

Sneller Verbatim/rs

IN THE LABOUR COURT OF SOUTH AFRICA

BRAAMFONTEIN

CASE NO: JR1407/02

2002-12-04

In the matter between

BENJAMIN MOTLOUNG

Applicant

and

THE COMMISSION FOR CONCILIATION,

1<sup>st</sup> Respondent

2<sup>nd</sup> Respondent

3<sup>rd</sup> Respondent

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J U D G M E N T

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REVELAS, J:

1. The applicant was dismissed by the respondent on the 6th of March 2002 and referred the dispute to the Commission for Conciliation, Mediation and Arbitration on the 2nd of June in other words, at that stage the referral was 12 days out of time.

1. 2. The referral was noted by the applicant's attorneys who referred a defective referral at the end of April 2000. According to the commissioner who heard the condonation application the applicant gave no explanation for a subsequent two months' delay. The commissioner made a ruling which reads as follows:

1. **"The length of the delay is excessive and the explanation has no merit. The applicant's legal representatives' tardiness is not acceptable. The failure to explain the two months' delay is equally unacceptable and the a basic omission in this application on the vague submission much regarding the dismissal I am not convinced that the applicant's prospects of success are good. Condonation under the circumstances is denied."**

3. The applicant has now brought an application to review and set aside the ruling of the commissioner. The applicant's papers are completed by someone else, and not by him. The applicant stated that he is unable to write and asked a lady at the CCMA to fill in his application for condonation, but she did not write down all the details.

4. It is apparent from the condonation ruling that the commissioner hardly referred to any facts before him in coming to the finding, in which he deprived the applicant of all relief. I have read the affidavit of the applicant regarding his dismissal. There are facts therein which appears to have been in front of the commissioner,

but not considered, such as the applicant's prospects of success which seem good. In the circumstances I do not think that the commissioner applied his mind to the facts before him.

5. In the circumstances I make the following order:

1. 1. The condonation ruling dated 15 July 2002 under case number GA11265 of 2000 is set aside and substituted with the following. Condonation for the late referral is granted.

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E. Revelas