

SOUTH AFRICA / JUDGMENT

Magandela v Great Liquor Discounter Stores (JS989/13) [2016] ZALCJHB 436 (22 November 2016) [2016] ZALCJHB 436

COURT

Labour Court Johannesburg

BEFORE

Lagrange

CASE / FILE NUMBER

JS989/13

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THE

LABOUR COURT OF SOUTH AFRICA,

HELD AT JOHANNESBURG

Case

no: JS 989/13

In

the matter between:

FARAI MAGANDELA

Applicant

and

THE GREAT LIQUOR

DISCOUNTER

STORES

First Respondent

Heard:

15 November 2016

Delivered:

22 November 2016

DEFAULT

JUDGMENT**LAGRANGE J**

- [1] The application for default judgement is unopposed. Having heard the applicant and having considered the evidence confirmed on affidavit, I am satisfied that the applicant was underpaid remuneration due to him in various forms in terms of the Sectoral Determination 9, applicable to the Wholesale and Retail Sector of South Africa published in terms of section 56 (1) of the Basic Conditions of Employment Act, 75 of 1997 ('the BCEA'), for the period commencing November 2010 up to, and including May 2013.
- [2] In particular, the applicant was short paid the amounts set out in Annexure "A" to his founding affidavit dated 3 December 2015, subject to some variations which appear to be calculation errors. Further, the applicable prescribed rate of interest applicable from the date each monthly payment was due until the date of judgment was 15.5 % per annum, as all amounts due and owing arose during the period 1 October 1993 to 31 July 2014 when that rate was unchanged.
- [3] However, the applicant's calculation of the interest due has been amended to reflect non-compounding interest accruing from the time each payment was due as far as that can be ascertained from the evidence. Insofar as amounts where only the year of accrual can be ascertained as in the case of Public Holidays, interest has been attributed as accruing from the end of the relevant year.

Order

- [4] The respondent is liable to the applicant in the following amounts which must be paid within 15 days of receipt of this judgment:

4.1 Arrear wages (as detailed in Table A hereto) : R 17,612.43;

4.2 Interest on arrear wages:

R 12,053.33;

4.3 Arrear overtime pay:

R 21,831.12;

4.4 Interest on arrear overtime pay:

R 15,768.20;

4.5 Unpaid public holiday pay:

R 4,896.98;

4.6 Interest on unpaid holiday pay:

R 3,160.30;

4.7 Unpaid Sunday overtime pay worked

In December:

R 3,184.64;

4.8 Interest on unpaid Sunday overtime

pay worked In December:

R 2,616.96;

4.9 Accrued leave pay August 2012 to

January 2013:

R 1,547.90;

4.10 Accrued leave pay February 2013 to

April 2013:

R 832.28,

4.11 Interest on the amounts due in 4.9 and 4.10

above:

R 1,351.23

4.12 Unpaid wages for week ending

11 May 2013:

R 1,125.37,

4.13 Interest on the amounts due in 4.12

above:

R 595.98

TOTAL DUE:

R 86,576.72

[5] No order is made as to costs

Lagrange J

Judge of the Labour Court of South Africa

Appearances:

APPLICANT: In person

Table A: Wage Actual Monthly wage

Minimum Monthly

wage

Shortfall

Per month

Interest per month at 15,5% per annum

Accumulated interest

2010

Nov

3,249.75

4,542.96

1,293.21

Dec

3,249.75

4,542.96

1,293.21

16.70

1,169.28

2011

Jan

3,249.75

4,542.96

1,293.21

16.70

1,152.57

Feb

3,249.75

4,542.96

1,293.21

16.70

1,135.87

Mar

3,249.75

4,542.96

1,293.21

16.70

1,119.17

Apr

3,249.75

4,542.96

1,293.21

16.70

1,102.46

May

5,000.00

5,159.19

159.19

2.06

133.65

June

5,000.00

5,159.19

159.19

2.06

131.60

July

5,000.00

5,159.19

159.19

2.06

129.54

Aug

5,000.00

5,159.19

159.19

2.06

127.48

Sep

5,000.00

5,159.19

159.19

2.06

125.43

Oct

5,000.00

5,159.19

159.19

2.06

123.37

Nov

5,000.00

5,159.19

159.19

2.06

121.32

Dec

5,000.00

5,159.19

159.19

2.06

119.26

2012

Jan

5,000.00

5,159.19

159.19

2.06

117.20

Feb

5,000.00

5,488.83

488.83

6.31

353.59

Mar

5,000.00

5,488.83

488.83

6.31

347.27

Apr

5,000.00

5,488.83

488.83

6.31

340.96

May

5,000.00

5,488.83

488.83

6.31

334.64

June

5,000.00

5,488.83

488.83

6.31

328.33

July

5,000.00

5,488.83

488.83

6.31

322.02

Aug

5,000.00

5,488.83

488.83

6.31

315.70

Sep

5,000.00

5,488.83

488.83

6.31

309.39

Oct

5,000.00

5,488.83

488.83

6.31

303.07

Nov

5,000.00

5,488.83

488.83

6.31

296.76

Dec

5,000.00

5,488.83

488.83

6.31

290.45

2013

Jan

5,000.00

5,488.83

488.83

6.31

284.13

Feb

5,000.00

5,851.50

851.50

11.00

483.94

Mar

5,000.00

5,851.50

851.50

11.00

472.94

Apr

5,000.00

5,851.50

851.50

11.00

461.94

TOTAL

17,612.43

-

12,053.33

Table B: Overtime Actual

Minimum

Per hour

Shortfall

Per hour

Hours

Shortfall

Per month

Interest per month at 15,5 %

Accumulated

Interest

2010

Nov

0

23.30

23.30

27

629.10

8.13

576.94

Dec

0

23.30

23.30

27

629.10

8.13

568.81

2011

Jan

0

23.30

23.30

27

629.10

8.13

560.69

Feb

0

24.14

24.14

27

651.78

8.42

572.48

Mar

0

24.14

24.14

27

651.78

8.42

564.06

Apr

0

24.14

24.14

27

651.78

8.42

555.64

May

0

26.46

26.46

27

714.42

9.23

599.82

June

0

26.46

26.46

27

714.42

9.23

590.59

July

0

26.46

26.46

27

714.42

9.23

581.36

Aug

0

26.46

26.46

27

714.42

9.23

572.13

Sep

0

26.46

26.46

27

714.42

9.23

562.90

Oct

0

26.46

26.46

27

714.42

9.23

553.68

Nov

0

26.46

26.46

27

714.42

9.23

544.45

Dec

0

26.46

26.46

27

714.42

9.23

535.22

2012

Jan

0

26.46

26.46

27

714.42

9.23

525.99

Feb

0

28.15

28.15

27

760.05

9.82

549.77

Mar

0

28.15

28.15

27

760.05

9.82

539.95

Apr

0

28.15

28.15

27

760.05

9.82

530.13

May

0

28.15

28.15

27

760.05

9.82

520.32

June

0

28.15

28.15

27

760.05

9.82

510.50

July

0

28.15

28.15

27

760.05

9.82

500.68

Aug

0

28.15

28.15

27

760.05

9.82

490.87

Sep

0

28.15

28.15

27

760.05

9.82

481.05

Oct

0

28.15

28.15

27

760.05

9.82

471.23

Nov

0

28.15

28.15

27

760.05

9.82

461.41

Dec

0

28.15

28.15

27

760.05

9.82

451.60

2013

Jan

0

28.15

28.15

27

760.05

9.82

441.78

Feb

0

30.10

30.10

27

812.70

10.50

461.88

Mar

0

30.10

30.10

27

812.70

10.50

451.39

Apr

0

30.10

30.10

27

812.70

10.50

440.89

TOTAL

21,831.12

-

15,768.20

Table C: Public Holidays Interest Shortfall Accumulated Interest per annum. 2010 15.50% 372.80
337.07 2011 15.50% 1,831.68 1,372.23 2012 15.50% 1,732.50 1,029.39 2013 15.50% 960.00 421.60
4,896.98 3,160.30 Table D: Sunday Work (December) 2010 15.5% 1,491.20 1,348.29 2011 15.5%
1,693.44 1,268.67 3,184.64 2,616.96

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