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IN THE LABOUR COURT OF SOUTH AFRICA

HELD AT BRAAMFONTEIN

CASE NO: JR1594/01

2002-02-05

In the matter between

M MKHWANAZI

Applicant

and

COMMISSION FOR CONCILIATION

1ST Respondent

2ND Respondent

3RD Respondent

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J U D G M E N T

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REVELAS J:

1. The applicant, Maria Mkhwanazi, who is the former employer of the second and third respondents owns a taxi business. A dispute arising from alleged operational requirements arose between the parties and

the matter was referred to the Commission for Conciliation Mediation and Arbitration which did not have jurisdiction to hear such matters, nonetheless conciliated the matter and a settlement agreement was reached under its auspices.

1. 2. It is argued on behalf of the applicant that because the CCMA did not have jurisdiction to conciliate the matter the agreement derived in terms thereof should be set aside.
3. An agreement reached under those circumstances should not necessarily be set aside for lack of jurisdiction, but the dispute was such that the Commissioner who tried to conciliate the matter made input that is required from Commissioners in such circumstances. These may not have been correct because the Commissioner was not supposed to deal with such matters, or is precluded to deal with such matters. This *per se* is not fatal to the proses.
4. Furthermore there is undisputed evidence that the applicant felt that she was manipulated to a certain extent to sign the agreement. She also expressed her doubts about the objectivity of the Commissioner who conducted the proceedings. This is also not disputed by the employees in this matter.
5. In the circumstances the agreement dated on 29 August

2000 reached between the parties hereto is set aside.

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E. Revelas