

**IN THE LABOUR COURT OF SOUTH AFRICA
HELD AT JOHANNESBURG**

DATE 2004-10-14

CASE NO: J1715/04

In the matter between

VINESH REDDY

Applicant

And

RONALD PANDELANI N.O.

1st Respondent

CITY POWER (PTY) LTD, JOHANNESBURG

2nd Respondent

REVELAS, J:

EX TEMPORE JUDGMENT

[1] The applicant, who is employed by the first respondent, has approached this court seeking the following relief: that pending the appointment of a legal practitioner of the applicant's choice as contemplated below, the first respondent and second respondent (he is the chairman of the disciplinary inquiry instituted against the applicant), be interdicted and restrained from continuing with the disciplinary inquiry against the applicant due to take place at 09:00 on 11 October 2004. Today is 14 October 2004, and the urgent application is brought today. The disciplinary inquiry has in the interim been postponed to a later date.

[2] The point which I have to decide is whether or not the applicant should be granted the opportunity to be represented by a legal practitioner of his choice, since the applicant, his employer, is represented by a legal practitioner of its choice. In his founding affidavit the applicant makes the point that, normally during disciplinary inquiries conducted by the first respondent external representation is not permitted. In this particular case a legal advisor of the second respondent arrived at the proceedings together with an individual who introduced

himself as Mr Theodore Mokgatle from the firm of attorneys Hlehlale Molefe Incorporated. It is the applicant's case that the second respondent's legal representative is an attorney of several years of experience, whereas his own representative Mr Jerry Silala is not an experienced attorney but a union official. It is apparent from the papers that there is a considerable difference in the expertise and experience between the second respondent's attorney and the representative of the applicant. Furthermore there is an inherent unfairness in allowing the employer external legal representation in the person of an attorney, and not afford the employee the same right.

[3] It has been argued that it was demonstrated on the first day when the disciplinary inquiry commenced, that the way in which both the chairperson and Mr Jerry Silala dealt with certain points *in limine*, the following could be inferred:

Firstly, that Mr Silala was inexperienced.

Secondly, that the approach of the chairperson was to rather not deal with points *in limine* but to move onto the merits. The latter point was important, it was argued on behalf of the applicant, because the manner in which the chairman had dealt with the points *in limine*, caused the applicant to make a judgment call that the chairperson would probably not adhere to his request and therefore his only remedy was to approach this court.

[4] No indication was given to me that the chairperson would consider this request. I specifically asked the first respondent's counsel. At this point, I believe it is in the interests of justice and fairness that I intervene. I am also statutorily charged with equity jurisdiction and in my view it would be just and equitable if the applicant, is granted leave to be legally represented in order to level the playing fields. In the circumstances I make an order in terms of paragraphs 3.2, 3.3, and 3.4 of the Notice of Motion. The second respondent is ordered to pay the costs of this application.

E. REVELAS

For the Applicant:	Ellis Coll Attorneys
For the Respondent:	Sihlali Molefe Inc.
Date of hearing:	14 October 2004
Date of judgment:	14 October 2004