

IN THE LABOUR APPEAL COURT OF LESOTHO**HELD AT MASERU****LAC/CIV/A/18/2013****In the matter between:****LESOTHO PRECIOUS GARMENTS (PTY) LTD****APPELLANT****AND****MPITI ROBEA****1ST RESPONDENT****NTHABISENG TJOTJOSI****2ND RESPONDENT****MAHLOMOLA MAFEKA****3RD RESPONDENT****'MAPOHO MAKOPANE****4TH RESPONDENT****DEPUTY ACTING PRESIDENT OF THE****LABOUR COURT (MR C.T. RAMOSEME)****5TH RESPONDENT****CORAM: THE HONOURABLE MR JUSTICE K.E. MOSITO AJ.****ASSESSORS : MR S. KAO****MR R. MOTHEPU****Heard on : 29 OCTOBER 2013****Delivered on : 7 NOVEMBER 2013****SUMMARY**

Appeal from the Labour Court to the Labour Appeal Court – Labour Court having decided the matter on the basis of an incomplete record – by agreement of parties matter remitted to the DDPR to be heard de novo by a different arbitrator.

JUDGEMENT

MOSITO AJ

1. INTRODUCTION

1.1 This case came before us as an appeal against the judgment of the Labour Court. In essence, the appellant complained that the case before the Labour Court was determined on the basis of an incomplete Record from the Directorate of Dispute Prevention and Resolution (DDPR). The various complaints relating to how the learned Acting Deputy President of the Labour Court handled the matter revolved on essentially only one issue, only that the Record before the Labour Court was incomplete.

2. PROCEEDINGS IN THE LABOUR APPEAL COURT

2.1 In this court the parties were in agreement that the Record before the Labour Court was incomplete and that therefore, in deciding the case, the Labour Court did not have the benefit of a complete Record. The parties also informed the court that the arbitrator who had heard the case in the DDPR one L. Ntene no longer had a Record of the proceedings. The issues that had been discussed which ought to have been reflected in the Record were not reflected in the Record, the parties were also in agreement that it would not serve any purpose to remit the matter to the Labour Court for a proper hearing because the Record could not be reconstructed and the lawyers that appeared in this matter before us did not, also have their notes to reconstruct the Record.

2.2 This is a regrettable situation because it is apparent that the Labour Court could not have properly adjudicated the matter without the benefit of a complete Record. It is also unfortunate that the finalisation of this case will be delayed and yet the case has to be determined.

3. CONCLUSION AND ORDER

3.1 In light of the above scenario, the parties agreed as follows and the following agreement is made an order of court:

1. The appeal succeeds.
2. There is no order as to costs.
3. This matter is remitted to the DDPR to be heard *de novo* by a different arbitrator.
4. The DDPR is directed to give this matter priority on the roll of cases so as to expedite its finalisation.

3.2 This is an unanimous decision of the court.

DR K.E. MOSITO AJ.

Judge of the Labour Appeal Court

For the Appellant : Advocate N.T. Ntaote

For the 1st, 2nd and 4th Respondents: Advocate MP Tlapana

No appearance for the 3rd and 5th respondents.