

SOUTH AFRICA / JUDGMENT

Utility Economics CC v Commission for Conciliation Mediation and Arbitration and Others (JR2531/10) [2013] ZALCJHB 103 (21 May 2013)

[2013] ZALCJHB 103

COURT

Labour Court Johannesburg

BEFORE

Steenkamp

CASE / FILE NUMBER

JR2531/10

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JR2531/10/ev 1 JUDGMENT

IN THE LABOUR COURT OF SOUTH AFRICA

HELD AT JOHANNESBURG

CASE NO: JR2531/10

DATE: 2013-05-21

In the matter between

UTILITY ECONOMICS CCApplicant

and

CCMAFirst respondent

COMMISSIONER THULANI AKIMSecond repondent

ELWEN, SYLVIAThird respondent

EX TEMPORE JUDGMENT

STEENKAMP, J:

This is a twofold application: firstly, to dismiss an application for review instituted by the employer, Utility Economics CC, in October 2010; and secondly, to make an arbitration award of 8 September 2010 by the second respondent (the commissioner) under the auspices of the first respondent (the CCMA) an order of court.

The arbitration award was handed down on 8 September 2010. The employer (the applicant in the review application), represented by Maharaj attorneys, delivered a review application on 4 October 2010.

The employer delivered the record on 28 February 2011. It filed its notice in terms of Rule 7A(8) more than two years ago, on 10 March

2011. The employee, within the requisite time period, on 24 March 2011, delivered her answering affidavit. For the ensuing two years the employer party has done nothing to pursue the arbitration award. The delay is clearly excessive. The employer has offered no explanation for that delay which has led to clear prejudice to the employee who has been reinstated in terms of the arbitration award.

The employee has fulfilled all of her obligations to pursue the review application. The employer has not done so. In those circumstances there is no doubt in my mind that the review application should be dismissed and that the arbitration award should be made an order of court.

With regard to costs, even though the employer has not opposed this application, it should not have been necessary for the employee over a period of two years to incur further legal costs after she pursued her remedies in the CCMA -- which are supposed to be expeditious and cheap -- because the employer has not fulfilled its obligations. I therefore grant an order in the following terms:

The applicant's review application is dismissed.

The award of the second respondent under case number GAJB 11690-10 is made an order of court.

The applicant is ordered to pay the costs of this application.

STEENKAMP J

APPEARANCES

APPLICANT: Angelo Pantazis

Instructed by Brian Bleazard attorneys.

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