



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

 11 SEPTEMBER 2026
Signature Date

THE LABOUR COURT OF SOUTH AFRICA, CAPE TOWN

Case no: C234/2023

In the matter between:

MIZINGOU MIZASSE, ROMEO BOUTOTO

Applicant

and

COMMISSION FOR CONCILIATION, MEDIATION AND

ARBTRATION

First Respondent

ANDRÉ SIEBERT N.O.

Second Respondent

FLM SA (PTY) LTD T/A FLM PINEHURST

Third Respondent

Heard: 9 September 2026

Delivered: 11 September 2026

Summary: (Review application – jurisdiction is conferred on this Court in terms of section 145 of the LRA - a review application filed outside of the time periods without a condonation application means that the Court is divested of jurisdiction)

JUDGMENT

MAY, AJ

Introduction

- [1] The Applicant seeks to review and set aside an arbitration award issued by the Second Respondent (commissioner) on 12 April 2023 under the auspices of the First Respondent, the commissioner found that the Applicant was fairly dismissed.
- [2] The Third Respondent opposed the review and raised the objection that the service of the review was defective, was filed late and condonation was not sought in the pleadings nor addressed after the failure to apply for condonation was raised.

Condonation

- [3] A review application can only be considered properly brought once it was both served and filed in Court (delivered).
- [4] The time limit of six weeks, as contemplated by section 145(1) of the Labour Relations Act 66 of 1995 (LRA), applies from when the Applicant received the award. It does not appear to be in dispute that the award was served on the parties on the date of the award, 12 April 2023. The review application should have been submitted on or before 24 May 2023. It was only served on the Respondents by registered mail on 9 June 2023. It is not accompanied by a condonation application and is therefore not properly before this Court.
- [5] Where a review is filed late, this Court requires a condonation application to be considered and granted before the review can be heard. A condonation application must be brought on motion and supported by an affidavit. absent such an application, the Court is divested of jurisdiction.
- [6] In conclusion, the Applicant's review application has been brought out of time without a proper application for condonation.

[7] It is trite that the LRA must be interpreted purposively to give effect to an expeditious resolution of labour disputes¹. In light of this obligation, this Court is mindful of avoiding permanently closing the door on the Applicant. Nothing prevents the Applicant from making application for condonation at this stage and he is urged to do so without further delay.

[8] Whilst the matter was opposed by the Third Respondent, there was no appearance when the matter was called. For this reason, it is appropriate that no order as to costs be made.

[9] In the premise the following order is made:

Order

1. The Court does not have jurisdiction to entertain the review application, and the application is struck from the roll.
2. No order as to costs.



C. May

Acting Judge of the Labour Court of South Africa

Appearances:

For the Applicant : Applicant in person
For the respondent : No appearance

¹ *Bracks NO and Another v Rand Water and Another* (JA 2/08) [2010] ZALAC 4; (2010) 31 ILJ 897 (LAC); [2010] 8 BLLR 795 (LAC) at para 11.
Bracks supra at para 11.