

Judgment No. SC 8/11
Civil Application No. 24/08

ERIC FILON v

(1) PUBLIC SERVICE COMMISSION (2) THE SECRETARY
FOR WATER RESOURCES

SUPREME COURT OF ZIMBABWE
HARARE, MARCH 30, 2010 & MARCH 16, 2011

Before: CHIDYAUSIKU CJ, In Chambers

The legal point raised in this application is who should grant or refuse leave to appeal in terms of s 92F of the Labour Act [*Chapter 28:01*] in circumstances where the presiding President is unavailable. The relevant section provides:

"92F Appeals against decisions of Labour Court

(1) An appeal on a question of law only shall lie to the Supreme Court from any decision of the Labour Court.

(2) Any party wishing to appeal from any decision of the Labour Court on a question of law in terms of subsection (1) shall seek from the President who made the decision leave to appeal that decision.

(3) If the President refuses leave to appeal in terms of subsection (2), the party may seek leave from the judge of the Supreme Court to appeal."

This is an important point that should be determined by the Supreme Court as opposed to a Judge of the Supreme Court in Chambers.

Accordingly I direct that this matter be set down for hearing before a Court of three Judges. I also direct that at the hearing of this matter the parties should be ready to argue the matter on the merits. In other words, the parties should first argue the application for leave as a preliminary point and then the merits of the appeal. This will enable the Court to consider the merits of the appeal should it conclude that it can grant the leave to appeal. Accordingly, the parties in this case are hereby granted leave to augment their Heads of Argument in respect of the preliminary point and to file Heads of Argument on the merits of the appeal. This approach may expedite the finalisation of this matter.

In the result, the Registrar is directed to set this matter down. There will be no order as to costs.

Civil Division of the Attorney-General's Office, respondents' legal practitioners