

SOUTH AFRICA / JUDGMENT

Maloka v Commission For Conciliation, Mediation and Arbitration (JR696/21) [2024] ZALCJHB 542 (9 October 2024)

[2024] ZALCJHB 542

COURT

Labour Court Johannesburg

BEFORE

M. T. M. Phehane

CASE / FILE NUMBER

JR696/21

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Source record**THE****LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG****Not****Reportable****Case****No: JR696/21****In**

the matter between:

RAKOKWANE
MALOKA
Applicant
and
COMMISSION
FOR CONCILIATION, MEDIATION
AND
ARBITRATION
First Respondent
COMMISSIOENR
NORMAN MBELENGWA N.O.
Second Respondent
COMMISSIONER
LINDOKUHLE DLAMINI N.O
Third Respondent
LIBERTY
HOLDINGS
Fourth Respondent

Heard:

9 October 2024

Delivered: 9 October 2024
EX TEMPORE

JUDGMENT

PHEHANE, J

- [1] The applicant (Mr. Maloka) is self - representing and brings this application to reinstate a review application. Mr. Maloka has launched numerous proceedings in this Court against the same and various respondents.
- [2] On the last occasion when this reinstatement application was heard, that is, on 24 April 2024, the application was removed from the roll with an order directing Mr. Maloka to file a service affidavit that demonstrates proper service of the reinstatement application on the respondents.
- [3] Instead of simply filing a service affidavit as ordered by this Court, Mr. Maloka filed numerous processes, ranging from many service affidavits, submissions to the acting Deputy Judge President, three sets of heads of argument, a “declaration to quantify constitutional damages against the office of the Registrar”, a practice note for the hearing on 9 October 2024 setting out a litany of remedies sought by him, most having nothing to do with the reinstatement application, and an amended notice of motion to consolidate the various applications filed by him in this Court (amended notice of motion).
- [4] The amended notice of motion was filed on 26 April 2024. It was served by hand on various respondents including the respondents in this present application, on 25 April 2024. In this amended notice of motion, Mr. Maloka gives the respondents 5 days to file their opposing papers. It cannot be ascertained from a content of the Court file which is voluminous and not indexed and paginated, whether any of these respondents have opposed the relief sought in this amended notice of motion. Paragraph 5 of this amended notice of motion reads: “Kindly attach the court file of matter under J140-24 and JR 696-21 with the matter under J423-22 for consolidated hearing on 7 May 2024 to be considered as a preliminary issue by the presiding judge who would be seized with the business of the day in the unopposed motions court”. It is unclear to whom this instruction by Mr. Maloka was directed. What is clear, is that the pleadings related to the present matter were not attached to this amended notice of motion. Thus, on the basis of this amended notice of motion that was hand delivered to the respondents, it cannot be said that the respondents were served with the reinstatement application. It is not known what transpired in Court on 7 May 2024, the date mentioned in the amended notice of motion as the allocated hearing date, it would seem. That, in any event is immaterial, as the applicant informed this Court during oral argument on 9 October 2024, that he no longer persists with the amended notice of motion.

[5] In the circumstances, there remains no proper service of the reinstatement application on the respondents. This means therefore, that there is non-compliance with the order of this Court of 24 April 2024.

[6] In the premises the following order is made:

Order

1. The matter is removed from the roll.
2. The applicant is to file a proper service affidavit of the reinstatement application launched on 20 November 2023 on the respondents.
3. Before the matter is enrolled for hearing, the applicant is to file the service affidavit mentioned in order 2 above, and is to index and paginate the reinstatement application.

Variation of order

[7] I deemed it prudent for clarity purposes, to vary the aforementioned order as follows:

VARIED ORDER

1. The reinstatement application is removed from the roll.
2. The applicant is to file a service affidavit that complies with the provisions of Rule 9(2) of the Rules of this Court, that demonstrates proper service of the reinstatement application on the respondents, which application was launched on 20 November 2023.
3. Before the reinstatement application is re-enrolled for hearing, the applicant must file the service affidavit mentioned in order 2 above, and must index and paginate the file in the reinstatement application.

M. T. M. Phehane

Judge of the Labour Court of South Africa

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Prepared on 13 October 2026 · Esheria