

SOUTH AFRICA / JUDGMENT

# South African Commercial Catering and Allied Workers Union obo Mokebe v Pick and Pay Retailers (Pty) Ltd (JS 636-20) [2024] ZALCJHB 78 (22 February 2024)

[2024] ZALCJHB 78

## COURT

Labour Court Johannesburg

## BEFORE

M T M Phehane

## CASE / FILE NUMBER

JS636/20

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## Source record

IN

THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

Not

Reportable

Case

No: JS636/20

In

the matter between:

SOUTH  
AFRICAN COMMERCIAL CATERING AND  
ALLIED  
WORKERS UNION obo BONOLO MOKEBE  
Applicant  
and  
PICK  
N PAY RETAILERS (PTY)  
LTD  
Respondent

Heard:

In Chambers

Delivered: 22 January 2024 (This judgment was handed down electronically by circulation to the parties' legal representatives by email, publication on the Labour Court website and release to SAFLII. The date and time for handing-down is deemed to be 10h00 on 22 January 2024.)

## JUDGMENT

### APPLICATION FOR LEAVE TO APPEAL

PHEHANE, J

[1] The applicants bring an application for leave to appeal against the judgment and order of this Court on absolution from the instance,

handed down on 15 August 2023. The application is opposed by the respondent.

[2] In their application, delivered on 15 November 2023, the applicants state that the judgment only came to the attention of their attorney of record on 25 October 2023 and that the parties came to an agreement that the dies within which to launch the application for leave to appeal can start running from 26 October 2023 and that it is not necessary for the applicants to bring an application for condonation for its late filing.

[3] Rule 30 of the Rules of this Court[1] makes provision in mandatory terms, for the timeframe within which an application for leave to appeal must be brought and should such application not be brought within the prescribed timeframe, then the Court may, on good cause shown, extend that period.

[4] It has been overstated that the rules of this Court and the provisions of the Practice Manual[2] are binding on practitioners. It is not the practitioners that are to make rules and provisions outside of the aforesaid prescripts to suit themselves. It is the Court that is to grant, or not grant condonation.

[5] In the absence of an application for condonation for the late filing of this application, this Court lacks jurisdiction to adjudicate the application for leave to appeal.

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

Order:

1. The application is struck off the roll for want of jurisdiction.

M. T. M. Phehane

Judge of the Labour Court of South Africa

- [1] Rules for the Conduct of Proceedings in the Labour Court as Promulgated by GN 1665 in GG 17495 of 14 October 1996.
- [2] The Practice Manual of the Labour Court of South Africa, effective 2 April 2013.
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