

IN THE LABOUR COURT OF SOUTH AFRICA

HELD IN JOHANNESBURG

NOT REPORTABLE

CASE NO: JR1018/07

In the matter between:

FIRST NATIONAL BANK LIMITED

(WESTBANK DIVISION)

APPLICANT

AND

FAIZEL MOOI N.O.

1ST RESPONDENT

COMMISSION FOR CONCILIATION

MEDIATION AND ARBITRATION

2ND RESPONDENT

KEVIN WELMAN

3RD RESPONDENT

JUDGMENT

MOLAHLEHI J

[1] This is an application for leave to appeal against my judgment handed down on 17th June 2008 in which I reviewed, set aside and remitted the matter back to the Second Respondent for consideration before a Commissioner other than the First Respondent.

[2] The Applicant in this application raised two grounds for leave to appeal. The first ground challenges the conclusion by this Court that the CCMA's powers are confined to rule on the interpretation and application of collective bargaining agreements in terms of section 24 of the Labour Relations Act 66 of 1995 (the LRA). And the second grounds is based on the finding that Commissioner committed a gross irregularity in that he did not call for the agreement to be considered in camera.

[3] In terms of s166(1) of the LRA a party wishing to appeal to the Labour Appeal Court against a judgment of the Labour Court has to obtain leave to do so from the Labour Court. The test to apply when considering whether or not to grant leave to appeal is whether there is a reasonable prospect that another Court may come to a different conclusion to that of the Labour Court.

[4] I have carefully considered the above grounds for leave to appeal as set out in the application for leave to appeal to the Labour Appeal Court. I have also considered my judgment including the submissions made by both parties. I am persuaded that another Court may come to a different conclusion to the one reached by me in my judgment.

[5] In the circumstances I make the following order:

- (i) The application for leave to appeal to the Labour Appeal Court against the whole of the judgment is granted.

The costs to be costs in the appeal.

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Molahlehi J

Date of Judgment : 5th February 2009

Appearances

(The application decided in chambers)