



Not reportable

THE LABOUR COURT OF SOUTH AFRICA,

HELD AT CAPE TOWN

Case no: C219/2020

In the matter between:

MFUNDO LEE MARASI

Applicant

and

THE PETROLEUM OIL AND GAS CORPORATION

OF SOUTH AFRICA (SOC) LTD

Respondent

Date of Hearing: 29 June 2021

Date of Judgment: 23 July 2021

This judgment was handed down electronically by circulation to the parties' legal representatives by email, publication on the Labour Court website and released to SAFLII. The date and time for handing down judgment is deemed to be 10h00 on 23 July 2021.

Summary: (Exception – Rule 6(1)(b) of the Labour Court Rules requires that sufficiently particularity be provided in respect of the material facts and the legal issues arising there from to enable the opposing party to reply to the document. Applicant failing to disclose cause of action or provide sufficient factual and legal particularity. Applicant ordered to amend his Statement of Claim so that he

discloses a cause of action and provides the Respondent with sufficient factual and legal particularity so that it knows what it is that he is relying on to succeed with his claim.)

JUDGMENT

JORGE AJ

Introduction

- [1] The Respondent has filed an exception to the Applicant's statement of case. The Applicant does not oppose the exception application.
- [2] The application was enrolled for a hearing using MS Teams at 10:00 on 29 June 2021. The Respondent was represented by attorney Keagan Barkhuizen of Bradley Conradie Halton Cheadle Attorneys. The applicant was invited to and attended the hearing although there was no formal opposition to the application.
- [3] On 10 July 2020 the Applicant filed a Statement of Case in which he sets out a number of allegations from which he seeks to establish a case against the Respondent.
- [4] In summary the Applicant is training to become a traditional healer and uses cannabis for medicinal and cultural purposes. The Applicant's Statement of Claim is not a model of clarity, however it appears that the Respondent, his employer, refused him entry to its premises and may have prevented him from attending at its workplace if he showed a higher than allowable concentration of cannabinoids in his urine.

[5] The Applicant then, apparently in an attempt to comply with the requirements of Rule 6 of the Labour Court Rules, which require that a party set out the material facts in chronological order upon which it will rely raises complaints about the Respondent's Management of Alcohol and Drug Abuse Policy, its testing methods, his illegal suspension and the violation of his cultural rights.

[6] The Applicant however does not disclose his cause of action from the facts necessary to prove them. It is not clear whether the Applicant relies on a claim in terms of the Employment Equity Act 55 of 1998 or in terms of the Unfair Labour Practice in terms of section 191(5)(a)(iv) of the Labour Relations Act 66 of 1995 (or some other cause of action, as the Respondent has pointed out).

[7] The Applicant then sets out the following relief that he seeks:

'7.1 The 2016 Management of Alcohol and drug abuse at PetroSA workplace policy is outdated, invalid, and inconsistent with the current laws of the country and needs to be reviewed.

7.2 Allow me to continue with the use of cannabis for cultural and medical purposes at my private home (Home and Traditional school).

7.3 To extend the 18 months period I've initially asked by another 12 months at the traditional school (as stipulated in the medical certificate) as the company delayed my progress through all these suspension.

7.4 To cover all accommodation, living and medical costs I incurred in the past 12 months I've waisted to this barring and suspension.

7.5 To restore all my sick leave I've used to cover the period I was sitting at home suspended.' (sic)

[8] The basis on which this relief is claimed is not clear, nor are the material facts that establish the right to the relief. Furthermore, it appears that this Court may not have the jurisdiction to grant some of the relief that the Applicant seeks.

[9] Rule 6(1)(b) of the Labour Court Rules requires that a statement of case must have a substantive part containing the following information:

'(ii) a clear and concise statement of the material facts, in chronological order, on which the party relies, which statement must be sufficiently particular to enable any opposing party to reply to the document;

(iii) a clear and concise statement of the legal issues that arise from the material facts, which statement must be sufficiently particular to enable any opposing party to reply to the document.

(iv) the relief sought.'

[10] This Court agrees with the Respondent that the Applicant has not provided it with "sufficient factual and legal particularity so that it knows what it is that he is relying on to succeed with his claim"¹.

[11] The Applicant, at the hearing, informed the Court that he intended to secure the services of a legal representative to assist him in this matter. The Applicant is encouraged to do so. He may well have a case which the Respondent must answer, however it cannot do so on his Statement of Claim as it is currently drafted.

[12] In view of the above the following order is made:

¹ *Harmse v City of Cape Town* [2003] 6 BLLR 557 (LC) at 809A

Order

- [1] The exception is granted to the extent that the Applicant must amend his Statement of Claim so that he discloses a cause of action and provides the Respondent with sufficient factual and legal particularity so that it knows what it is that he is relying on to succeed with his claim. The Applicant, if necessary, should also amend the relief he seeks.
- [2] The amendment must be effected within 15 days of the date of this order being issued.
- [3] There is no order as to costs.



Jorge AJ
Acting Judge of the Labour Court of South Africa

Appearances

For the Applicant: In person

For Respondent: Keagan Barkhuizen
BCHC Attorneys