



(1) Reportable: No
(2) Of interest to other Judges: Yes/No
(3) Revised

Signature

Date

THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

Case no: JR 854/2023

In the matter between:

THUNGELA OPERATIONS (PTY) LIMITED

Applicant

and

SIBUSISO MAHLANGU

Respondent

Heard: 30 July 2026

Delivered: on 30 July 2026

Summary: Review application — non-compliance with Rule 7A of the Rules of this Court and clause 11.2 of the Practice Manual — no application for reinstatement nor condonation brought by the applicant — matter postponed for the applicant to bring a substantive application — costs reserved.

ORDER, AND REASONS FOR ORDER

MAHOMED, AJ

Background

- [1] This review application, under the above case number, was enrolled for hearing before me today. In preparing for the matter, I observed, *mero motu*, that there had been non-compliance with the notice requirements of Rules 7A of the Rules of this Court, read with clause 11.2 of the Practice Manual of this Court applicable to matters instituted prior to 2024, as this matter was.

The Practice Manual and the archiving of the application

- [2] Clause 11.2 of the Practice Manual requires an applicant in review proceedings to ensure that all necessary papers are filed, and the registrar notified in writing that the matter is ripe for allocation for hearing, within twelve months of the date on which the application was launched. Where an applicant fails to comply, the application is automatically archived and is regarded as lapsed, unless and until an application is brought, on good cause shown, for its reinstatement, alternatively for condonation of the non-compliance. The Practice Manual is not a mere administrative guideline: it has binding force, and exists to give effect to the Rules of this Court and to the Labour Relations Act 66 of 1995¹.
- [3] No application for reinstatement from the archiving, and no application for condonation, has been brought by the Applicant. In those circumstances, the review application stands archived, and this Court is, for as long as that status persists, without a properly constituted application before it on which it could pronounce on the merits. Archiving is not a mere administrative act; it is a status which an application acquires automatically upon non-compliance with clause 11.2, and it falls to the defaulting party to justify why the matter should be reinstated².

Jurisdiction and the appropriate course

- [4] It follows that, at present, I am without jurisdiction to determine this matter on its merits.

¹ See *Samuels v Old Mutual Bank* [2017] 7 BLLR 681 (LAC); (2017) 38 ILJ 1790 (LAC); *Toyota SA Motors (Pty) Ltd v CCMA and Others* [2015] ZACC 40; (2016) 37 ILJ 313 (CC).

² See *E Tradex (Pty) Ltd t/a Global Trade Solution v Finch N.O. and Others* [2022] ZALAC 106; (2022) 43 ILJ 2727 (LAC); *Macsteel Trading Wadeville v Van der Merwe N.O. and Others* [2018] ZALAC 50; (2019) 40 ILJ 798 (LAC); *Greater Taung Local Municipality v South African Local Government Bargaining Council and Others* [2023] ZALAC 1; (2023) 44 ILJ 761 (LAC).

[5] That is not, however, the end of the enquiry. Simply striking the matter from the roll, without more, would afford the Applicant an opportunity to regularise its position, and would equally prejudice the Respondent, who has an interest in the finality — one way or the other — of proceedings that have already been outstanding for a considerable period. A postponement, coupled with a direction that the necessary substantive application be brought within a defined timeframe, better serves the interests of both parties, and accords with the practical, fairness-oriented approach reflected in the authorities referred to above.

[6] In the result, I make the following order:

Order

1. The matter is postponed to my roll of 26 August 2026.
2. The Applicant is directed to bring a substantive application for the reinstatement of the review application from the archive, alternatively for condonation of its non-compliance with clause 11.2 of the Practice Manual and Rules 7A of the Rules of this Court.
3. All papers in that application, including any answering and replying affidavits, are to be filed with this Court by no later than 17 August 2026, for hearing on 26 August 2026.
4. The costs of the application for Review together with today's appearance, and the costs of the application to be brought pursuant to paragraph 2 above, are reserved for determination at the hearing on 26 August 2026.

MAHOMED, AJ

Acting Judge of the Labour Court of South Africa

Appearances

For the Applicant: Mr. Du Plessis of PINSENT MASONS SOUTH AFRICA INC

Instructed by: PINSENT MASONS SOUTH AFRICA INC

For the Respondent: Mr. Xongotela Mbhiza

Instructed by: Seleka Attorneys Inc