

Sneller Verbatim/MS

IN THE LABOUR COURT OF SOUTH AFRICA

BRAAMFONTEIN

CASE NO: JS204/02

2003-02-05

In the matter between

1<sup>st</sup> Applicant

2<sup>nd</sup> Applicant

and

MOREMI INDUSTRIAL CLEANING

SERVICES CC

Respondent

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J U D G M E N T

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REVELAS, J:

1. The services of the first and second applicants were terminated for the ostensible operational requirements of the respondent, who has elected not to oppose this matter, despite the fact that there are several notices being served on it.
2. The respondent, as the employer, has the onus of proving

that the dismissal was for a fair reason and that it had complied with the provisions of section 189, of the Labour Relations Act 66, of 1995 as amended ("the Act"). On the evidence presented by Mr Madumo, the first applicant in this matter, it is apparent that no fair procedure was followed. Further in the absence of the respondent, it was also not proved that there was fair reason for the dismissal.

3. I therefore find that the dismissal of the first and second applicants is both procedurally and substantively unfair.

4. In the circumstances I make an order to the effect that:

1. The dismissal of the first and second respondent, on 30 April 2001, was both procedurally and substantively unfair.
  2. The respondent is to reinstate the first and second applicants, on terms and conditions no less favourable to them than those that would applied, were it not for the unfair dismissals. The reinstatement is to be with retrospective effect. The amount of backpay may not exceed 12 months remuneration.
  3. The respondent is to pay the applicant's costs in this matter.
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E. Revelas