



THE SUPREME COURT OF APPEAL
REPUBLIC OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal

Date: 5 October 2009

Status: Immediate

Please note that the media summary is intended for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal.

EDCON LTD v B PILLEMER NO & OTHERS

The Supreme Court of Appeal (SCA) today dismissed an appeal by Edcon Ltd against a judgment of the Labour Appeal Court which had also dismissed Edcon's appeal to it against a judgment of the Labour Court. Edcon had applied to the Labour Court to review and set aside an award of the first respondent (Pillemer), made under the auspices of the Commission for Conciliation Mediation and Arbitration (CCMA).

Pillemer had reversed Edcon's decision dismissing the third respondent (Reddy) and reinstated her, without back pay. Edcon's review application to the Labour Court and the appeals to the Labour Appeal Court and the SCA were premised on Edcon's view that Pillemer's award was defective and therefore liable to be set aside. Pillemer had found that Edcon had failed to prove that certain conduct by Reddy had breached the trust relationship existing between them as employer and employee. Edcon had based its decision to dismiss Reddy on the alleged breach in the trust relationship.

The SCA held that Pillemer had been correct in exploring whether Edcon had led evidence to show the breached trust relationship alleged by it. The SCA further found that the Pillemer was correct in finding that Edcon had led no evidence to show the breach. In the final analysis the SCA concluded that the award issued by Pillemer was unassailable and was fully compliant with the constitutional standard of reasonableness applicable to CCMA awards as articulated in by the Constitutional Court in *Sidumo & another v Rustenburg Platinum Mines Ltd & others* (2007) 28 ILJ 2405 (CC).