



**THE LABOUR COURT OF SOUTH AFRICA**

**(HELD AT JOHANNESBURG)**

**(JUDGMENT)**

**Not Reportable**

**Case No: JS 837/19**

In the matter between:

**ELIAS OUPA MUZIWAKHE RADEBE**

Applicant

and

**REDBOW TRANSPORT CC**

Respondent

**Date of application: 13 August 2020 (in Chambers).**

**Date of judgment: 19 August 2020. Judgment delivered by email at 16:00**

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**JUDGMENT**

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**VAN NIEKERK J**

[1] This is an application for default judgement in which the applicant claims an amount of R 409 907.02 from the respondent, being salaries that the applicant

contends he would have received had the respondent not prevented him from resuming his duties in terms of an arbitration award issued in the applicant's favour on 17 June 2015.

- [2] The applicant was dismissed by the respondent on 14 October 2014, on charges of misconduct. He disputed the fairness of his dismissal, and referred the matter to the bargaining council. As I have indicated, on 17 June 2015, an arbitrator held that dismissal was too harsh a penalty and ordered the respondent to reinstate the applicant with effect from 30 October 2014 on the same terms and conditions that applied on the date of his dismissal. The applicant states that he then attended at the respondent's premises and that he was advised by way of a letter dated 22 July 2015 that there was no work for him and that 'you don't have to show up for work'.
- [3] What the applicant appears to claim in the present instance is the salary that he contends he would have earned had he not been prevented from resuming his duties.
- [4] The applicant's statement of case does not disclose any cause of action that is justiciable by this court. The letter addressed to the applicant on 22 July 2015 would seem to amount to a notice of dismissal. The arbitration award had the effect of restoring the employment relationship between the parties, with retrospective effect to the date of dismissal. The notice of dismissal terminated that relationship, and with it, any obligation on the respondent to pay the applicant beyond that date.
- [5] Of course, it remained open to the applicant to challenge that termination either as an unfair dismissal, or as a breach of his employment contract. It is not apparent from the papers before me that he did either. In these circumstances, I have some difficulty appreciating on what legal basis the applicant seeks to hold the respondent liable for remuneration that he would have earned over the five-

year period that has elapsed subsequent to the termination of his employment.  
For this reason, default judgment stands to be refused.

I make the following order:

1. Default judgment is refused.

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André van Niekerk

Judge of the Labour Court of South Africa