

Sneller Verbatim/JduP

IN THE LABOUR COURT OF SOUTH AFRICA

BRAAMFONTEIN

CASE NO: JR643/01

2003.03.19

In the matter between

P MUTISE

Applicant

and

CLOVER S A (PTY) LIMITED

Respondent

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J U D G M E N T

EX TEMPORE

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REVELAS, J:

1. In this matter the applicant, represented by a firm called Moosa, Jeremiah & Associates, from Marshalltown, Johannesburg, has brought an application for the review of an arbitration award made by a commissioner of the Commission for Conciliation, Mediation and Arbitration ("the CCMA"), Ms Tohlang.
2. The applicant attended the arbitration proceedings,

with a Mr Nzuza who insisted on representing him. The matter related to applicant's conduct, and the arbitrator was of the view that the matter was not complex, and disallowed representation.

1. 1.3. The only factor which Mr Nzuza apparently asked the arbitrator was to consider, when exercising her discretion, is that the matter is of public interest since Pick 'n Pay was also involved in the matter. The arbitrator, after ruling that legal representation would not be allowed, gave the applicant an opportunity to consult with Mr Nzuza, his representative. Upon their return the applicant said that he was not proceeding with the matter, and on the advice of his attorney walked out of the arbitration venue.
4. Mr Nzuza did not serve the applicant well. The papers purporting to support this purporting to support this application are extremely poor. Several postponements were occasioned by Mr Nzuza or his firm on previous occasions. Mr Nzuza has also signed the Notice of Motion in these proceedings and, in a letter received from the firm representing the applicant. It appears that Mr Nzuza is currently still in charge of the matter. In the letter sent to the court and to the respondent's attorneys the applicant's attorneys sought a further postponement.

5. The applicant was accompanied to court by a person who has no right of appearance. I therefore dealt with the matter in the normal course, and refused the application for postponement brought by the applicant's attorneys in a letter since they did not appear before me themselves.
1. 6. The applicant, now in person and through an interpreter, brought an application for a postponement to seek assistance from a union representative. In other words, he seeks new representation and no longer wishes to rely on the advice of his attorneys. The application for a postponement was opposed by the respondent, who has unfortunately been compelled to attend these court proceedings only to find that the matter had been postponed once again.
7. This postponement has been solely caused by the conduct of the applicant's erstwhile attorneys, who are still his attorneys of record since no notice of withdrawal has been filed.
8. In the circumstances and in fairness to the applicant, I believe that I should exercise my discretion and grant the applicant an opportunity to seek new representation. However, I have to take note of the concerns of the respondents who have incurred legal costs in this matter, and unnecessarily so, solely

through the behaviour of the applicant's attorneys of record. In my view, this firm, Moosa, Jeremiah & Associates Inc, should bear the wasted costs of today.

9. In the circumstances I make the following order:
 1. The matter is postponed *sine die*.
 2. The applicant's attorneys of record, Moosa, Jeremiah & Associates Inc, are to pay the wasted costs incurred on a scale as between party and party but *de bonis propriis*.

E. Revelas