a complete record in the review application, granting condonation would be pointless.
- [11] Additionally, the Practice Manual of the Labour Court of South Africa² (Practice Manual), which applies to the review application, contains several provisions that impede the hearing of the condonation application.
- [12] Clause 11.2.2 reads as follows:
- '11.2.2 For the purposes of Rule 7A (6), records must be filed within 60 days of the date on which the applicant is advised by the registrar that the record has been received.'

² Repealed with effect from 16 July 2024.

11.2.3 If the applicant fails to file a record within the prescribed period, the applicant will be deemed to have withdrawn the application, unless the applicant has during that period requested the respondent's consent for an extension of time and consent has been given. If consent is refused, the applicant may, on notice of motion supported by affidavit, apply to the Judge President in chambers for an extension of time. The application must be accompanied by proof of service on all other parties, and answering and replying affidavits may be filed within the time limits prescribed by Rule 7. The Judge President will then allocate the file to a judge for a ruling, to be made in chambers, on any extension of time that the respondent should be afforded to file the record.'

[13] Even if it is not known when the Registrar informed the applicant's former attorneys that the record was ready for collection, no further records were filed from March 2024 until the hearing on 11 June 2026 to ensure that the complete record is before the court. The consent to extend the time for filing the record expired on 30 June 2024. It follows that the applicant is deemed to have withdrawn the review application, so there is no live review application before the court. The court cannot hear an application to condone the late filing of a review application that is no longer live.

[14] That is not the end of the applicant's woes in this matter. There is also the following provision in the Practice Manual:

'11.2.7 A review application is by its nature an urgent application. An applicant in a review application is therefore required to ensure that all the necessary papers in the application are filed within twelve (12) months of the date of the launch of the application (excluding Heads of Arguments) and the registrar is informed in writing that the application is ready for allocation for hearing. Where this time limit is not complied with, the application will be archived and be regarded as lapsed unless good cause is shown why the application should not to be archived or be removed from the archive.'

[15] The review application was launched in August 2023. By August 2024, all necessary papers ought to have been filed, but they were not. As a result, the

review application is archived and regarded as lapsed. Even when the matter was heard on 11 June 2026, not all papers had been filed.

[16] Finally, clause 6 of the Practice Manual provides as follows:

‘16. ARCHIVING FILES

16.1 In spite of any other provision in this manual, the Registrar will archive a file in the following circumstances:

- in the case of an application in terms of Rule 7 or Rule 7A, when a period of six months has elapsed without any steps taken by the applicant from the date of filing the application, or the date of the last process filed;’

[17] From 18 April 2024, when the applicant’s former attorneys delivered the bundle of documents used in the arbitration proceedings, to the hearing on 11 June 2026, the applicant took no action in the matter. Accordingly, the file is archived.

[18] An appropriate order is one striking the matter from the roll, for the reasons stated above. The review application can only be re-enrolled for hearing if it is reinstated by a court order.

[19] In the premise, the following order is made:

Order

1. The matter is struck from the roll and may be re-enrolled only by a court order.
2. There is no order as to costs.

T. Gandidze

Judge of the Labour Court of South Africa

Appearances

For the Applicant: In person

For the Respondent: Advocate R Matsala

Instructed by: The State Attorney

LABOUR COURT