(1) REPORTABLE : YES / NO
(2) INTEREST TO THE JUDGES : YES / NO
(3) REVISED
25/3/2021
DATE
SIGNATURE

IN THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

CASE NO: JR2352/18

In the matter between:

THE DEPARTMENT OF CORRECTIONAL SERVICES	**Applicant**
and	
THE GENERAL PUBLIC SERVICE SECTORIAL BARGAINING COUNCIL	**First Respondent**
SEOPELA D. *N.O*	**Second Respondent**
PSA obo CHRISTA ALETTA GRIESEL	**Third Respondent**
CHRISTA ALETTA GRIESEL	**Fourth Respondent**

Heard: **26 January 2021**

Delivered: **This judgment was handed down electronically by circulation to the parties' legal representatives by email, publication on the Labour Court's website and released to Saflii. The date and time for hand-down is deemed to be 25 March 2021**

JUDGMENT

MANGENA, AJ

Introduction

[1] This is an application brought by the Third and Fourth Respondents in terms of Rule 11 of the Rules of this court for an order in the following terms: -

a) That the review application filed under case number JR2352/18 dated 02 November 2018 be dismissed.

b) That the decision made by commissioner Daniel Seopela dated 22nd August 2018, under case number GPBC 702-16, be confirmed and made an order of court.

c) That the Applicant be ordered to pay the costs of this application.

[2] The application is opposed by the Applicant in the main review application, namely, the Department of Correctional Services; an organ of state and employer to the Fourth Respondent.

[3] What gave rise to the application can be understood against the following brief background facts: -

3.1. Ms Christa Alletta Griesel was employed by the Department of Correctional Services as a Social Worker since 2011. During 2015 allegations surfaced that she had defamed senior officials of the Department in relation to the performance of their duties and promotions.

3.2. The Department conducted investigations and based on the outcome, it instituted disciplinary proceedings which culminated in the dismissal of the employee on 13 March 2016.

3.3. The employee challenged the dismissal at the Bargaining Council responsible for her sector, the First Respondent. The matter was arbitrated by the Second Respondent who found in his award that the dismissal of the Fourth Respondent was both procedurally and substantively unfair. He further ordered the Department of Correctional Services to re-instate the employee and pay her arrear salaries and allow her to report for duty on Monday 07th August 2018. The award contained some glaring errors with regards to the date of dismissal, the date on which the employee was to report for duty as well as reference

to the employer department. The error with regard to the reference to the employer was corrected to reflect Department of Correctional Services but the two remained uncorrected.

[4] Unhappy with the award, the Department instituted review proceedings in which it sought an order reviewing and setting aside the arbitrator's award on various ground. Simultaneous with the review application, the Department applied for the condonation for the late filling of the review. The condonation application is not opposed but it bears relevance to the issue under consideration. In that regard it may be convenient to consider it first.

CONDONATION

[5] As stated earlier, the award was initially issued on 2 August 2018 and varied on 22 August 2018 to correct the errors. In terms of section 145 of the Labour Relations Act (LRA),[1] the Department was required to file the review application with the Registrar of this court within six weeks. It failed to do so.

[6] The principles governing condonation application are trite and the leading authority in this regard is *Melane vs. Santam Insurance Co Ltd*[2], The court gave the following exposition as the correct approach to take when considering the application:-

> *"In deciding whether sufficient cause has been shown, the basic principle is that the court has discretion, to exercise judicially upon a consideration of all the facts, and in essence it is a matter of fairness to both sides. Among the facts usually relevant are the degree of lateness, the explanation therefor, the prospects of success and the importance of the case. Ordinarily these facts are interrelated, they are not individually decisive, for that would be a piecemeal approach incompatible with a true discretion, save of course that if there are no prospects of success there would be no point in granting condonation. Any attempt to formulate a rule of thumb would only serve to harden the arteries of what should be a flexible discretion. What is needed is an objective conspectus of all the facts. Thus a slight delay and a good explanation may help to*

---

[1] Act 66 of 1995, as amended

[2] 1962 (4) SA 531 AD.

compensate prospects which are not strong. Or the importance of the issue and strong prospects of success may tend to compensate for a long delay. And the Respondent's interests in finality must not be overlooked".

[7] The ultimate test introduced by the Constitutional Court is the interests of justice. The onus is on the applicant to satisfy the court that it is in the interests of justice that condonation be granted. This is so because a person applying for condonation seeks an indulgence from the court. The applicant has to provide a full explanation for every period of the delay.

EXPLANATION FOR THE DELAY

[8] The deponent to the founding affidavit supporting the application for condonation, Mr Thinanelwi Godfrey Rammbasa attributes the delay to internal discussions which took place within the Department after receipt of the award. The discussions culminated in him preparing a memorandum on 10 September 2018 requesting the necessary approvals to launch the review. I interpose to remark that he had by that time already informed the Respondents that the Department was contemplating to take the matter on review and instructed the Fourth Respondent not to report for duty as per the award.

[9] The approval to review the award was granted on 02 October 2018 and a request was forwarded to state attorney on 04 October 2018 for advise on the matter. It is not clear to me why would the Department seek advise on a matter they have already decided to take on review and obtained approval. The state attorney according to Mr Rammbasa only briefed counsel on 10 October 2018. Due to tight schedules counsel was only able to provide an opinion on 26 October 2018 and finalise the papers on 01 November 2018. It is interesting to note that no copy of the instruction letters to state attorney had been attached to the affidavit; nor has the state attorney confirmed the contents of this affidavit in so far as they relate to his office. If the state attorney was instructed on 04 October 2018 as alleged, why a letter to PSA would be written only on 31 October 2018.

[10] In *Imatu obo Zungu v South African Local Government Bargaining Council*[3], the court said the following with regard to how the delay should be explained:

> "[13] *In explaining the reason for the delay it is necessary for the party seeking condonation to fully explain the reason for the delay in order for the court to be in a proper position to assess whether or not the explanation is a good one. This in my view requires an explanation which covers the full length of the delay. The mere listing of significant events which took place during the period in question without an explanation for the time that lapsed between these events does not place a court in a position to properly assess the explanation for the delay. This amounts to nothing more than a recordal of the dates relevant to the processing of a dispute or application, as the case may be".*

[11] The deponent has not been able to provide a clear and acceptable explanation for the period between 3 August 2018 and 10 September 2018 when he first prepared a memorandum. According to his version, he represented the Department in the arbitration proceedings and was familiar with the matter. It should have been clear that the errors complained about do not relate to the evidence which was presented during the proceedings nor do they in any way affect the outcome of the award. He knew at the time that Ms Griesel was an employee of the Department and that she was dismissed on the 13 March 2016. He accordingly knew as early as the 3 August 2018 when he received the first award that it was reviewable. Hence he was able to inform the Respondents on 13 August 2018 that the Department was contemplating to review the award. He formulated this view long before he could prepare a memorandum on 10 September 2018. I have considered the explanation provided and it is sadly lacking in details regarding the internal discussions held and why those discussions were important.

[12] It is also not clear with whom were those discussions held and what their role was in the decision-making process. In the absence of information, the explanation becomes both unsatisfactory and unacceptable. It is therefore my view that the version regarding the delay is contrived and constitutes a flimsy and a veiled attempt to give a plausible explanation where none exists. It is no

---

[3] [2009] ZALCD 35,

wonder that the state attorney could not provide a confirmatory affidavit to the averments made regarding this inordinate delay. The Department has in my view instructed the state attorney late in October 2018 and not on the 4th as alleged. Even if the state attorney could have been instructed on the 4th October 2018, that would not exonerate the Department from being responsible for the delay.

[13] The delay in the filing of the review is almost seven weeks. Given the urgent nature of the review proceedings and the incessant plea that the court has been making on litigations to comply with the court rules, practice directives and the manual for the speedy resolution of employment disputes, a period of seven weeks is by any standard excessive and clearly inordinate. The remarks by Bosielo AJ in *Grootboom vs. National Prosecuting Authority & another*[4], at para 32 are instructive and bears repeating:-

> *"I need to remind practitioners and litigants that the rules and courts directions serve a necessary purpose. Their primary aim is to ensure that the business of our courts is run effectively and efficiently. Invariably this will lead to the orderly management of our court rolls, which in turn will bring about the expeditions disposal of cases in the most cost-effective manner. This is particularly important given the ever increasing costs of litigation, which if left unchecked will make access to justice too expensive"*

[14] In *Toyota SA Motors (Pty) Ltd vs. CCMA & others*[5], the Constitutional Court once again emphasised the importance of the time periods and said:-

> *"[1] Time periods in the context of labour disputes are generally essential to bring about timely resolution of disputes. The dispute resolution dispensation of the old Labour Relations Act was uncertain, costly, inefficient and ineffective. The new Labour Relations Act introduced a new approach to the adjudication of labour disputes which, by their nature, require speedy resolution. Any delay in the resolution of labour disputes undermines the primary object of the LRA. It is detrimental not only to the workers who may be without a source of income pending the resolution of dispute but, ultimately, also to a employer who may*

---

[4] 2014 (2) SA 68 (CC)
[5] (2016) 37 ILJ 313 CC

have to reinstate workers after many years". Para 1. See also Cusa vs Tao Ying Metal Industries and Others, 2009 (2) SA 204 (CC).

PROSPECTS OF SUCCESS

[15] I have considered the averments made by the applicant regarding the prospects of success. He mainly relies on the "glaring errors" to buttress a point that the commissioner ignored relevant evidence and therefore arrived at a conclusion which no reasonable decision maker faced with the same facts would reach. There is no merit in this submission.

[16] The parties had prior to the commencement of the proceedings concluded pre-arbitration minutes and agreed on issues not in dispute. It was agreed that the employee is employed by the Department of Correctional services; the date of dismissal was 13 March 2016. These errors as stated else have no bearing on the evidence led as they were not relevant to the issue in dispute. They were agreed upon. It is clear that they were simple errors committed in the process of writing the award. The applicant himself agrees that they are small, though arguing that they had an absurd effect of providing an unimplementable award as to date on which the Fourth Respondent must report for duty. I disagree.

[17] In *Herholdt vs Nedbank Ltd*[6], the Court held that it is not every defect in an award that will result in it being reviewed and set aside. It stated as follows:-

> *"[25] For a defect in the conduct of the proceedings to amount to a gross irregularity as contemplated by section 145(2)(a)(ii), the arbitrator must have misconceived the nature of the inquiry or arrived at an unreasonable result. A result will only be unreasonable if it is one a reasonable arbitrator could not reach on all the material before the arbitrator. Material errors of fact, as well as the weight and relevance to be attached to particular facts, are not in and of themselves sufficient for an award to be set aside, but are only of any consequence if their effect is to render the outcome unreasonable."*

[18] An assessment of the facts and circumstances relied upon by the applicant to attack the award shows a lack of appreciation of the Court's approach to the

---

[6] [2013] 1 BLLR 1075

review of an award. In *Bafokeng Rasimone Platinum Mine vs CCMA & Others*[7], the Court commented as follows regarding how an arbitrator's award ought to be judged:-

> *"At the end of the day the cardinal question is whether the merits of the dispute have been adequately dealt with and fairly so in compliance with the provisions of section 138 of the Labour Relations Act. The question can best be answered by considering the conduct of the arbitration proceedings as a whole rather than knit-picking through every shrapnel of evidence that was considered or not considered as stated in Coin Security Group (Pty) Ltd vs. Machango [2000] 5 BLLR 283(LC)."*

[19] Considered as a whole, the award accounts for the evidence tendered during the arbitration proceedings. The commissioner has analysed it and made credibility findings in respect of each of the witnesses who testified. He recorded his impressions and justified the conclusions he arrived at. He cannot be faulted even if one were to disagree with him. The applicant has accordingly failed to demonstrate good prospects of success.

PREJUDICE

[20] Based on my conclusions on the two factors listed above, I need not consider the prejudice either of the parties will suffer if the application is dismissed. However, I do so for completeness sake.

[21] The applicant avers that the Respondents will not be prejudiced in anyway whatsoever if condonation is granted. If condonation is refused, the applicant will be prejudiced in that it will be denied an opportunity to exercise its right of access to justice in circumstances where the delay is insignificant and was not caused by deliberate disregard of the rules.

[22] The averments by the applicant downplays the impact of the delay in the finalisation of this matter on the Fourth Respondent. The applicant does even bother to explain in what way the Respondents will not be prejudiced. The Fourth Respondent as a citizen of the Republic is entitled to have finality on her

---

[7] [2006] 7 BLLR 647 (LC)

dispute with the Department. She has been out of work for a period in excess of just over 2 years at the time the application was made. During that time, she had been subjected to the indignities of unemployment were she was forced to rely on other people for her welfare. Her life was thrown into disarray and her financial affairs disorganised. She hoped for justice and referred the matter for arbitration where she was vindicated.

[23] The Department's delay in prosecuting the review undermines the rules of engagement in labour disputes and seeks to turn her success into a hollow victory. It should not succeed, for to do so is to plant a seed for the destruction of judicial authority by institutions which should be exemplary in their conduct as litigants in our courts. The Department has unlimited access to legal resources and should at all relevant times be able to comply with the rules of court. Where it is unable to do so, the explanation provided should be cogent and satisfactory in all material respects. Sadly it is not the case in this matter.

[24] In the circumstances condonation for the late filing of the review application is refused with the result that there is no review application before the Court.

[25] In the event I am wrong in my judgement on the condonation application, the review should still fail on the basis of the Rule 11 application brought by the Third and Fourth Respondents (the Respondents)

[26] The Respondents launched their application in terms of Rule 11 to dismiss the review on 29 October 2019. The basis of the application to dismiss the review was that the applicant had unduly delayed the prosecution of the review by failing to comply with the rules relating to the filing of record.

[27] Rule 7(A)(6) of the Rules of Labour Court provides as follows:-

> *"The applicant must furnish the registrar and each of the other parties with a copy of the record or portion of the record, as the case may be and a copy of the reasons filed by the person of body"*

[28] Pursuant to the filing of the review application on 2 November 2018, the applicant served the Respondents with a transcribed record of the arbitration proceeding on 6 May 2019.

[29] On 17 May 2019, the Respondents notified the applicant that the record filed on 6 May 2019 was incomplete in that "the cross examination of Wisani Chauke, the examination in chief of T.K. Mthombeni as well as part of his cross examination was not contained in the transcript". The applicant was requested to make the outstanding information available to the Respondents.

[30] When the requested outstanding information was not forthcoming, the Respondents concluded that "the Applicant has not taken any steps to prosecute their own review application" and resolved to bring an application for the dismissal of the review.

[31] The Applicant is opposing the application for the dismissal of the review and argues that it has not wilfully delayed the prosecution thereof. It admits that the record filed is incomplete and attributes the delay for the filling of a complete record to the First and Second Respondents who are the custodians of the arbitration record of proceedings.

[32] On 23 October 2019, the Applicant realizing that the missing portions of the record were not forthcoming, wrote a letter to the Third Respondent's attorneys advising them that they had written a letter to the Bargaining Council requesting them to file the missing portion of the records. The Respondents were further requested to advise if it was possible to proceed with the matter on the records filed. This letter was not responded to and instead jolted the Respondents to launch an application to dismiss the review.

[33] It is submitted on behalf of the applicant that the application should not succeed for the following reasons:-

a) The Third and Fourth Respondents have been kept informed on the status of the outstanding records requested from the First and Second Respondents.

b) The First and Second Respondents had not refused to provide the record and were co-operating with the Department regarding the outstanding portions.

[34] In support of the submissions, Mr Madiba, Counsel for the Applicant drew my attention to an email trail showing an exchange between the officials of the Bargaining Council and the Commissioner. According to him the exchange shows that the office of the state attorney had been hard at work engaging the council to provide the missing portion of the record.

[35] I have considered the e-mail trail as well as the correspondences exchanged between the parties regarding the outstanding record and I do not agree that much effort had been put in to obtain the missing portion. If anything there has not been any diligence demonstrated on the part of the Applicant to ensure that the record is obtained and the review is prosecuted without delay.

[36] A cursory look at the manner in which the applicant conducted itself since the receipt of the award dispels any doubt that there was never a commitment to finalise this matter. First, Mr Rammbassa informed the Respondents on 13 August 2018 that the Department would be reviewing the award and the employee, Ms Griesel should not report for duty. He does not instruct the state attorney to give an opinion nor does he prepare a memorandum to seek approval at that stage when he knew that there was a need to observe internal processes. Instead he embarks on "internal discussions" and does not disclose the details regarding the people he was talking to and why it had to take another month before he finally decides to prepare a memorandum seeking approval.

[37] When the approval was granted on 2 October 2018, it again took the applicant another month to file the review application. In the founding affidavit, the deponent alleges that the state attorney was instructed on 4 October 2018 to advise on the matter. It defies both logic and common sense that an official who is based in Labour Relations and tasked with the application of the LRA at the workplace amongst others, would still need advice on a matter he had already decided that it should be reviewed. The request for advice was also contrary to the approval granted to him. In his recommendations to the supervisors and for which he sought approval, he had stated that:

> "[11] It is recommended that:
>
> "[11.1] Approval be granted to review the arbitration award"

[38] Once the state attorney was instructed, it took them almost 2 weeks to secure consultation with counsel whom we are told had a tight schedule. As at the time instructions were given to state attorney, six weeks had already lapsed and one would expect a diligent litigant to appreciate the urgency of the matter. But not so for the Applicant, as they would waited for their preferred counsel to be available and only then proceeded with the review. This is a wanton disregard of the rules. A practitioner's busy schedule is not an acceptable explanation for delay in observing the rules.

[39] In *Allround Tooling vs. NUMSA*[8] the court held as follows:-

> *"[10] What Tanner failed to do was to allocate time to the preparation of the heads of argument. Instead work on the heads of argument competed – unsuccessfully- with the other demands of his practice. The respondents' interests were ranked below those of other clients. It is not an acceptable explanation for delay that a practitioner is too busy. If the nature or size of a practitioner's practice renders it impossible for him to render a professional service and comply with the provisions of the Labour Appeal Court rules, he must not take on the work..."*

[40] After the review was issued on 2 November 2018, it took state attorney a month to request the Bargaining Council to file the record of arbitration proceedings with this Court. Their letter to the GPSSBC is dated 4 December 2018. The GPSSBC filed the record on 10 December 2018 well within time of being requested to do so.

[41] Upon receipt of the record, it was the responsibility of the applicant to ensure that it was complete and contained all the relevant information necessary to enable a review court to perform its adjudicative functions. The applicant did not bother to check if it was complete. It was only when the attorneys for the Third and Fourth Respondents brought it to their attention that they realised that certain portions of the evidence were outstanding. This is surprising when regard is had to the fact that the applicant's case is resting solely on the record for purpose of proving misconduct or irregularity on the part of the commissioner.

---

[8] [1998] 8 BLLR 847 (LC)

[42] In *Helen Suzman Foundation vs Judicial Services Commission*[9], the court remarked as follows regarding the purpose of the record (*albeit* in the context of Rule 53 (1)(b) of the Uniform Rules):-

> *"[13] The purpose of the rule 53 is to "facilitate and regulate applications for review. The requirement in Rule 53(1)(b) that the decision maker file the record of decision is primarily intended to operate in favour of an applicant in review proceedings. It helps ensure that review proceedings are not launched in the dark. The record enables the applicant and the court fully and properly to assess the lawfulness of the decision-making process. It allows an applicant to interrogate the decision and if necessary to amend its notice of motion and supplement its ground of review"*
>
> *"[14] ...*
>
> *"[15] The filing of the full record furthers an applicant's right of access to court by ensuring both that the court has the relevant information before it and that there is equality of arms between the person challenging the decision and the decision maker..."*

[43] It took the applicant another 3 months from 3 May 2019 to 30 July 2019 before it could ask the GPSSBC to provide the missing portions of the record. A follow-up letter was sent on 04 September 2019 and again on 01 October 2019. It was only on the 23 October 2019 that a letter was written to Respondent's attorney enquiring if it was possible to proceed with the review without the missing portions.

[44] The Respondents argued that the applicant has been tardy and dilatory in the prosecution of the review in that when regard is had to the steps which have been taken, they have been sparse and far apart such that they do not demonstrate a keen desire to have the matter brought to finality. I agree. The applicant is a *dominus litis* and a party driving the litigation process. It is therefore important that every effort be made to place all the relevant facts before court to adjudicate the matter. Failure to do this does not only prejudice the Respondents but also brings the administration of justice into disrepute.

---

[9] 2018(4) SA (1) (CC)

[45] The Applicant argued that dismissal of the review is a drastic step which should be taken only in exceptional circumstances. Counsel called in aid the matter of *Member of the Executive Council, Department of Sport, Recreation, Arts and Culture, Eastern Cape vs. General Public Services Sectoral Bargaining Council and Others*[10], where it was held that an application to dismiss should not be granted unless the dilatory party has been placed on terms. It is true that dismissal of the review is a drastic step but that does not mean it cannot be granted. It remains a remedy available to the aggrieved party which the court exercising its judicial discretion can grant in appropriate circumstances.

[46] The case relied upon by Mr Madiba is not on point and is distinguishable on the facts in that there the respondent had contributed to the delay and as the court observed on paragraph 24, "the employee is not with clean hands...in so far the delay in the prosecution of the review application is concerned". *In casu* the Respondents have not contributed to any delay. If anything they have been patient and had granted indulgence to the applicant to comply with the Rules. It was and still remains Applicant's primary responsibility to ensure that proper and complete record was filed.

[47] In *NACBAWU and Another v/s Springbok Box (Pty) Ltd t/a Summit Associated Industries and Others*, (case no J2367/06), the Court held that it is not every inaction or failure on the part of the respondent to place the applicant on terms that would result in the failure to obtain claim for dismissal due to unreasonable delay. The court said:

> *"The other factor which needs to be weighed together with these factors is the inaction or otherwise of the respondent in ensuring that the matter is brought to finality. The defence of a party opposing an application for the dismissal of a claim on the basis of unreasonable delay is quite often that that the other party is not taking action to progress the matter to the next step also contributed to the delay. In this regard often judgements relied upon are those of Buizuidenhout vs. Johnson NO & Others and Karan Beef Feelot & Another vs. Randall. I do not read those judgements as saying that the inaction of the applicant in an application to dismiss a matter on the basis of unreasonable delay is necessarily an absolute defence. The contribution in the delay by the party seeking to have the matter dismissed for delay in prosecution must be*

---

[10] [2015] 12 BLLR 1224 (LC)

> *objectively assessed with the view of evaluating the extent to which the inaction of the applicant contributed towards the excessiveness or otherwise of the delay. The inaction has to be weighed against the objective facts that may point towards loss of interest in pursuing the matter by the party opposing such an application..." See also General Industrial Workers Union vs. National Bargaining Council for Chemical Industry-JR598/07".*

[48] It is very clear from the foregoing that it is not in every case that the inaction of the respondent or failure to put the applicant on terms will result in the application for dismissal being refused. Each case will be decided on its own merits.

[49] I have given an exposition of the timeline in the preceding paragraphs and considered the extent of the delay in filing a complete record of the arbitration proceedings. It is my view that the Department of Correctional Services as the applicant has not been diligent in the prosecution of the review.

[50] In the condonation ruling, I have considered the merits of the review as well as the prejudice that the Fourth Respondent is suffering as a result of the failure by the Department to expedite finalisation of this matter. The prejudice is patent and I can do no better than to quote Nel AJ in *Bezuidenhout v Johnson and Another*[11] where the learned Judge described it as follows: -

> *" Although no specific allegations in this regard were made by Ms Mostert, I believe that any employee's unfair dismissal will invariably be cause for emotional stress and anxiety on the part of the employee. Very often the dismissed person does not find re-employment in a reasonable period of time, or at all. One needs no vivid imagination to picture the trauma of, for example, a parent who has lost his/her job and who has numerous responsibilities to family members and who is unable to find alternative employment. The next traumatic experience one can imagine which faces a dismissed employee who believes the dismissal was unfair is when the dismissed employee proceeds to the arbitration hearing. One can imagine that it is of great relief to an unfairly dismissed employee when he or she finally hears that an arbitration award has been granted in his/her favour. I believe it very often comes as a further emotional shock and surprise to an employee when he/she finds out that the*

---

[11] (2006) 27 ILJ 2337(LC)

employer has filed a review application. A period of uncertainty as to when the review application will be heard yet again ensues. One can therefore see clearly why the legislature has drafted and designed the labour legislation in such a way as to facilitate the quick resolution of disputes. A litigant, particularly as I have said, the applicant party, should therefore make sure that he is not the cause of undermining this important cornerstone of our labour relations system. I do not want to repeat them to avoid burdening this judgement".

[51] Consequently, the Respondents have made out a case justifying the dismissal of the review.

COSTS

[52] Both parties have asked for costs and it is my view that fairness requires that the Department should pay the costs of both the review and Rule 11 application.

Order:

[53] In the premises, the following order is made: -

1. The Applicant's application for condonation for the late filing of the review application is refused.

2. The application to review and set aside the arbitration award issued by the Second Respondent under case number GPBC 702/16 dated 22 August 2018 is dismissed.

3. The arbitration award issued by the Second Respondent under case number GPBC 702/16 dated 22 August 2018 is made an order of court in terms of the provisions of section 158(1)(c) of the Labour Relations Act.

4. The applicant is ordered to pay the Third Respondent's costs in respect of both the review and Rule 11 applications.

M.I. Mangena

Acting Judge of the Labour Court Of South Africa

Appearances:

For the Applicant	: Adv. Lebogang Madiba
Instructed by	: State Attorney
For the 3rd Respondent	: Adv. Makosho Ntsoane
Instructed by	: Mitti Attorneys