



REPUBLIC OF SOUTH AFRICA

Reportable

**THE LABOUR COURT OF SOUTH AFRICA,
IN JOHANNESBURG
JUDGMENT**

Case No: JR 2229/11

In the matter between:

RAMABOLU, MOLUPE JAMES

Applicant

and

**SOUTH AFRICAN POST OFFICE
LIMITED**

First Respondent

**COMMISSION FOR CONCILIATION,
MEDIATION AND ARBITRATION**

Second Respondent

COMMISSIONER C DELL (NO)

Third Respondent

Heard: 10 October 2013

Delivered: 15 October 2013

Summary: (Review – matter referred to hearing de novo despite agreement of parties on evidence to be relied on).

JUDGMENT

LAGRANGE, J

Introduction

- [1] This is an application to set aside an interlocutory ruling of the third respondent, Commissioner C Dell, who decided that the unfair dismissal case before him should "...be set down afresh to be heard de novo with all the entire viva voce evidence being re-presented before the Commissioner."
- [2] My order in the matter is set out below. Brief reasons will be filed shortly.

Order

- [3] The first respondent's late filing of its answering affidavit is condoned. The applicant's late filing of its replying affidavit is struck out.
- [4] The ruling of the third respondent in CCMA case number FS 1530-09, dated 2 August 2011, is reviewed and set aside.
- [5] The matter is remitted back to the second respondent for a fresh hearing before a commissioner other than the third respondent or Commissioner R S Mafoyane, save that the evidence before the commissioner shall consist of the record of the original arbitration hearing before Commissioner R S Mafoyane and the record of the hearing before the third respondent, unless the parties agree otherwise in writing.
- [6] The first respondent must pay the applicant's costs.



R LAGRANGE, J

Judge of the Labour Court of South Africa