IN THE LABOUR COURT OF SOUTH AFRICA
HELD AT JOHANNESBURG

CASE NO: J 2815/99

In the matter between:

D Applicant

and

1st Respondent
(In his capacity of a Commissioner for the Commission for Conciliation, Mediation and Arbitration)

2nd Respondent

JUDGMENT

LANDMAN J

1.Mr B Leduma, a former employee of Khulani Springbok Patrols (Khulani) applies in terms of s 158(1)(c) of the Labour Relations Act 66 of 1995 to make an award delivered by a commissioner of the CCMA an order of court. In turn Khulani applied to review and set aside the award.

2.Mr Leduma was found guilty by a disciplinary inquiry of being under the influence of alcohol while on duty and pointing a firearm at a co-worker. He was dismissed. The commissioner heard evidence and argument and decided that he was not guilty of the charges but that he did not deserve reinstatement and awarded him six month's compensation.

3.The grounds on which Khulani relies is that the decision of the commissioner "was seriously unreasonable". It is alleged that he did not consider the employer's version and did not give careful attention when he made the award. The proceedings were not mechanically recorded. The commissioner's notes have not been supplied. Khulani did not pursue the matter with the CCMA. I am thus essentially left with the award and notes of a disciplinary inquiry.

4.There are passages in the award which concern me. The commissioner says for instance with reference to the charge of pointing a firearm that "I have decide to make no finding and no award in this respect". He complains of there not being adequate evidence and there being insufficient evidence. However, without having at least his notes before me I am unable to determine whether his decision was unjustifiable. Khulani's grounds of complaint amount to an appeal and not a review. I am not empowered to hear an appeal.

5.In the premises the application to review the decision of the commissioner's award of 27 May 1999 in case GA 48039 is dismissed. The award is made an order of court.

SIGNED AND DATED AT JOHANNESBURG ON THIS 26TH DAY OF JUNE 2000.

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Landman J

23 June 2000.

26 June 2000.

Ms. Coetzee of Khulani Springbok Patrols.

Mr Leduma on his own behalf.