

IN THE LABOUR COURT OF SOUTH AFRICA
HELD AT CAPE TOWN

Case No: C498/2011

In the matter between:

**THE DEMOCRATIC UNION OF
SECURITY WORKERS (DUSWO)**

First Applicant

**DUSWO MEMBERS EMPLOYED BY
THE RESPONDENT**

Second and Further Applicants

and

ROYAL SERVE CLEANING (PTY) LTD

Respondent

RULING

CONRADIE AJ

1. In a judgment dated 19 August 2011 I confirmed a *rule nisi* which was issued on 14 July 2011 and ordered the Applicants in this application (DUSWO) to pay costs.
2. On 21 October 2011 DUSWO applied for leave to appeal against the whole of my judgment and order handed down on 19 August 2011. They also applied for

condonation for the late filing of their application. The Respondent (the company) opposes the application for condonation and for leave to appeal.

3. DUSWO seeks leave to appeal against my judgment on the basis that I erred in-

3.1. Granting a final interdict in circumstances where the prerequisites therefore had not been met.

3.2. Finding that DUSWO's organiser, Mr Bizo, who deposed to the affidavits on its behalf, was a liar because he claimed not to have had sight of a supplementary affidavit, filed by the company's Mr Hendricks, when deposing to his first affidavit.

3.3. Awarding costs against DUSWO.

4. The first issue to be determined is whether or not condonation should be granted for the late filing of the application for leave to appeal.

5. According to DUSWO it only received the judgment on 26 September 2011 and as such were required to apply for leave to appeal by 10 October 2011. They, however, only filed it on 21 October 2011, which according to them is eight days late.

6. The company opposes the application for condonation mainly on the basis that a full explanation has not been given in respect of the delay. The company also argues that, in fact, the entire judgment was read out in court on 19 August 2011,

as opposed to brief reasons, and that this date must be used for calculating the date by which leave to appeal should have been applied for.

7. Although I read my judgment out in court, it does appear that certain changes were made to it thereafter. In particular, I mention in my written judgment handed to the parties that Mr Bizo's lack of honesty was a factor in considering the awarding of costs against the union. As this was not in the judgment handed down in court, I am prepared to accept that full reasons were only available on 26 September 2011.
8. I do not believe that the eight day delay in bringing this application is inordinate. I also accept the explanation that various processes had to be followed before the union could approve the launching of this application. As far as prospects of success are concerned, it is possible that another court may come to a different conclusion.
9. In the circumstances the late filing of this application is condoned and leave to appeal is granted. There is no order as to costs.

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Conradie AJ

Acting Judge of the Labour Court

Date of Ruling – 17 February 2012