



**THE SUPREME COURT OF APPEAL OF SOUTH AFRICA**  
MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

**From:** The Registrar, Supreme Court of Appeal

**Date:** 06 October 2022

**Status:** Immediate

***The following summary is for the benefit of the media in the reporting of this case and does not form part of the judgments of the Supreme Court of Appeal***

*MEC for Economic Development, Environment and Tourism: Limpopo v Leboho (87/2021) [2022] ZASCA 131 (6 October 2022)*

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Today the Supreme Court of Appeal (SCA) handed down judgment dismissing, with costs including the costs of two counsel, an appeal against the decision of the Limpopo Division of the High Court of South Africa, Polokwane (the high court).

The respondent commenced his employment in the public service in 1970. He worked in various departments until his retirement on 30 April 2014. Prior to his retirement, the appellant's electronic system reflected that he had 454 capped leave credits. Shortly before the respondent retired, the appellant had conducted a final leave audit which concluded that the 454 leave credits were actually unaudited leave credits which had accrued before 1 July 2000. The outcome of this audit was that the appellant calculated that the respondent had only 271 leave credits for which it paid him out on retirement. The respondent, not satisfied with the result of the audit and the payment he received, issued summons alleging a shortfall of 183 leave credits. His contention was that he was entitled to be paid an amount of R400 000. The Polokwane Regional Court, dismissed that action. Aggrieved with the outcome, the respondent then appealed to the Limpopo Division of the High Court, Polokwane (the high court) which upheld the appeal and ordered that the appellant pay the respondent the amount claimed along with interest and costs. It was due to that outcome from the high court that the matter was brought before this Court on appeal.

The appellant in essence relied on two issues in the appeal: firstly it contended that the regional and the high courts erred in finding that the regional court had jurisdiction to hear the dispute; and secondly it contended that the high court erred in holding that the respondent was entitled to the payment of R400 000 for the 454 leave credits that had accrued to him prior to 1 July 2000.

With regards to jurisdiction, the appellant contended that the respondent should have taken the matter for conciliation, mediation or arbitration before the PSCBC instead of taking it to court because the dispute between the parties involved the interpretation or application of clause 14.1 of the Resolution. The respondent on the contrary contended that the appellant confused the two concepts dealt with in Resolution 14.1 namely the 'application' or 'interpretation' of a collective agreement with its 'enforcement'. The respondent submitted that the enforcement of a collective agreement, as it applied to the respondent's contract of employment, was distinct from 'interpretation' or 'application' thereof as it directly influenced the question of jurisdiction. The respondent argued that his case was about the enforcement of or compliance with the Resolution and not its application or interpretation.

As a result, the SCA found that the appellant's submission were incorrect and reasoned that this matter was about the enforcement or compliance with the collective bargaining agreement. The Court further went on to find that indeed the respondent's cause of action rested squarely on the enforcement of the collective agreement and thus the court had jurisdiction to hear this matter.

When coming to the issue of payment, the appellant contended that because the audit of February 1999 had not been in accordance with the provisions of the Minister's directive and had counted calendar days instead of working days, the respondent did not have 454 leave credits but only 271, for which he had been paid. The contention was that a fresh audit of the respondent's leave credits had to be done accordingly.

The SCA also disagreed with this contention and held that the appellant's argument disregarded the plain meaning of the Resolution as a whole and as a result, the SCA saw no reason why the decision of the high court had to be interfered with and thus dismissed the appeal with costs.

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