

IN THE LABOUR COURT OF SOUTH AFRICA
HELD IN JOHANNESBURG

NOT REPORTABLE

CASE NO: J456/08

In the matter between:

NATIONAL PROSECUTING AUTHORITY

1ST APPLICANT

DEPARTMENT OF JUSTICE AND

CONSTITUTIONAL DEVELOPMENT

2ND APPLICANT

MINISTER OF JUSTICE AND

CONSTITUTIONAL DEVELOPMENT

3RD APPLICANT

AND

THE PUBLIC SERVANTS ASSOCIATION

1ST RESPONDENT

PSA MEMBERS

**2ND AND FURTHER
RESPONDENTS**

SOCIETY OF STATE ADVOCATES

3RD RESPONDENT

THE HON JUDGE McNALLY N.O.

4TH RESPONDENT

SECTORAL BARGAINING COUNCIL

5TH RESPONDENT

JUDGMENT

MOLAHLEHI J

Introduction

[1] This is an application for leave to appeal against my judgment handed down on 19th November 2008, in terms of which I made an order reviewing and setting

aside the decision of the Fourth Respondent and substituted that decision with a decision dismissing the Respondents' claim.

[2] The Applicants (the respondents in the review application) in this application for leave to appeal have raised several grounds for leave to appeal. I do not deem it necessary to repeat those grounds in this judgment.

[3] In terms of section 166(1) of the Labour Relations Act 66 of 1995 (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 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 the following order is made:

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

Molahlehi J

Date of Judgment : 28th May 2009

Appearances

(Leave to Appeal decided on papers)