



## THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

### MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

**FROM** The Registrar, Supreme Court of Appeal  
**DATE** 30 November 2015  
**STATUS** Immediate

*Please note that the media summary is for the benefit of the media and does not form part of the judgment.*

***Motor Industry Staff Association v Macun NO (20819/2014) [2015] ZASCA 190 (30 November 2015)***

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#### MEDIA STATEMENT

Today, the Supreme Court of Appeal (SCA) dismissed the appeal by the Motor Industry Staff Association (MISA) against an order of the Gauteng Division of the High Court, Pretoria, which had dismissed, for lack of jurisdiction, an application by MISA challenging the extension of a collective agreement.

MISA had applied for a declaration of unlawfulness and invalidity in respect of a decision by the first respondent, the Director: Collective Bargaining, Department of Labour, to extend the period of operation of two collective agreements concluded in the Motor Industry Bargaining Council (MIBCO). The court a quo held that it had no jurisdiction to hear the application, as this was a matter that fell within the exclusive jurisdiction of the Labour Court. The issue before the SCA was whether this was correct.

MISA's principal argument was that the extension of the collective agreements was *ultra vires*, as it was not in accordance with the provisions of the Labour Relations Act 66 of 1995 (the LRA). However, this challenge was not framed as a labour matter falling within the exclusive jurisdiction of the Labour Court, but rather as a matter involving the 'principle of legality' which, so MISA's argument went, meant that the the High Court had concurrent jurisdiction.

The SCA noted that the issue of the respective areas of jurisdiction of the High Court and the Labour Court in terms of the LRA was now 'more than vexed'.

The SCA held that section 157 of the LRA, which deals with the jurisdiction of the Labour Court and the High Court, has to be construed in the light of the primary objectives of the LRA. These include establishing a comprehensive legislative framework regulating labour relations, and establishing the Labour Court and Labour Appeal Court as superior courts, with exclusive jurisdiction to decide matters arising from the LRA. Further, it held that 'the Labour Court and Labour Appeal Court were designed as specialist courts that would be steeped in workplace issues and be best able to deal with complaints relating to labour practices and collective bargaining. The constitutional scheme requires courts to approach jurisdictional disputes with the primary objects of the LRA in mind.'

Accordingly, where a dispute clearly arises from the LRA, the mere fact that it is framed in terms of the principle of legality (which permeates our entire constitutional scheme) does not mean that the High Court should have concurrent jurisdiction with the Labour Court. To do so would 'stand in stark contrast' to the established jurisprudence of the Constitutional Court and compromise the objectives of the LRA.

Accordingly, the SCA held that this was an issue which fell under the exclusive jurisdiction of the Labour Court, and the appeal was dismissed.

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