

IN THE LABOUR APPEAL COURT OF LESOTHO

LAC/REV/O4/07

Held at Maseru

In the matter between:

**LABOUR COMMISSIONER (OBO
MORAMANE MABINA)**

APPLICANT

AND

**WATER SEWERAGE AUTHORITY
LABOUR COURT**

**1ST RESPONDET
2ND RESPONDENT**

**CORAM : HONOURABLE MR. ACTING JUSTICE
K.E. MOSITO**

**ASSESSORS: MRS. MOSEHLE
MRS. M. THAKALEKOALA**

**Heard : 25TH OCTOBER. 2007
Delivered : 29TH OCTOBER, 2007**

SUMMARY

Review application – Application for Review of Labour Court's
Decision – Parties Agreeing that Matter be referred to DDPR for
decision de novo – no order as to costs.

JUDGMENT

MOSITO AJ

1. This application came before us by way of review of the Labour Court decision. It originated at the DDPR. The facts giving rise to this application are not in dispute. They are that, at all times material hereto, applicant had been an employee of the first respondent. He was dismissed following a disciplinary hearing whereat he was found guilty of misconduct. It was alleged that he had raped his co-employee.

2. Applicant not being satisfied with the decision of the first respondent which had dismissed him, approached the DDPR for relief.

3. At the DDPR, the referral was postponed twice. There are differing versions of what occasioned the postponements. In his award, the Arbitrator put the blame at the door of the first respondent. However, first respondent says it was postponed at its instance once, while the other occasion was at the instance of the learned Arbitrator.

4. However, when the matter was last before the Arbitrator, the learned Arbitrator proceeded with the matter in the absence of the representative for the first respondent. The Arbitrator then decided against the first respondent in absentia. The first respondent applied for rescission all in vain. The said respondent then approached the Labour Court on review.


5. It is doubtful whether the respondent proceeded correctly on review to the Labour Court, to seek to review the decision to refuse rescission. In any event, we make no decision on that matter as it was not questioned before us. The Labour Court did decide in first respondent's favour and directed that the matter be referred back to the DDPR for hearing the merits,

6. The present Applicant then brought the present application seeking to review the decision of the Labour Court. The Applicant complained largely, not about the method of trial of his application, but the correctness of the decision of the Labour Court on various aspect of fact and law. The applicant did not appear to us to be mindful of the distinctions we drew in previous cases between appeals and reviews. We however need not repeat those distinctions here as, during the hearing the parties counsel agreed

that the justice of this matter can be met by referring the matter to the DDPR to hear it de novo on the merits.

We accordingly referred the matter to the DDPR for hearing de novo on the merits, and before a different t arbitrator. There will be no order as to costs. The matter is to be heard by the DDPR within thirty days hereof.

My assessors agree.



K.E. MOSITO
JUDGE OF THE LABOUR APPEAL COURT

For Applicant : Advocate P. Setlojoane
For 1st Respondent : Advocate P. Masoabi

