

IN THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

Not Reportable

Case no: JS1032/12

In the matter between:

PAUL MARABA AND 2 OTHERS

Applicants

and

TSHWANE UNIVERSITY OF TECHNOLOGY

Respondent

Considered: In Chambers

Delivered: 05 November 2019

JUDGMENT: LEAVE TO APPEAL

MABASO, AJ

[1] This is an application for leave to appeal, brought by the Tshwane University of Technology, the Respondent, against the judgment of this Court. The applicants oppose this application.

[2] The test to grant a leave to appeal application is found in section 17 of the Superior Court Act¹, which reads thus:

¹ No. 10 of 2013.

“Leave to appeal

- (1) Leave to appeal may only be given where the judge or judges concerned are of the opinion that –
- (a) (i) the appeal would have a reasonable prospect of success; or
 - (ii) there is some other compelling reason why the appeal should be heard, including conflicting judgments on the matter under consideration;
 - (b) the decision sought on appeal does not fall within the ambit of section 16 (2) (a); and
 - (c) where the decision sought to be appealed does not dispose of all the issues in the case, the appeal would lead to a just and prompt resolution of the real issues between the parties”

[3] The Labour Appeal Court in *Martin and East (Pty) Ltd v NUM and Others*,² held in regard to applications for leave to appeal in this Court as follows:

“I would urge labour courts in future to take great care in ensuring a balance between expeditious resolution of a dispute and the rights of the party which has lost. If there is a reasonable prospect that the factual matrix could receive a different treatment or there is a legitimate dispute on the law, that is different. But this kind of case should not reappear continuously in courts on appeal after appeal, subverting a key purpose of the Act, namely the expeditious resolution of labour disputes.”

[4] After consideration of the grounds for leave to appeal against the above law there is nothing that persuades this Court that the Labour Appeal Court would overturn this Court’s decision.

[5] Therefore the following order is made:

Order:

² (2014) 35 ILJ 2399 (LAC).

1. The application for leave to appeal is dismissed.
2. There is no order as to costs.

S. Mabaso
Acting Judge of the Labour Court of South Africa

LABOUR COURT