



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

Signature

Date

THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

Case no: 2026-161860

In the matter between:

DEPARTMENT OF HOME AFFAIRS

Applicant

and

**GENERAL PUBLIC SERVICE SECTORAL
BARGAINING COUNCIL**

First Respondent

COMMISSIONER QINUMUZI SAMSON MAZIBUKO N.O.

Second Respondent

JOSEPH KGOBATHA MBULI

Third Respondent

SYLVIA MANTEPELA MOFOKENG

Fourth

Respondent

SAMUEL MAPHALE MOLOI

Fifth Respondent

BERENDT MALEFETSANE MOSIA

Sixth Respondent

THE SHERIFF: BETHLEHEM DISTRICT

Seventh Respondent

**THE SHERIFF: PRETORIA NORTH EAST
DISTRICT**

Eighth Respondent

Heard: 24 July 2026

Judgment delivered: 20 August 2026

JUDGMENT

PHEHANE, J

Background

[1] The applicant brings this application on an urgent basis to stay the enforcement of a writ of execution issued in favour of the third to the sixth respondents pending an application in terms of section 145 of the Labour Relations Act¹ (LRA) launched on 9 April 2024 to review and set aside an arbitration award issued by the first and second respondents. In the alternative, the applicant seeks an order exempting it from furnishing security as contemplated in section 145(7) and (8) of the LRA.²

[2] The application is opposed by the third to the sixth respondents.

Background

[3] The third to the sixth respondents were employed by the applicant. They were dismissed for serious acts of misconduct in September 2008. Following the determination of the unfair dismissal dispute referred by the third to the sixth respondents to the first respondent (the General Public Service Sectoral Bargaining Council – GPSSBC), the second respondent (the Commissioner) issued a default arbitration award on 23 November 2023 in their favour and ordered the applicant to reinstate them with back pay. The arbitration award was varied on 13 March 2024. The variation concerned the monetary portion of the arbitration award. The monetary portion award totals approximately R4.9 million.

¹ Act 66 of 1995, as amended.

² See: Prayers 1 and 2 of the notice of motion at p 001-3, read with para 14 of the founding affidavit at p 002- 5.

- [4] The applicant launched an application to rescind the default arbitration award, which was dismissed in a ruling dated 23 February 2024.

Review application

- [5] As stated above, the applicant launched an application to review the arbitration award. The applicant also seeks to review this rescission application in its aforesaid review application. In this review application, the applicant seeks condonation for its late filing. The review application is opposed by the third to the sixth respondents.
- [6] The applicant explains that it prosecuted its review application in a timely manner. However, due to administrative delays on the part of this Court, the review application was not scheduled for hearing. The applicant conducted numerous follow-ups with the Registrar of this Court regarding the date of the hearing of the review application with the knowledge of the third to the sixth respondents. It was only on 1 June 2026, that the applicant was informed by the administrative staff of this Court that the review application would be enrolled for hearing on 4 March 2027. However, no notice of set down has been issued to the parties to date.
- [7] The applicant accordingly avers that it has not been dilatory in pursuing its review application.

Enforcement of the arbitration award

- [8] In January 2026, the third to the sixth respondents launched an application in terms of section 143 of the LRA to certify the arbitration award. The applicant unsuccessfully opposed this application. On 16 April 2026, the arbitration award was certified by the Commission for Conciliation, Mediation and Arbitration (CCMA). On 23 April 2026, a writ of execution was issued directing the seventh respondent to execute the goods of the applicant in its office located in the Bethlehem District. The applicant avers that it was not aware of the writ at that stage. However, the applicant avers that in a letter dated 24 April 2026, the third to sixth respondents instructed the seventh respondent to execute the writ. This letter is copied to the applicant, but the applicant does

not tell this Court whether it was aware of this letter. The applicant avers that its attorney of record only became aware of the certified arbitration award on 15 May 2026.

- [9] On 1 July 2026, the eighth respondent attended at the applicant's head office in the Pretoria North East District to enforce the writ and attached the applicant's goods to the value of R6 million. The applicant was notified that if payment of the judgment debt was not made to the eighth respondent by 20 July 2026, the applicant's attached goods would be removed and sold in execution to satisfy the debt.³
- [10] On 6 July 2026, the applicant addressed correspondence to the third to sixth respondents and to the seventh and eighth respondents, in which it sought an undertaking by no later than 10h00 on 8 July 2026, that the writ would not be enforced pending the review application, as the applicant was at that stage, informed by the administrative staff of this Court that the review application was to be enrolled for hearing in March 2027.⁴ The third to sixth respondents refused to furnish such an undertaking, citing that the applicant delayed obtaining a set-down date for the hearing of the review application, and that the date of March 2027 was far off, given the financial and emotional difficulties experienced by them. The applicant was accordingly put to terms to pay the judgment debt by 13 July 2026, alternatively, to furnish security in terms of section 145(7) and (8) of the LRA.⁵ The eighth respondent did not provide any undertaking, and the seventh respondent indicated that it did not have pending execution steps in the matter.

Urgent application

- [11] The applicant launched this present application on 8 July 2026 for hearing on 21 July 2026. However, the pleadings were not uploaded on Caselines until the morning of Sunday, 19 July 2026. The applicant's heads of argument were uploaded on Caselines on Monday, 20 July 2029 at 16h41.

³ Annexure "LTM 15.1" at p 002-130.

⁴ Annexure "LTM 17", at p002-136 and "LTM 18" at p 002-139.

⁵ Annexure "LTM 19" at pp 002-140.

[12] As the applicant had not complied with clause 13.17 of the Directive on the Implementation of Court Online Electronic Platform in the Labour Court,⁶ the parties were required to make submissions on the hearing date on 21 July 2026 as to why the matter should not be removed from the roll. The applicant's counsel submitted that he realised on Thursday, 16 July 2026 that the pleadings were not uploaded on Caselines and the applicant's instructing attorney contacted the Registrar, who undertook that an event would be created on Court Online, which would permit the creation of the bundle in order for the bundle to migrate to Caselines. This Court is not to be bogged down with administrative issues. The applicant's instructing attorney ought to have enquired with the Registrar as soon as possible after the case number was issued, for compliance with all administrative steps in order that the digital Court file be uploaded on Caselines on the Thursday preceding the hearing date in line with the principles of urgency in *Luna Meubels (EDMS) BPK v Makin and Another*⁷ and *Republikeinse Publikasies (EDMS) BPK v Afrikaanse Pers Publikasies (EDMS) BPK*.⁸ The matter stood down until 24 July 2026 to afford the parties the opportunity to upload their pleadings on Caselines and in order for this Court to read the papers. The pleadings were uploaded on 21 July 2026, however, the parties had to be reminded by the presiding judge through the issuance of a directive, to properly upload the papers in line with the provisions of Directive 1 of 2025, due to the fact that the affidavits and annexures were clumped together under one folder which made reading the voluminous papers cumbersome.

[13] Rule 38(1) and (2) of the Rules Regulating the Conduct of the Proceedings in the Labour Court⁹ provide:

⁶ Directive 1 of 2025, effective 14 April 2025. Clause 3.17 reads:

'Once the case number has been issued by the Registrar or Judge's Secretary, the practitioner or litigant must:

(a) upload the complete founding documents (which would have been served) and fully comply with the Rules of this Court in respect of the filing and service of documents; and if the documents were served via e-mail a service affidavit must be uploaded and

(b) Create the case bundle.'

⁷ 1977 (4) SA 135 (W) at 137A-E.

⁸ 1972 (1) SA 773 (A).

⁹ Published under GN 4775a in GG 50608 of 3 May 2024.

- '(1) A party that applies for urgent relief must file an application that complies with the requirements of the rules relating to applications generally.
- (2) The affidavit in support of the application must also contain:
 - (a) the reasons for urgency and why urgent relief is necessary;
 - (b) the reasons why the requirements of the rules were not complied with, if that is the case; and
 - (c) ...'

[14] The test for urgency is well established.¹⁰ The applicant must in its founding affidavit, explicitly set out why the application is urgent, why the abridgement of the ordinary rules for service and filing of pleadings is necessary and why it will not obtain substantial redress if the application is heard in the ordinary course. The applicant was put to terms on when to pay the judgment debt. It would have been expected in such circumstances, for the applicant to have sought a hearing date on the urgent roll sooner with truncated time lines commensurate with the urgency.

[15] The application was filed in this Court on 8 July 2026 at 18h59. On its own version the applicant avers that it launched this application on 10 July 2026, one week after the sheriff gave it the deadline to pay the judgment debt. It gave the respondents until 15h00 on 16 July 2026 to file their opposing papers and gave itself until 17 July 2026 to deliver a replying affidavit. However, the applicant submitted to this Court that it is the Registrar who prevented it from filing all pleadings timeously. It cannot be, if its replying affidavit was to be filed by 16h00 on Friday, 17 July 2026 and was filed at 11h24 on 17 July 2026. It has become a pattern for litigants to blame the Registrar or delays on the Courts Online platform when they fail to comply with the provisions of Directive 1 of 2026. This must be discouraged.

[16] It is trite that where self-created urgency exists, the urgent application is at risk of being struck off the roll.¹¹

¹⁰ *Eazi Access Rental (Pty) Ltd v Suleman and Another* (2025/009793) [2025] ZALCJHB 192 (12 May 2025) at para 39; *East Rock Trading 7 (Pty) Ltd and Another v Valley Granite (Pty) Ltd and Others* 2011 JDR 1832 (GSJ) at para 8.

¹¹ *Department of Health, Gauteng Province and another v Teteni and others* [2024] JOL 63406 (LC) at para 37; *Soobedar and another v Minister of International Relations and Cooperation and another* (2021) 42 ILJ 1761 (LC) at para 20.

- [17] The applicant was well aware on 1 July 2026, of the deadline provided to it to effect payment of the judgment debt by 20 July 2026, yet it only approached this Court on 8 July 2026 for a hearing date on 21 July 2026, one day after the deadline that was imposed on it. This is unexplained. The applicant did not take any active steps to ensure that the hearing was enrolled in the two weeks before 20 July 2026 and that the pleadings were properly before the Court in compliance with Directive 1 of 2025.
- [18] In my view, the applicant focused on obtaining a hearing date for the review application, in circumstances where it is well aware that the institution of review proceedings does not suspend the enforcement of an arbitration award. The review application was filed more than two years ago. Although section 145(7) read with 145(8) of the LRA does not make provision for the date for filing security, as at January 2026, the applicant was aware of the third to sixth respondents' intention to enforce the arbitration award, yet it did not approach this Court at that stage on an urgent basis to seek an order exempting it from filing security.
- [19] In my view, urgency is self-created, and on this basis alone, the application falls to be struck off the roll.

Costs

- [20] The conduct of the applicant in failing to ensure compliance with the provisions of Directive 1 of 2025 warrants censure. The applicant was given the opportunity to place an affidavit before this Court to explain its non-compliance, but elected not to do so. It transpires that the applicant sought to lay the blame on the Registrar for failing to ensure that the pleadings were properly before this Court on the urgent roll, whereas its own time-frame, as set out in its notice of motion, is the reason for non-compliance with Directive 1 of 2025, which delayed the hearing. This resulted in placing undue pressure on the already strained resources of this Court. Such conduct must be discouraged. Accordingly, an order is made for the payment of costs.
- [21] In the premises, the following order is made:

Order

1. The application is struck off the roll for lack of urgency with costs.

M T M Phehane

Judge of the Labour Court of South Africa

Appearances:

For the applicant	:	Adv Yusuf Peer
Instructed by	:	Edward Nathan Sonnenbergs Inc.
For the third to sixth respondents	:	L R Modiba
Instructed by	:	Khorommbi Mabuli Attorneys

LABOUR COURT