

**THE LABOUR COURT OF SOUTH AFRICA,
HELD AT JOHANNESBURG**

Case no: J1016/2019

Not reportable

In the matter between:

SATAWU obo MANDLA MBANO & TONGAYI CHENKENYU Applicant

And

MOODYBLUE TRADE INVEST 14(PTY) LTD First Respondent

NIEL DAMARAS Second Respondent

DIANA SMUTS Third Respondent

Date of Judgment: This judgment was handed down electronically by circulation to the parties' legal representatives by email, publication on the Labour Court website and release to SAFLII. The date and time for handing down judgment is deemed to be 10h00 on 05 May 2023

JUDGMENT – LEAVE TO APPEAL

LALLIE J

Introduction

[1] The applicant launched this application for leave to appeal against the whole judgment handed down by this court on 6 May 2000. The application as launched on time, however, it is only on 30 March 2023 that the directive for the applicant to effect proper service of the application on the respondents was complied with. The application is unopposed.

[2] The applicant's main ground grounds for leave to appeal are that I erred in finding that the applicant did not refute the first respondent's submissions that its transport services has been transferred to Hermis Transport. It was submitted that had the error not been made, I would have found that the applicant had proved that the respondents acted *mala fide* in not reinstating the individual applicants. The finding would have resulted in a judgment in their favour.

[3] The test for leave to appeal is whether the applicants has prospects of success on appeal.¹

A consideration of the papers filed of record including the judgment the applicant seeks leave to appeal against support the applicant's case that reasonable prospects of success exists that the Labour Appeal Court may construe differently the submissions on which the judgment is based and find in favour of the applicants.

[4] In the premises, the following order is made;

Order:

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

Lallie J
Judge of the Labour Court of South Africa
(In chambers)

¹ *Martin & East (Pty) Ltd v National Union of Mineworkers & others* [\(2014\) 35 ILJ 2399 \(LAC\)](#)