

SOUTH AFRICA / JUDGMENT

Public Servants Association and Others v Department of Home Affairs and Others (JR657/2015) [2016] ZALCJHB 102 (15 March 2016)

[2016] ZALCJHB 102

COURT

Labour Court Johannesburg

BEFORE

Myburgh

CASE / FILE NUMBER

JR657/2015

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THE

LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

Case no:

JR657/2015

DATE: 15 MARCH

2016

In

the matter between:

PUBLIC

SERVANTS

ASSOCIATION.....First

Applicant

NATIONAL

UNION OF PUBLIC SERVICE

AND

ALLIED

WORKERS.....Second

Applicant

NATIONAL

EDUCATION HEALTH

AND

ALLIED WORKERS

UNION.....Third

Applicant

And

DEPARTMENT

OF HOME

AFFAIRS.....First

Respondent
GENERAL
PUBLIC SERVICE SECTORAL
BARGAINING
COUNCIL.....Second
Respondent
PM
NGAKO
N.O.....Third
Respondent
Decided
in chambers

Date: 15 March 2016

JUDGMENT

IN APPLICATION FOR LEAVE TO APPEAL

MYBURGH, AJ

- [1] In my judgment in this matter, I set aside a jurisdictional ruling issued by the commissioner in which he found that the dispute in question (over working hours) is not a matter of mutual interest, and consequentially that the bargaining council lacked jurisdiction to conciliate the matter. I also ordered that the bargaining council should enrol the dispute for conciliation by a different commissioner.
- [2] The Department of Home Affairs (DHA) (being the first respondent a quo) has brought an application for leave to appeal against the whole of my judgment. Although the DHA's written submissions in support of its application for leave to appeal were delivered late, and without an application for condonation, I am prepared to consider the application for leave to appeal on its merits.
- [3] In its written submissions, the DHA submits that it has reasonable prospects of convincing the Labour Appeal Court (if leave to appeal was granted) that I erred in finding that the dispute constitutes a matter of mutual interest, and thus in reviewing and setting aside the jurisdictional ruling.
- [4] The DHA does not raise anything new in its written submissions that is not already dealt with in my judgment on the merits. Having reflected on the matter, I do not believe that the DHA has reasonable prospects of success on appeal. To my mind, the dispute is plainly a dispute of mutual interest, and the commissioner clearly went wrong in finding that the bargaining council had no jurisdiction to entertain it.
- [5] In the premises, the following order is made: the application for leave to appeal is dismissed, with costs.

Myburgh, AJ

Acting Judge of the Labour Court of South Africa

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