

Sneller Verbatim/mc

IN THE LABOUR COURT OF SOUTH AFRICA

BRAAMFONTEIN

CASE NO: J250/00

2001-06-29

In the matter between

CITY COUNCIL OF PRETORIA

Applicant

and

J CAMPANELLA NO

First Respondent

MISHAWU ON BEHALF OF D P MOTSTETSI

Second Respondent

J U D G M E N T

REVELAS J:

- 1.This is an application in terms of section 158(1)(c) of the Labour Relations Act 66 of 1995, ("the Act"), in terms of which the second respondent, (MISHAWU) applies to have an arbitration award granted in favour of the second respondent, made an order of court.
- 2.The applicant, ("the City Council of Pretoria") or ("the Council") have previously launched an application for a review of the award but abandoned the application.
- 3.The application is opposed on the basis that the award is unlawful in that the City Council of Pretoria was not a party to the collective agreement in terms of which dismissal disputes between the parties are determined by way of arbitration under the auspices of IMSSA.
- 4.Therefore the collective agreement applicable did not apply to it. Consequently there was no written agreement in terms of which the

arbitration took place.

5. Therefore the award constituted a common law award and the Labour Court, according to the applicant's argument, did not have the necessary jurisdiction to make the award an order of court.
6. There was also a point *in limine* taken that the application to have the award made an order of court did not contain sufficient particularity in support of the application in that the founding affidavit only makes mention of the fact that the applicant, the City Council of Pretoria, did not comply with the award. In my view, the point *in limine* has no merit and is dismissed. No further particularity is required in the applicants' affidavit. The allegations contained in the founding affidavit are sufficient to make out a proper case. The allegations contained therein appear in many applications for the same relief, in terms of which, this court daily grants orders.
7. Insofar as the common law argument is concerned, there is no merit in that argument, either. The arbitration was conducted by the first respondent and there was no objection to the arbitration process then. The applicant was a willing party to that process. It is therefore a voluntary arbitration.
8. Furthermore the arbitration concerned an alleged unfair dismissal and an employment relationship. Therefore it should fall under the natural jurisdiction of this court.
9. The applicant brought an application for review which it deliberately chose not to pursue.
10. In the circumstances I make the following order:
 1. The award is made an order of court and the applicant ("the City Council of Pretoria") is to pay the second and third respondent's costs in this matter.

E. Revelas