



REPUBLIC OF SOUTH AFRICA

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THE LABOUR COURT OF SOUTH AFRICA, CAPE TOWN
JUDGMENT

Case no: C 906/12

In the matter between:

MUHAMMAD RIDWAN KHAN

Applicant

and

OASIS GROUP HOLDINGS (PTY) LTD

First respondent

THE TAXING MASTER

Second respondent

Delivered: 22 September 2014

Summary: Review of taxing master's ruling.

JUDGMENT

STEENKAMP J

Introduction

- [1] The applicant, Mr Muhammad Ridwan Khan, seeks to have a ruling of the taxing master reviewed in terms of rule 25(6).

Background

- [2] On 14 June 2013 Lagrange J handed down a judgment making a settlement agreement between Khan and Oasis an order of court in terms of s 158(1)(c) of the LRA. He did not order costs. However, a term of the settlement agreement at the CCMA, entered into on 12 June 2012, is that Khan tendered the costs of Oasis on a party and party scale, including the costs of two counsel, to be taxed.
- [3] Oasis asked the taxing master of this Court to tax the bill of costs on 20 February 2014. She did so on 16 April 2014. She taxed the costs at a total of R 156 983, 93. That included an amount of R40 000 for senior counsel and R 55 005 for junior counsel.

Review grounds

- [4] Khan seeks to have the taxation reviewed on the following grounds:
- 4.1 The taxing master did not have jurisdiction to tax the bill of costs in respect of a matter settled under the auspices of the CCMA.
 - 4.2 She did not grant Khan the opportunity to file objections to the bill of costs.
 - 4.3 She awarded counsel's full fees instead of the daily fee permitted in terms of the Magistrate Court's rules.

Evaluation

- [5] I will deal with each of the review grounds in turn. I should add that the review was dealt with in chambers without the benefit of any submissions by Oasis, although the review application and Khan's submissions were served on its attorneys.

Jurisdiction

- [6] It is so that the settlement agreement was entered into under the auspices of the CCMA. But that agreement was made an order of court in terms of s 158(1)(c) of the LRA by Lagrange J on 14 June 2013. On 6 August 2013 the CCMA ruled that it did not have jurisdiction to tax the costs as Khan

had withdrawn the dispute before it in terms of the settlement agreement. In those circumstances, the decision of the taxing master that she had jurisdiction to tax the bill of costs is not reviewable. The settlement agreement is an order of this Court and in terms of that order Khan had to pay Oasis its costs in the CCMA “to be taxed”.

Objection to the bill of costs

- [7] It appears that Khan filed an objection to the bill of costs on 29 November 2013. Yet the taxing master states that Khan “failed to file and serve a notice of objection to neither [sic] the bill, nor the taxation thereof at the Labour Court”.
- [8] As a result the taxing master taxed the bill in Khan’s absence and without having regard to his submissions. That is a reviewable irregularity as he was deprived of the right to a hearing.

Conclusion

- [9] As a result of the taxing master’s failure to have regard to Khan’s submissions, the bill of costs must be taxed afresh in the presence of both parties. It must be done on the appropriate Magistrate Court scale.
- [10] Oasis did not oppose this application for review and I make no order as to the costs of this application.

Order

The taxation of the bill of costs on 16 April 2014 is reviewed and set aside. The taxation must be set down afresh on notice to both parties. The applicant, Khan, must submit his notice of objection to the registrar and to Oasis within ten days of this order.

A J Steenkamp
Judge

APPEARANCES

APPLICANT: N van der Schyff of Davids and partners,
Woodstock.

FIRST RESPONDENT: Adams attorneys, Claremont.

LABOUR COURT