

SOUTH AFRICA / JUDGMENT

Mohlasedi v CCMA (J959/01)

[2001] ZALC 174 (16 October 2001)

[2001] ZALC 174

COURT

Labour Court

BEFORE

A A Landman

CASE / FILE NUMBER

J959/01

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IN THE LABOUR COURT OF SOUTH AFRICA

BRAAMFONTEIN CASE NO: J959/01

2001.10.16

In the matter between

STEFFEN MOHLASEDI Applicant

and

CCMA Respondent

J U D G M E N T

LANDMAN, J: This is an application to review and set aside a ruling of the second respondent, a Commissioner of the CCMA. It is brought by Mr Steffen Mohlasedi who complains that the ruling is defective. He says that he was not afforded a proper opportunity of dealing with the matter. He was not granted an opportunity to call witnesses and to cross-examine the witnesses of the respondent company.

The condonation ruling deals with the length of delay and the explanation. The referral in this matter is over 18 months late. The reason given for the delay is that the Union promised to help the applicant. Negotiations took place between the parties.

Then under the heading of "Prospects of Success" the applicant claims that he was discriminated against because of his disability. Under the heading of "Prejudice" it is said that the applicant is unemployed and has no income. The Commissioner ruled that the delay in this matter is excessive and has not been properly explained. The application was refused. This ruling fails to take into account and to weigh up the circumstances which are relevant to an application for condonation as set out, inter alia, in *Melane v Santam*. It is not clear that the commissioner has applied his mind to the matter. If he did apply his mind, the reasons set out in the ruling do not show this. In the circumstances the ruling is reviewed and set aside. The matter is referred back to the CCMA to hear an application for condonation. This is to take place before a commissioner other than the second respondent.

A A Landman Judge of the Labour Court of South Africa ---ooo0ooo---

Then under the heading of "Prospects of Success" the applicant claims that he was discriminated against because of his disability. Under the heading of "Prejudice" it is said that the applicant is unemployed and has no income. The Commissioner ruled that the delay in this matter is excessive and has not been properly explained. The application was refused.

This ruling fails to take into account and to weigh up the circumstances which are relevant to an application for condonation as set out, inter alia, in *Melane v Santam*. It is not clear that the commissioner has applied his mind to the matter. If he did apply his mind, the reasons set out in the ruling do not show this. In the circumstances the ruling is reviewed and set aside. The matter is referred back to the CCMA to hear an application for condonation. This is to take place before a commissioner other than the second respondent.

A A Landman

Judge of the Labour Court of South Africa

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