

Sneller Verbatim/PJ

IN THE LABOUR COURT OF SOUTH AFRICA

BRAAMFONTEIN

CASE NO: J2076/00

2001-07-31

In the matter between

NORTHERN PROVINCE DEVELOPMENT CORP

Applicant

and

CCMA & OTHERS

Respondent

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J U D G M E N T

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LANDMAN, J: The Northern Province Development Corporation brings an application to review and set aside an award delivered by a commissioner in regard to the Development Corporation and the Allied Workers Union and eight others.

The commissioner considered the evidence which had been presented before him and concluded by saying:

"I therefore find that failure to subject all grades to an independent consultant or alternatively failure to accept the grades of the internal job evaluation committee, and only subject in the human Resource Officers thereto amounts to inconsistency

on behalf of the company. I further find that this conduct amounts to unfair labour practice"

He then makes an award awarding certain relief.

An unfair labour practice is a concept which is set out in schedule 7 of the Labour Relations Act, 66 of 1995. It is referred to in item 2 as a residual unfair labour practice. It is stated that for purposes of this item an unfair labour practice means any unfair act or omission that arises between an employer and employee involving -

- [b] the unfair conduct of the employer relating to the promotion, demotion or training of an employee or relating to the provision of benefits to an employee;
- [c] the unfair suspension of an employee or any other disciplinary action short of dismissal in respect of an employee;
- [d] the failure or refusal of an employer to reinstate or re-employ the former employee in terms of an agreement.

By no stretch of imagination can the complaint which the individual respondents had in regard to their grading fall within the concept of residual unfair labour practice. Indeed it amounts to a matter of mutual interest. It follows that the commissioner had no power to make the order which he did. It is consequently reviewed and set aside with costs.

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Judge A A Landman

Judge of the Labour Court of South Africa