

IN THE LABOUR COURT OF SOUTH AFRICA
(HELD IN CAPE TOWN)

CASE NUMBER:

C865/2008

5 DATE:

16 AUGUST 2011

In the matter between:

G MOCKE

Applicant

and

10 **SARS**

Respondent

J U D G M E N T

CONRADIE, AJ:

15

In this matter the applicant seeks condonation for the late referral of his statement of case. The referral is approximately 232 days late.

20 I am not satisfied that on the papers there has been a proper explanation for this excessive delay. I also find it hard to believe that having consulted with so many people as alleged by the applicant, no one pointed out to him that there are time periods that must be complied with in order to refer a matter to
25 this Court, in the same way that he was bound by time periods when he referred his matter to the CCMA.

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As far as prospects of success are concerned, I do not believe that the applicant has any prospects of success. It is clear from the papers that when he reached the normal retirement age he was kept on in service until the mistake was
5 discovered, at which point he was informed that his employment would terminate. In this regard Section 16 of Chapter V of the Public Service Act provides that an employee shall retire when the employee attains the age of 65 years.

10 I am therefore of the view that the application must fail. As far as costs are concerned, I can see no reason why costs should not be awarded against the applicant who decided to proceed with a case which clearly has no merit. The applicant has also cited six individuals as respondents in the case in
15 circumstances where there is no basis for doing this.

In the circumstances I make the following order:

1. The application for condonation is dismissed with costs.

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CONRADIE, AJ