IN THE LABOUR COURT OF SOUTH AFRICA

(HELD AT JOHANNESBURG)

CASE NO: JR 1215/08

In the matter between

SOUTH AFRICAN REVENUE SERVICES — **1st Applicant**

and

THE COMMISSSION FOR CONCILIATION, MEDIATION AND ARBITRATION — **1st Respondent**

J F PIENAAR *N.O.* — **2nd Respondent**

NDAVHELESHENI LORDWICK MAREDA — **3rd Respondent**

JUDGMENT

LAGRANGE, J

Introduction

1. This is an application to set aside an arbitration award applicant seeks to set aside an arbitration award by a CCMA commissioner, the second respondent, issued on 15 April 2008.

2. The commissioner found that the third respondent's dismissal by the applicant ('SARS') on 10 April 2006 was procedurally and substantively unfair and reinstated him with retrospective effect to the date of his dismissal. The third respondent ('Mareda') at the time of his dismissal was one of four Audit Managers in the Internal Audit section of SARS reporting to the head of department, Ms Samuels ('Samuels').

3. In April 2005 Mareda was given a final written warning that he had repeatedly infringed the Respondent's working hours policy, neglected his managerial responsibilities and, or alternatively had failed to apply the necessary diligence. On 14 July 2005 he found guilty of the charges similar to those he was ultimately dismissed for. He was given another final written warning on this occasion and was suspended without pay for 15 days, though the unlawful suspension without pay was later withdrawn as part of the sanction on appeal.

4. When he returned to work at the end of suspension on 23 September 2005, he was presented with a further suspension notice and notice of the enquiry which eventually proceeded on 17 February 2006, in his absence.

5. Mareda was charged as follows:

> "*1. You prejudiced the administration, discipline and efficiency of Internal Audit by:*
>
> *a) Failed to adhere to SARS working hours from 4 July to 29 July 2005*
>
> *b) Failed to complete weekly timesheets from 4 July 2005 to 29 July 2005*
>
> *c) Failed to complete weekly templates from 4 July 2005 to 29 July 2005*
>
> *2. Failed to carry out lawful and reasonable instructions regarding your management responsibilities without just or reasonable cause.*" (*sic*)

6. The last charge related to Mareda's failure to make certain reporting inputs using a management software program known as 'TeamMate' during the period June to August

2005. The applicant claims he was unable to sign off on the reports of auditors in his team using the software because of his heavy workload.

7. On the charge of not adhering to working times Mareda claimed that after the final warning he had done so despite living on the south side of Johannesburg. He also said he was too busy to complete the weekly timesheets which enabled the department to track the time spent on audit projects. In respect of the weekly templates, Mareda said these served as agendas for the standing meeting which Samuels had with him each Monday and he had completed them.

The arbitator's findings

Procedural unfairness

8. Mareda disputed the procedural fairness of the enquiry which took place in his absence. Mareda did not attend the enquiry when it convened for the fifth time on 17 February 2006, having failed to proceed on earlier occasions for various reasons. His ostensible reason for not attending was that he did not know it was scheduled for that day. The arbitrator found that SARS had notified a Mr W Magoswana, a representative from NEHAWU of the date of the hearing, but he had not conveyed the date to Mareda.

9. On 18 February 2006, the day after the scheduled date for the hearing, Mareda phoned the initiator of the enquiry, a Mr Mabaso ('Mabaso') and asked when the enquiry would be held. Mabaso advised him it had taken place and gathered from Mareda that he did not know of the date. The employer maintained that the normal practice was for it to notify the employee's representative of new enquiry dates once the enquiry was underway. Mareda denied he had ever appointed Magoswana as his representative or that he had ever been advised by him of the scheduled date of the hearing on 17 February 2006.

10. Neither party called the shop-steward, Magoswana to testify at the arbitration hearing, even though was still in the applicant's employ. The arbitrator inferred from the fact that SARS did not call him as a witness that he would confirm never having advised Mareda of the enquiry date, but accepted that Mareda 'had difficulties in calling him as a witness'.

11. The arbitrator found that whatever the practice was at SARS, the failure to give Mareda notice of the enquiry was both unsound and contrary to the SARS own Disciplinary Code. The arbitrator cited these extracts from clause 10 of the Code:

> " *10. DISCIPLINARY HEARING*
>
> *No employee maybe dimissed for misconduct, without being granted a hearing as contemplated in this disciplinary code and procedure unless the holding of a hearing is made impossible by the employer failing to attend the hearing for no valid reason, or the employee indicating, clearly and unequivocally , that she/he is not prepared to participate in the hearing.*
>
> *10.1 Notice of disciplinary hearing*
>
> ….
>
> *10.1.3 The employee must be given notice at least seven (7) working days before the hearing.*
>
> …
>
> *10.1.7 The employee must sign receipt of the notice. If the employee refuses to sign receipt of the notice, this does not invalidate the notice but the notice must be given to the employee in the presence of a fellow employee who shall sign in confirmation that the notice was conveyed to the employee and the employee refused to sign receipt of the notice.*
>
> …
>
> *10.2.3 If the employee fails to attend the hearing and the chair confirms that the employee did not have a valid reason, the hearing may continue in the employee's absence.*"

12. The arbitrator noted also that the pro-forma notice of the disciplinary meeting attached as Annexure 'D' to the Code only makes provision for the signature of the employee and not his representative. He also dismissed the notion that the concept of service on an employee's

representative which might apply in other instances had no application in the context of a disciplinary enquiry. The fact that fruitless attempts were made to contact Magoswana and Mareda on the day could not remedy the defective notice and the fact the enquiry had been postponed on previous occasions did not entitle the chairperson to proceed on that day. The arbitrator was satisfied that it could not be said Mareda failed to attend the hearing on that day for no valid reason or that he had shown an unequivocal intention not to attend the enquiry.

Substantive unfairness

13. The arbitrator prefaces his analysis of the substantive fairness of Mareda's dismissal by listing a number of factors which he clearly identified as strongly mitigating against an adverse finding against Mareda. He notes that he was a competent internal auditor and manager and none of the allegations concerned the quality of his work but merely his tardiness in following procedures. He was also not physically or emotionally well in the period under consideration and was working under the burden of a final written warning together with the added responsibility of the job of another audit manager who had left SARS, leaving the applicant in charge of two sections. In assessing Mareda's health the arbitrator had regard to medical reports contained in the bundle which dealt with Mareda's mental and physical condition between February and October 2005. The arbitrator noted that even though these documents were not referred to in any detail in the evidence, it was 'clear' that Mareda suffered from depression caused by a stressful work environment during that time. He notes that Mareda was admitted to a clinic from 24 to 27 July 2005 and booked off work by a psychiatrist from 1 to 12 December the same year. A clinical psychologist's report issued around July or August that year could only identify his work environment as most likely explanation of Mareda's depressed condition.

14. On the charge of late-coming, there were no time keeping records the employer could refer to but Samuels said that she could see Mareda's office from hers and he continued to arrive late despite the final written warning and he admitted this in a discussion with Samuels on 22 August which she confirmed in an email a couple of days later. Mareda claimed not to have got the email because he was away from his office visiting other centres and did not have

unrestricted access to his email. The arbitrator declined to try and resolve this issue but noted that Samuels conceded that if Mareda had gone to other offices in the building when he arrived at work, she would not be able to tell if he had arrived late at work when she saw him (??? Speculative or supported). On this basis the arbitrator concluded that the charge of late coming had not been proven. How he dealt with the significance of Mareda's alleged admission of his late coming to Samuels is discussed below.

15. The arbitrator accepted that completion of the time sheets was compulsory since March 2004 and the undisputed evidence of Samuels that it would take 10 minutes daily to complete the time sheets and about 20 minutes a week if done weekly. The arbitrator then focused on Mareda's claim that his workload had doubled since he took over the function of the other audit manager who had left. In February 2005, he initially agreed to take over the other manager's responsibilities, but on 31 March 2005 he indicated to Samuels in an email that the pressure of managing all three teams he was then responsible for would probably lead him to under-perform. In his final evaluation the arbitrator found that Mareda's failure to complete the time sheets was justified given his explanation that he did not have the time to do so and that he 'had not received the support of Ms Samuels in respect of his depression caused by his working conditions', nor was he given the assistance he requested in managing the other manager's section.

16. There was a direct conflict between the evidence of Samuels and Mareda as to whether the weekly template schedules had been submitted by Mareda or not. Samuels claims she received none over four weeks in July 2005, whereas Mareda claims they were completed and were placed in an electronic folder that was accessible to everyone and therefore could have been deleted by anyone. The arbitrator accepts that the fact they were missing could be explained by this possibility and accordingly SARS had not proved he did not complete them.

17. There was evidence that confirming reviews of audit work done was very important and was essential to escape criticism from the auditor general and to ensure compliance with the Public Finance Management Act 1 of 1999. Samuels testified that it was a simple task to sign off a review electronically, but Mareda answered that before doing this he had to be satisfied

with the content of each report and he had hundreds to do on the same day. He conceded that some of the reviews he did not forward to Samuels for this reason.

18. The arbitrator characterised the thrust of the charges as not concerning Mareda's work as an internal auditor, nor his management of those reporting to him but simply his failure to liaise with Samuels and not adhering to working hours. He concluded that at some stage towards the latter part of December 2004 or early in 2005 Samuels had made up her mind to get rid of Mareda, citing the fact that he was suspended again at the end of his suspension in September 2005 and hauled before another disciplinary enquiry. He found further evidence of Samuels's intent in her refusal to respond sympathetically to his change of mind about his ability take over the work of the manager who left. Samuels explained that because internal audit had been restructured, taking over that manager's work did not entail more work for Mareda. The arbitrator was unconvinced by this explanation because it begged the question what that manager had been doing if her departure did not mean additional work for the person taking it over and no evidence was presented by SARS to demonstrate this.

19. The arbitrator dismissed criticism that Mareda failed to put aspects of his version to Samuels when she testified, namely that it took him four to six hours per week to complete time sheets, or that he did not have free access to his emails when Samuels sent her email confirming his admission to her that his work attendance had not improved, and that he had too many reports to sign off on to review the work on TeamMate. While the arbitrator says he took these factors into consideration he did not consider them conclusive and had to weigh them together with the evidence presented to him.

20. The arbitrator explains his thinking in this regard by explaining that the mere fact that, according to Samuels's email, Mareda had conceded that he was still not keeping proper working hours but also that he had not completed any weekly reporting templates since the end of June 2005, did not mean he should reject Mareda's evidence to the contrary on the basis that he previously made those admissions to Samuels. The arbitrator seems to accept that, notwithstanding Mareda's denial he made these admissions, he did so but at a time when the relationship between him and Samuels was severely strained and they could not be relied upon taking all the evidence into consideration.

21. On the matter of not confirming the review of the work of others in his team using the TeamMate system, the arbitrator accepted that Mareda was carrying too heavy a workload as sufficient justification for any failings in this regard.

22. In summary, the arbitrator found that: the charges against Mareda in respect of his poor work attendance and submitting the weekly reporting templates were not proved; in so far as he did not complete time sheets this was justified by pressures of work and his condition at the time; his failure to review his team's work was similarly a result of those pressures.

Remedy

23. The arbitrator adjudged Mareda to be psychologically well enough to return to work on the strength of how he performed in the arbitration and noted that his prospects would improve once his name was cleared. Moreover, Samuels had left SARS and there was a new head of internal audit. In the circumstances he could see no reason not to reinstate Mareda. He also added that SARS appeared not to have shown concern for South Africa's dire need for skill

Merits of the review

Review of finding on procedural unfairness

24. SARS argues that the commissioner unreasonably concluded that it ought to have notified Mareda himself of the date of scheduled date of the enquiry. The main basis for its submission is that when Mareda had been trying to obtain the right to legal representation communications regarding the dates of the hearing had been made to his attorneys. Thereafter it simply continued the practice with Magoswana whom it contends Mareda chose as his representative after his request for legal representation in the enquiry was refused.

25. Another point taken by SARS is that the commissioner completely misconstrued the disciplinary code in assuming that the procedure for serving the initial notice of the enquiry, which is clearly what the code deals with, had to be followed with subsequent adjournments and postponements. I am inclined to agree that the provisions cited by the arbitrator tend to suggest that the code only dealt with the initial notice. It was also not unreasonable of SARS

to assume that when he had appointed representatives the notice might be conveyed to them. However, when they realized that Mareda had not known of the new date of the hearing, it would have been wiser to reconvene the hearing, notwithstanding the fact that it had conducted the hearing in absentia, rather than insisting on strict reliance on a practice of notifying only shop stewards as a basis for deeming Mareda to have received the notice. It is true that because Mareda did not appeal this issue did not come to light until the arbitration, but it seems from the evidence of Mabaso, which the arbitrator relates in his award, that Mabaso formed the view that Mareda did not know that the hearing had been scheduled for 17 February 2005.

26. In support of SARS contentions, the fact that Mareda knew of the date of the hearing on 5 and 6 December 2005, which had only been conveyed to Magoswana, makes it hard to avoid the conclusion that he was in contact with him, otherwise he would not have sent in his sick note excusing himself from attending on those days. Similarly Magoswana announced himself as Mareda's representative the day after the ruling of the chairperson of the enquiry notifying Mareda's erstwhile lawyers that legal representation in the enquiry would not be allowed. It is unlikely that he could have been aware of what transpired if he had not been advised by Mareda of the ruling. Although he initially denied speaking to Magoswana, Mareda conceded under cross examination that he had contacted Magoswana after the arbitrator's ruling barring legal representation, but then sought to evade the implication that the email from Magoswana to management shortly afterwards was prompted by his conversation with him about the ruling on representation, and that Magoswana's only plausible source of the information about the ruling was himself.

27. It must be noted that the evidence that SARS notified Magoswana was could not be seriously disputed by Mareda without calling Magoswana to rebut it. SARS did lay a *prima facie* case that Magoswana appeared to be Mareda's chosen representative as a substitute for legal representation. In the light of this evidence, it appears the arbitrator misconstrued who ought to have called Magoswana as a witness. In essence, if Mareda wished to contest that he had not asked Magoswana to represent him nor had Magoswana notified him of the new hearing date, in the face of *prima facie* case tending to show the opposite, he ought to have

called Magoswana in support of these contentions as the evidentiary burden had shifted to him and he could not personally testify on the communications of the employer with Mogoswana. In this respect the arbitrator appears not to have properly considered why SARS ought to be disbelieved because it did not subpoena Magoswana to corroborate its version. In this respect the arbitrator's reasoning was impermissible and his finding on procedural unfairness could be set aside on this basis. However, because I believe that there are other grounds for arriving at the same conclusion, on the basis of the authority in ***Fidelity Cash Management Service v CCMA & others*** **(2008) 29 *ILJ* 953 (LAC); [2008] 3 BLLR 197 (LAC)**, at par [102], I confirm the finding of procedural unfairness, though for different reasons, with the qualification that the failure of procedural fairness was not so egregious as the arbitrator appeared to think.

Review of substantive findings

28. SARS attacks the arbitrator's findings about Mareda's medical condition, arguing that none of the medical documents referred to by the arbitrator were ever put to Samuels and there was no evidence that the employer had been notified of Mareda's condition when he was still employed. It is also noteworthy that nowhere in his evidence does Mareda place reliance on his medical condition as a reason for his failure to perform any of the routine functions expected of him. Likewise in the previous hearing on similar charges conducted at the end of June 2005, which led to him being suspended on final warning, there is nothing to indicate that he raised health issues there, whereas the arbitrator accepted without hearing evidence that they had been problem since the end of the previous year.

29. Accordingly, SARS could hardly be blamed for not taking his health into account. Moreover, the evidence of Mareda's condition was not properly introduced in evidence by means of an affidavit from a medical expert.[1]

[1] See e.g. ***Mgobhozi v Naidoo NO & Others*** **(2006) 27 *ILJ* 786 (LAC)**

30. This was not an incidental issue, because SARS' supposed lack of sympathy for his condition played a big part in the arbitrator's decision that SARS had failed to take this into account when it decided to dismiss Mareda, yet it lacked a sufficient factual foundation in the evidence. At the very least, one would have expected that the available evidence ought to have been properly canvassed and interrogated in the arbitration given that it played such an important part in the arbitrator's reasoning.

31. The arbitrator also adjudged himself capable of assessing that Mareda's health problems were behind him based on what he observed of Mareda's conduct in the arbitration hearing, without this even been raised in evidence. I agree that the arbitrator's treatment of Mareda's health was handled in a wholly irregular manner by him.

32. The arbitrator's finding on Mareda's health had further ramifications because it was one of the factors on which he excused his failure to complete time sheets and sign off audit reports.

33. Another factor which excused Mareda's conduct, in the arbitrator's view, was that Mareda was 'burdened' with a final written warning. The arbitrator's logic in this regard is hard to credit: the implication of his reasoning is that a final warning ought to be construed as a mitigating factor reducing the blameworthiness of an employee's misconduct rather than an aggravating factor which suggests that if subsequent misconduct is committed it demonstrates that previous serious measures to correct behavior have failed. This is not an inference that a reasonable arbitrator would draw.

34. The arbitrator also inferred that Samuels had decided to get rid of Mareda and in support of this noted that he had been charged again on his return to work from suspension. However, the arbitrator ignores the fact that the fresh charges stemmed from his continued failure to do the very things he had just received a final written warning for.

35. The applicant argues that as Samuels would not have chaired any enquiry she did not have the power to make good such an intention, but I think this misses the thrust of the arbitrator's reasoning. What the arbitrator appears to have been getting at was that Samuels had embarked on a campaign that would hopefully end in Mareda's dismissal. More pertinent criticism of this reasoning is that the arbitrator ignored Mareda's failure to consider

Samuels's evidence of numerous counseling sessions held with Mareda before formal disciplinary measures were instituted.

36. The arbitrator also infers that the failure of Samuels to replace the former audit manager who left supported Mareda's claim that his workload was too heavy to manage. However, when Mareda was cross-examined on why he had not raised this issue in the preceeding enquiry held at the end of July 2005, when it also ought to have been a factor affecting his failure to peform functions then, he could not explain this inconsistency. His only answer to this was that he had earlier complained of a work overload in March that year. The arbitrator appears to have given no consideration to the fact that this did not feature as a factor in Mareda's defence to similar charges only a month earlier, which was clearly relevant to the evaluating it when it is raised as defence for his conduct in the following month. Samuels also testified that the number of persons supervised by each manager had been reduced since the departure of the other audit manager, and that she offered to review Mareda's workload if he could demonstrate he was working a normal day. There is no evidence that Mareda pursued the matter further. In the circumstances, inferring that the failure to replace the manager who left necessarily increased Mareda's workload was not a reasonable inference to draw.

37. SARS attacks the arbitrator's conclusion that even if Mareda had made the admissions that were contained in Samuels's email to him of 26 August 2006, these could not be relied on because of the strained relationship between him and Samuels. Clearly, even if there was a strained relationship between Samuels and Mareda it does not follow that if Mareda made admissions about his failure to perform certain work, that such admissions are unreliable. The inference the arbitrator drew is clearly a *non sequitur* and as such is unreasonable. He also declined to make an unequivocal finding on whether or not Mareda received the email, which was obviously an important question to decide.

38. Further, the arbitrator simply accepts Mareda's speculative defence as to why his weekly reporting templates were not electronically stored in the folder where they should have been filed, namely that someone else could have deleted them. No evidentiary basis was laid for why anyone would do this, yet the arbitrator simply accepted that the probabilities favoured

this hypothetical explanation rather than the alternative which was that Mareda never filed them in the first place.

39. It is clear from the above that there are serious flaws in the arbitrator's reasoning on substantive issues which entail simply ignoring relevant issues, reaching conclusions without any or alternatively without a sufficient evidentiary foundation. Moreover in important respects the reasoning is glaringly illogical and for this reason the award should be reviewed and set aside.

Substitution of the award

40. This is a case where the parties accepted that the record was complete and that in the event it was set aside it should be substituted with the court's findings. Moreover, the applicant's principal witness has left its employment which might complicate the re-hearing of the matter, though this is not necessarily an insuperable problem. Another important consideration is that the events leading to the dismissal took place five years ago and further delays in finalizing the matter by setting it down for rehearing at this stage are undesirable.

41. I do not intend traversing all the evidence again in the light of the analysis above which has highlighted the failures in the commissioner's reasoning, but simply to indicate why I think different findings are justified based on the evidence.

42. In respect of the finding of procedural unfairness, I have some sympathy for the arbitrator's approach. Even if all the evidence is considered, there is still a question whether SARS should simply have relied exclusively on notifying Magoswana, when Mareda had himself asked to be notified personally of the date of the reconvened hearing. There was no reason for the initiator to ignore this request simply because as a matter of practice he was relying on the apparent representative of Mareda to convey such information. Had an SMS been sent to Mareda at the number he provided, there would have been no reason to doubt he received the notice. If SARS had simply acted on Mabaso's impression, gained from his telephone conversation with Mareda after the enquiry *in absentia,* that Mareda had not received notice

of the enquiry, there is no reason to suppose it could not have proceeded within a month thereafter.

43. Although SARS may have reasonably felt there was a practice of notifying only the employee's representatives and reasonably believed Magoswana now represented Mareda, it should not have relied rigidly on this practice when faced with a doubt as to whether Mareda was notified and in the light of a failure to notify him personally as he had requested in writing. This resulted in him not having defending himself at an internal hearing. It is true this might have been remedied if he had appealed on this basis, even though he was not obliged to exhaust internal procedures before approaching the CCMA.

44. On the question of the substantive fairness of his dismissal, the following factors appear most relevant apart from the points made in the analysis of the arbitrator's reasoning above:

    44.1. Mareda did not dispute his failure to complete time sheets. In fact he rationalized his failure to do along the lines that it was not as important in a non-profit organization such as SARS compared with a private audit firm where it was important for billing purposes. The alternative explanation offered was that it took much longer to complete these than Samuels had claimed. The difficulty with the latter defence is that when Samuels testified about the time it took to complete the reports, she was not pertinently challenged on this under cross examination and it was only in his evidence in chief that Mareda offered a wholly contrary version of the time it took. Where a party does not test their contrary version with the appropriate witness, they cannot expect the adjudicator to attach equal weight to their version.

    44.2. There was no evidence to support his claim that he did file the weekly templates as required. The hypothetical explanation that they must have been deleted by some unknown person cannot be accepted in the absence of evidence tending to show why someone might have had a grudge against him.

    44.3. The evidence showed that he did not sign off on audit reports on the TeamMate system. Mareda did not dispute this but offered in his defence that work pressures

made it difficult to do this. However, if it was a major consideration it is inconceivable that he would not have made an issue of it at the hearing into the same type of alleged misconduct in late June 2005. For this reason I am disinclined to believe it was in fact the reason he did not do this work.

44.4. The only charge on which the evidence seems evenly balanced is whether his work attendance improved. In the circumstances, it must be accepted that the employer did not discharge the onus of proving the charge.

45. Accordingly, I am satisfied that Mareda was guilty of charges 1(b), (c) and 2.

46. As to the appropriate sanction, the fact that Mareda had received a final written warning for the same misconduct only a month previously indicates that it had little impact on the performance of the duties in question. The arbitrator felt that the duties under consideration did not detract from his abilities and potential as an auditor. That may well be so, but the arbitrator failed to appreciate the point that Mareda was in a senior supervisory position and it cannot be said that the various reporting functions he was expected to perform were not an important part of that supervisory role and he had not addressed these shortcomings. When an employee assumes managerial responsibilities, their degree of accountability increases and it should not be necessary to repeatedly remind them of those responsibilities. It cannot be said that the previous warning had any demonstrable effect on Mareda's performance of the function he was failing to fulfill. In the circumstances, it is difficult to see on what basis SARS could continue to have confidence in him properly performing the managerial function he was tasked with, even if he was skilled. I do not think that the decision to dismiss Mareda, given his disciplinary history and wasted opportunities to rectify his performance was unfair in all the circumstances.

Compensation

47. In view of the findings above, it remains only to determine what compensation if any Mareda ought to get for SARS failure to notify him of the last date of the hearing, or for failing to reconvene the enquiry when it seemed apparent to the initiator that Mareda did not know of

the enquiry date. I accept that there was no stratagem on the part of the employer to thwart Mareda's right to representation or to attend the hearing, but equally the matter could have been easily remedied, when SARS was alerted to the problem. At the same time, if Mareda had made an issue of it by lodging an appeal in which he raised the issue there was a better chance it could have been remedied earlier. In the circumstances, I don't think that more than half a month's salary is justified as compensation.

Order

48. In the light of the analysis above, the following order is made:

48.1. The arbitration award of the Second Respondent is reviewed and set aside .

48.2. The Second Respondent's finding on the substantive unfairness of the third respondent's dismissal is substituted with a finding that his dismissal was substantively fair.

48.3. The Second Respondent's finding that the third respondent's dismissal was procedurally unfair is confirmed for the reasons stated above.

48.4. The applicant is ordered to pay the third respondent amount equivalent to half his monthly remuneration calculated as half of R 29884-00, being R 14,942-00, less any tax and statutory deductions, by 30 November 2010.

48.5. No order is made as to costs

ROBERT LAGRANGE

JUDGE OF THE LABOUR COURT

Date of hearing: 22 September 2010

Date of judgment: 9 November 2010

Appearances:

For the applicant: Ms F Van Rooi D Vetten, instructed by Darryl Furman Attorneys

For the respondent: Mr M V Sehunane instructed by Ranthako Khumalo Attorneys