

SOUTH AFRICA / JUDGMENT

# Pudi v Tshwane University of Technology (JR 801/17) [2022]

## ZALCJHB 160 (3 June 2022)

[2022] ZALCJHB 160

## COURT

Labour Court Johannesburg

## BEFORE

Mahosi

## CASE / FILE NUMBER

JR 801/17

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### Source record

IN

THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

Not

Reportable

Case

no: JR 801/17

In

the matter between:

THABO ISRAEL

PUDI

Applicant

TSHWANE

UNIVERSITY OF TECHNOLOGY

Respondent

Heard:

31 May 2022

Delivered:

In view of the measures implemented as a result of the Covid-19 outbreak, this judgment was handed down electronically by circulation to the parties' representatives through email. The date for hand-down is deemed to be 03 June 2022.

**JUDGMENT**

MAHOSI, J

**Introduction**

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1. That the matter between the applicant and the respondent under case number JS 184/17, alternatively JS 801/2017, be reinstated.
2. That the applicant's failure to comply with the rules of this Honourable Court and to act timeously, be condoned.
3. That the costs of this application be the costs in the cause.
4. Further and/or alternative relief.’

[2] The application is opposed by the respondent.

**Background**

[3] The applicant referred a dismissal dispute to the Commission for Conciliation, Mediation and Arbitration (CCMA) on 19 July 2017 for conciliation. The dispute could not be resolved through conciliation that was held on 3 August 2017. As a result, a certificate of outcome was issued. The dispute was then referred to arbitration that was

scheduled for 07 September 2017.

[4] At the arbitration proceedings, an issue relating to the jurisdiction of the CCMA to hear the matter arose. On 16 September 2017, the CCMA commissioner issued a ruling in terms of which he found that the CCMA lacked jurisdiction to arbitrate the matter and directed the applicant to approach the Labour Court.

[5] Subsequently, the applicant instituted an action in the Labour Court under case number JS 184/17, which was later changed to JS801/17 in which he sought payment of the remainder of the contract, retrospective payment of the difference from the date of contract, payment of leave days and damages.

- [6] Advocate Mashabane, who was assisting the applicant at the time, allegedly advised him to withdraw the matter from the Labour Court in order to file an action for breach of contract in the High Court. Accordingly, the applicant withdrew his Labour Court matter on 7 November 2017.
- [7] Subsequent the withdrawal, Advocate Mashabane allegedly advised the applicant that it would be cheaper and quicker to bring an application for rescission of the jurisdictional ruling at the CCMA. An application for rescission was filed at the CCMA and was dismissed on 16 September 2017. The applicant alleges that he received the

## ruling

on 6 April 2018. This application was filed on 17 October 2019.

## Submissions

- [8] It is the applicant's submission that from the time he received the ruling, he has been trying to find legal representation to pursue his matter. He submitted that he consulted six different attorneys,

including his present attorneys, Len Dekker Attorneys, for assistance in this matter. It is alleged that the reasons the applicant had so many attorneys working on the matter include failure to put enough time into the matter, failure to pay advocates who worked on the matter and refusal to carry out the applicant's instructions. The applicant's current attorneys were instructed on 4 March 2019 to bring the current application.

- [9] It is the applicant's further submission that he has prospects of succeeding in the main application, which is based on a new contract regarding his new position as Campus Rector that was to be

entered into after his inauguration to the position on 9 February

2017. He further submits that the process of terminating his fixed term contract as Campus Director which stipulated that the parties would enter into consultations, six months prior to the end of the fixed term contract was not adhered to. Thus, according to the applicant, the respondent breached the terms of his fixed term contract and/or disregarded the reasonable expectation that it created.

- [10] The respondent raised a point in limine that there was no valid cause of action for the relief sought in that the matter that the applicant seeks to reinstate was withdrawn voluntarily without any influence by it. The respondent argued that rule 13 of the Rules for the Conduct of Proceedings in the Labour Court (the Rules) does not provide for the reinstatement of withdrawn matters and further that the withdrawal of the matter is akin to an order of absolution from the instance and therefore fresh action must be instituted.

in limine

- [11] According to the respondent, the applicant's case as outlined in the founding affidavit and the statement of case appears to be based on the claim that he was allegedly appointed as Campus Rector from 9 February 2017 and that the respondent allegedly breached the purported new agreement. In addition, the applicant's statement of case states that the legal issues that arise from the facts are:

*“unilateral termination of an oral employment agreement between myself and the respondent regarding my employment as Campus Rector of Tshwane University of technology (TUT) eMalahleni Campus in terms of the decentralisation model adopted by the University.*

unilateral termination of an oral employment agreement between myself and the respondent regarding my employment as Campus Rector of Tshwane University of technology (TUT) eMalahleni Campus in terms of the decentralisation model adopted by the University.

- [12] On the prospects of success, the respondent submitted that the applicant had no prospect of success in that there is no merit to the submission that the change in title from Campus Director to Campus Rector did not lead to a change in the applicant's roles and responsibilities or lead to the conclusion of a new contract. The applicant further submitted that even on his own version, the applicant admits that he was given sufficient notice that his fixed term contract would not be renewed.
- [13] Furthermore, the respondent submitted that any attempt by the applicant in his replying affidavit and heads of arguments to introduce a new cause of action pertaining to an alleged expectation that a contract would be entered into between him and the respondent; and a claim that the process of terminating his fixed term contract as campus director was not adhered to, ought to be rejected.
- [14] The respondent further submitted that, in any event, the applicant's claim that the process of terminating his fixed-term contract as Campus Director was not adhered to, is at odds with his claim that a new contract was entered into between him and the respondent in February 2017, in terms of which he was purportedly appointed as Campus Rector.
- [15] Furthermore, the respondent submitted that the applicant's claim that the applicant had a reasonable expectation that his contract would be renewed is not supported by prevailing facts. The applicant was only reappointed in 2012 after the respondent was compelled to do so by the order of the CCMA and he was informed upfront when his second term commenced in 2012 that his contract would not be renewed when it expires. In addition, to an extent that the respondent suspended the applicant during his second term in 2015, the relationship was rocky and any applicant's expectation that his contract would be renewed was not reasonable.
- [16] It is the respondent's submission that the delay of bringing an application for reinstatement 23 months after the filing of the notice of withdrawal cannot by any stretch of the imagination be said to be reasonable where the applicant has failed to provide an explanation that covers the entire period of the delay.

[17] The respondent submitted that it stands to suffer great prejudice if new life is permitted to be spiked into a matter which emanated in 2017 and which the applicant, as dominus litis, has allowed to die a few times and which the applicant has shown no real urgency in finalising. According to the respondent, the applicant's action flies in the face of the legislative scheme which aims at ensuring that employment matters are treated as urgent and speedily resolved. It is for these reasons that it argues that the application must be dismissed.

dominus litis

Legal principles

Withdrawal of matters at Court

[18] A withdrawal of a matter at Court is a unilateral act done by the applicant as dominus litis. Once done, there is no live matter between the parties pending at Court. However, since the matter was not decided on the merits of the application or claim, the applicant may approach the Court to decide the matter on the merits. The issue is whether the applicant may reinstate proceedings and proceed on the original papers that were withdrawn or re-institute the proceedings and proceed on a fresh referral to the Court.

[19] Almost a century ago, the Court in *Kaplan v Dunell Ebden and Co* [1], laid the principle that a withdrawal of a matter at Court is akin to an order for absolution of instance. The Court stated that on withdrawal of the case by the applicant "the case disappears from the Roll as though absolution from the instance had been given." Thus, the effect of a withdrawal of a matter has the same consequences as an order of absolution from the instance.

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the case disappears from the Roll as though absolution from the instance had been given."

Thus, the effect of a withdrawal of a matter has the same consequences as an order of absolution from the instance.

[20] The principle is that the position of a matter where the defendant was granted an absolution from the instance does not mean that the applicant is barred from bringing his/her claim, it just meant that the applicant could bring an application de novo on the merits without the defendant raising a plea of res judicata or lis finita. This principle was reiterated in the matter of *Shibogde v Minister of Safety and Security and others* [2] where the Court stated as follows:

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Shibogde v Minister of Safety and Security and others

where the Court stated as follows:

‘Yet the fact that a matter is withdrawn is not necessarily a bar to reinstituting proceedings. It seems that the prevailing view is that a claim is not determined by the withdrawal of the claim, but the withdrawal is equivalent to a grant of absolution from the instance. It therefore remains open for the applicant to reinstitute proceedings as the merits of the claim have not been adjudged.’

Yet the fact that a matter is withdrawn is not necessarily a bar to reinstituting proceedings. It seems that the prevailing view is that a claim is not determined by the withdrawal of the claim, but the withdrawal is equivalent to a grant of absolution from the instance. It therefore remains open for the applicant to reinstitute proceedings as the merits of the claim have not been adjudged.’

[21] It is apparent from the above authorities that if a matter had been withdrawn, the applicant may re-institute its claim by way of fresh proceedings to be adjudicated on the merits for as long as the cause has not been extinguished due to a settlement. This principle seemed to be absolute and culminated in the matter of *Ellies Electronics (Pty) Ltd v Commission for Conciliation, Mediation and Arbitration and others and a related matter* [3] (*Ellies Electronics (LC)*) where this Court found that in order for an applicant to succeed in bringing a matter on the merits of a claim that was withdrawn, the applicant has to institute proceedings anew and cannot merely reinstate the matter on the pleadings that were withdrawn. In this regard the Court stated as follows:

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where this Court found that in order for an applicant to succeed in bringing a matter on the merits of a claim that was withdrawn, the applicant has to institute proceedings anew and cannot merely reinstate the matter on the pleadings that were withdrawn. In this regard the Court stated as follows:

‘[15] In my view reinstatement in the context of the instant matter means restoration of the review application to the position it occupied on the books of the Registrar, retaining its case number as if it was always pending before the court. In this regard it is worth noting that the present application is brought under the same case number as the review application as if the latter is still pending before the court.

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[16] The applicant, thus, seeks to revive the review application as opposed to reinstituting the proceedings in the same way as the plaintiff would pursue the absolved defendant by reinstituting the proceedings consequent to an order of absolution from the instance.

[17] In my considered opinion it is not possible to reinstate withdrawn proceedings regard being had, inter alia, to the need for finality in legal disputes and expeditious resolution of labour disputes in particular...

inter alia

[18] Reinstatement is, in my view, limited to matters removed from or struck off the court roll insofar as such matters are pending before the court and only have to be reinstated on the roll for purposes of being heard and finalised.

[19] In the instant matter the review application was withdrawn on 14 March 2017 while the present application was delivered more than seven months later on 03 November

2017. The reinstatement desired incasuis foreign to our law and equity...

[20] In my judgment the option available to the applicant in the circumstances is reinstitution of review proceedings in the same way as the applicants in the Ncaphayi and SAMWU matters (supra) sought and were, in fact, allowed to refer withdrawn disputes to the CCMA afresh as opposed to reinstating them.

[21] Reinstatement is, thus, in law and equity not available to the applicant as a relief in the circumstances of the instant matter.’

[22] Subsequently, this Court in *Robor Tube (Pty) Ltd v MEIBC and others*<sup>[4]</sup> (*Robor Tube*) was faced with a similar case and took a different approach from that taken in *Ellies Electronics (LC)*. In discussing whether a matter that has been withdrawn should be re-instituted or reinstated, the Court stated the following:

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*Robor Tube (Pty) Ltd v MEIBC and others*

(*Robor Tube*)

was faced with a similar case and took a different approach from that taken in

*Ellies Electronics (LC)*.

In discussing whether a matter that has been withdrawn should be re-instituted or reinstated, the Court stated the following:

*“[7] The prevailing authority is clearly to the effect that the withdrawal of a matter is not a bar to the reinstitution of proceedings. There are obvious process-related differences between the withdrawal of a referral to conciliation and the withdrawal of an application enrolled for hearing on this court’s motion roll, but it seems to me that an applicant ought to be able to have the dispute heard and determined by way of a re-referral or re-enrollment, unless there is some imperative that militates against that, for example, a claim has been withdrawn in terms of a settlement agreement and thus extinguished.*

[7] The prevailing authority is clearly to the effect that the withdrawal of a matter is not a bar to the reinstitution of proceedings. There are obvious process-related differences between the withdrawal of a referral to conciliation and the withdrawal of an application enrolled for hearing on this court’s motion roll, but it seems to me that an applicant ought to be able to have the dispute heard and determined by way of a re-referral or re-enrollment, unless there is some imperative that militates against that, for example, a claim has been withdrawn in terms of a settlement agreement and thus extinguished.

[8] I fail to appreciate why the reinstatement of applications that have been withdrawn should be limited to those that have been removed or struck from the roll, or that any withdrawn application must necessarily recommence with the delivery of a fresh notice of motion and founding affidavit. To impose the latter requirement would simply further delay the determination of the review application. The imperative of expeditious dispute resolution dictates that the application be re-enrolled and argued.”

[23] The above approach was confirmed in the Labour Appeal Court (LAC) matter of *Ellies Electronics (Pty) Ltd v Commission for Conciliation, Mediation and Arbitration and Others*<sup>[5]</sup> (*Ellies Electronics (LAC)*) where the Court stated:

The above approach was confirmed in the Labour Appeal Court (LAC) matter of *Ellies Electronics (Pty) Ltd v Commission for Conciliation, Mediation and Arbitration and Others* *Ellies Electronics (LAC)* )) where the Court stated:

‘The withdrawal of a matter at the instance of a party is a unilateral act which results in the matter being removed from the roll in the same manner as if absolution from the instance had been granted. The fact that a matter has been withdrawn does not in principle bar either the reinstitution of proceedings or the institution of fresh proceedings (in which case the absolved defendant may not raise the defence of *res judicata* if sued again on the same cause of action). In finding differently, the Labour Court erred. Faced with an application to have the matter reinstated, it was for a court to determine whether or not to grant such application having regard to the relevant facts and issues of prejudice, while recognising that employment disputes by their nature are urgent and require speedy resolution.’

The withdrawal of a matter at the instance of a party is a unilateral act which results in the matter being removed from the roll in the same manner as if absolution from the instance had been granted. The fact that a matter has been withdrawn does not in principle bar either the reinstitution of proceedings or the institution of fresh proceedings (in which case the absolved defendant may not raise the defence of *res judicata* if sued again on the same cause of action). In finding differently, the Labour Court erred. Faced with an application to have the matter reinstated, it was for a court to determine whether or not to grant such application having regard to the relevant facts and issues of prejudice, while recognising that employment disputes by their nature are urgent and require speedy resolution.’

[24]Following theratioin*Ellies Electronics (LAC)*, this Court in*Mashego v Commission for Conciliation, Mediation and Arbitration and others*[6]found that:

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found that:

‘The prevailing authority is that the withdrawal of a matter is not a bar to the reinstitution of the proceedings. For a deemed withdrawn application to be reinstated, the applicant has to file a substantive application, which is then for the court to consider and to decide whether or not to grant such an application.’

The prevailing authority is that the withdrawal of a matter is not a bar to the reinstitution of the proceedings. For a deemed withdrawn application to be reinstated, the applicant has to file a substantive application, which is then for the court to consider and to decide whether or not to grant such an application.'

[25] Therefore, an applicant that has withdrawn its matter from Court is not barred from bringing a reinstatement application for the determination of the matter on the merits on the same papers that were previously withdrawn. However, to do so one has to bring a substantive application that will be determined by the Court. Thus, the granting of the order to that effect is not automatic.

#### Requirements for a reinstatement application

[26]The factors that must considered when dealing with a reinstatement application, were considered inSamuels v Old Mutual Bank[7]where the Court stated as follows:

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#### Samuels v Old Mutual Bank

'In essence, an application for the retrieval of a file from the archives is a form of an application for condonation for failure to comply with the Court Rules, timeframes and directives. Showing good cause demands that the application bebona fide; that the applicant provide a reasonable explanation which covers the entire period of the default; and show that he/she has reasonable prospects of success in the main application, and lastly, that it is in the interest of justice to grant the order. It has to be noted that it is not a requirement that the applicant must deal fully with the merits of the dispute to establish reasonable prospects of success. It is sufficient to set out facts which, if established would result in his/her success. In the end, the decision to grant or refuse condonation is a discretion to be exercised by the court hearing the application which must be judiciously exercised.'

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bona fide

[27]It is apparent from the above authority that the Court must determine a reinstatement application like a condonation application. It is trite that condonation is not there for the taking. In such applications, the applicant is seeking an indulgence from the Court to reinstate his matter that he has voluntarily withdrawn. Therefore, the discretion whether to reinstate or not must be exercised judiciously taking into account the length of the delay, the reason for the delay, prospects of success, prejudice and interest of justice.[8]

It is apparent from the above authority that the Court must determine a reinstatement application like a condonation application. It is trite that condonation is not there for the taking. In such applications, the applicant is seeking an indulgence from the Court to reinstate his matter that he has voluntarily withdrawn. Therefore, the discretion whether to reinstate or not must be exercised judiciously taking into account the length of the delay, the reason for the delay, prospects of success, prejudice and interest of justice.

[28]In *National Union of Metalworkers v Council for Mineral Technology*[9], the Court stated the following regarding condonation applications:

*National Union of Metalworkers v Council for Mineral Technology*

, the Court stated the following regarding condonation applications:

‘What is needed is an objective conspectus of all the facts. A slight delay and a good explanation may help to compensate for prospects of success which are not strong. The importance of the issue and strong prospects of success may tend to compensate for a long delay. There is a further principle which is applied and that is that without a reasonable and acceptable explanation for the delay, the prospects of success are immaterial, and without prospects of success, no matter how good the explanation for the delay, an application for condonation should be refused.’

What is needed is an objective conspectus of all the facts. A slight delay and a good explanation may help to compensate for prospects of success which are not strong. The importance of the issue and strong prospects of success may tend to compensate for a long delay. There is a further principle which is applied and that is that without a reasonable and acceptable explanation for the delay, the prospects of success are immaterial, and without prospects of success, no matter how good the explanation for the delay, an application for condonation should be refused.’

[29]The Constitutional Court further stated in *Van Wyk v Unitas Hospital and Another*[10]that prejudice to the other party should not be underestimated as the other party has a right to the finalisation of a matter. It is against the above principles that the reinstatement application will be considered.

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## Analysis

[30] In the current matter, the applicant seeks an order to reinstate his withdrawn statement of claim in terms of which he claims remedies for breach of contract. To support his case, he relies heavily on the *Robor Tube* judgment and submits that it would be in the interest of fairness and justice to allow a reinstatement of the matter.

### Robor Tube

[31] As aforementioned, the applicant withdrew his matter on 17 November 2017 and only applied for the reinstatement of same on 17 October

2019. The period is approximately 23 months and is therefore excessive. In light of *NUM v Council for Mineral Technology*, it is clear that where there is a long delay the explanation for the delay must be acceptable.

### NUM v Council for Mineral Technology

[32] The applicant attributes the reason for the delay in bringing the reinstatement application to the fact that he did not have proper legal representation. His sole explanation for the entire period of delay lays at the feet of the various different legal representatives whom he either tried to engage or whom he engaged but were in his view “unsuitable”. There is no other explanation tendered.

[33] As to the current attorneys there is no explanation tendered for the period between June 2019 when the applicant consulted with the firm and October 2019 when the application for reinstatement was actually filed. This is a delay of some four months which is not inconsequential.

[34] In *Superb Meat Supplies cc v Maritz*[11], the LAC held that there is a limit to putting the blame on one’s legal representative when there is a delay in the prosecution of one’s matter. In *Fibro Furnishers (Pty) Ltd v Registrar of Deeds, Bloemfontein and Others*[12], the Court took cognisance of the “oft-repeated judicial warning that there is a limit beyond which a litigant cannot escape the results of his attorney’s lack of diligence or the insufficiency of the explanation tendered”. In light of the above authorities, an applicant cannot escape the consequences of the delay solely due to his representative’s negligence.

### Superb Meat Supplies cc v Maritz

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”. In light of the above authorities, an applicant cannot escape the consequences of the delay solely due to his representative’s

negligence.

[35] It is trite that when the delay is long and the explanation is lacking then the Court does not need to look to the prospects of success to determine the condonation application. However, for the sake of completeness the Court will look at the other factors to determine the condonation wholesomely.

[36] The matter sought to be reinstated is a contractual claim in that from the onset the applicant sought relief for, in his view, two existing contracts. Firstly, he claims for the wrongful procedure taken to terminate his existing contract as Campus Director and secondly, for the breach of the oral agreement of employment as Campus Rector.

[37] As aforesaid, the respondent submitted that the applicant has no prospect of success because even on his own version, he admits that he was given sufficient notice that his fixed term contract would not be renewed. On the new contract, the respondent submitted that the applicant failed to allege who its representative was when the contract was entered into or what the terms of the alleged contract were. Furthermore, the respondent submitted that the applicant’s claim that the process of terminating his fixed-term contract as Campus Director was not adhered to, is at odds with his claim that a new contract was entered into between him and the respondent in February 2017.

[38] It is now trite that contractual remedies fall under the jurisprudence of the Basic Conditions of Employment Act[13]. Although not pleaded, in argument the applicant made the submission that if the relief sought is not granted and he is forced to reinstitute his matter it may be met with a plea of prescription.

It is now trite that contractual remedies fall under the jurisprudence of the Basic Conditions of Employment Act

. Although not pleaded, in argument the applicant made the submission that if the relief sought is not granted and he is forced to reinstitute his matter it may be met with a plea of prescription.

[39] In *Liberty Group Limited t/a Liberty Life v K and D Telemarketing and others*[14], when faced with an application for reinstatement of a matter in the face of a plea of prescription, the Supreme Court of Appeal (SCA) stated that:

*Liberty Group Limited t/a Liberty Life v K and D Telemarketing and others*

when faced with an application for reinstatement of a matter in the face of a plea of prescription, the Supreme Court of Appeal (SCA) stated that:

[9] ... This was done because, if it reinstituted action, Liberty would be met with a special plea of prescription. The court below stated that there were a number of reasons why the application before it could not succeed. It stated that a litigant faced with an order of absolution of the instance always has the right to bring further proceedings to enforce his or her claim and that he or she may do so by instituting proceedings afresh. For that a plaintiff does not require the leave of the court.

[9] ... This was done because, if it reinstituted action, Liberty would be met with a special plea of prescription. The court below stated that there were a number of reasons why the application before it could not succeed. It stated that a litigant faced with an order of absolution of the instance always has the right to bring further proceedings to enforce his or her claim and that he or she may do so by instituting proceedings afresh. For that a plaintiff does not require the leave of the court.

[10] Tuchten J went on to state that a plaintiff could also pursue his or her claim by proceeding on the same papers and for that it required a court's permission. But whichever route is followed a plaintiff must proceed *de novo*. In this regard the court below referred to a decision of this court more than a century ago, namely, *Steytler v Fitzgerald* 1911 AD 295 at 304. At para 24 of the judgment of the court below, Tuchten J said the following:

*Steytler v Fitzgerald*

1911 AD 295

'That, to my mind, identifies the most important reason why the main application must fail. [Liberty] does not ask, and has never asked, that the order of absolution be set aside. The consequence of that, counsel all agree, was that prescription supervened. No order of a procedural nature can deprive the [respondents] in this case of the right to invoke that defence.'

That, to my mind, identifies the most important reason why the main application must fail. [Liberty] does not ask, and has never asked, that the order of absolution be set aside. The consequence of that, counsel all agree, was that prescription supervened. No order of a procedural nature can deprive the [respondents] in this case of the right to invoke that defence.'

[40] It is apparent from above authority that whether a matter is reinstated or reinstituted on the same papers, it would still have to be determined *de novo* and most importantly, a matter should not be re-instated in order to thwart the right to invoke a defence of prescription.

## Conclusion

[41] In light of the above, the length of the delay was excessive with an inadequate explanation of the delay, the applicant has failed to show that there will be reasonable prospects of success should the matter proceed and as stated in *Unitas*, prejudice to the other side should not be

overlooked, which in my view, is especially important in a matter where the applicant voluntarily withdrew his matter. Further, prejudice to the respondent cannot be outweighed by the prejudice to the applicant, because should this application fail it does not close the door to the applicant who can still reinstitute the proceedings against the respondent.

Unitas

[42] With regard to costs, I am of the view that the requirements of law and fairness dictate that there should be no order as to costs.

[43] In the circumstances, the following order is made:

1. The application is dismissed.
2. There is no order as to costs.

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D. Mahosi

Judge of the Labour Court of South Africa

Appearances:

For the applicant : Adv. LF Taljard

Instructed by : Len Dekker Incorporated Attorneys

For the respondent : Adv. R. Kriek

Instructed by :

Scheffer Attorneys

[1]1924 EDL 91at p. 93.

1924 EDL 91at p. 93.

1924 EDL 91

[2][2014] JOL 31294(LC) at para 26.

[2014] JOL 31294(LC) at para 26.

[2014] JOL 31294

[3][2019] JOL 42296(LC).

[2019] JOL 42296(LC)

[2019] JOL 42296

[4][2019] JOL 44113(LC) at para 7 and 8.

[2019] JOL 44113(LC) at para 7 and 8.

[2019] JOL 44113

[5](JA74/2018)[2020] ZALAC 33(24 June 2020) at para 12.

(JA74/2018)[2020] ZALAC 33(24 June 2020) at para 12

[2020] ZALAC 33

[6][2021] JOL 51647(LC) at para 37.

[2021] JOL 51647(LC) at para 37.

[2021] JOL 51647

[7][2017] 7 BLLR 681(LAC) at para 17.

[2017] 7 BLLR 681(LAC) at para 17.

[2017] 7 BLLR 681

[8]See:Melane v Santam Insurance Co Ltd1962 (4) SA 531(A) andGrootboom v NPA and another2014

(2) SA 68(CC).

Melane v Santam Insurance Co Ltd

1962 (4) SA 531(A) and

1962 (4) SA 531

Grootboom v NPA and another

2014

(2) SA 68(CC).

2014

(2) SA 68

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[1999] 3 BLLR 209(LAC) at para 10.

[1999] 3 BLLR 209

[10]2008 (2) SA 472 (CC).

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[11](2004) 25 ILJ 96 (LAC).

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[12]1985 (4) SA 773(A) at 787GH.

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