

Employment Law

ALERT | 9 June 2025



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SOUTH AFRICA

Archival of Labour Court claims:
Is there any certainty?



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Archival of Labour Court claims: Is there any certainty?

In Gololo v Limpopo Department Economic Development Environment and Tourism and Others (JA80/2024) [2025] ZALAC 30 (9 May 2025), the Labour Appeal Court (LAC) had to decide on the effect of procedural delays and the archiving of files under the (now repealed) Practice Manual of the Labour Court (Practice Manual).



Facts

Gololo was allowed by the Labour Court to file an amend statement of claim by 20 September 2019. She filed three days late and sought condonation for the late filing in January 2023. The employer, Great North Transport (SOC) Ltd, as early as 19 May 2021, took issue with Gololo's failure to apply for condonation. When the condonation application was filed, it was unopposed.

Despite the delay in filing the condonation application, the matter was not archived by the Registrar. The Labour Court, relying on paragraph 16.1 of the Practice Manual, found that the matter was deemed withdrawn due to the lapse of more than six months without Gololo having taking any steps in her matter. This brought the case to an end.



Applicable law

Archival of Labour Court disputes were previously dealt with under paragraph 16 of the Practice Manual. However, now it is dealt with in Rules 7 and 69 of the (new) Labour Court Rules.



Archival of Labour Court claims: Is there any certainty?

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Application of the law to the facts

Considering conflicting Labour Court decisions on archivals, the LAC held that the expiry of the six month period referred to in paragraph 16.1 of the Practice Manual does not result in the automatic withdrawal of a claim. Instead, what it does is that it entitles a party to approach the Registrar to have the file archived, after which the matter may be considered withdrawn or dismissed. The LAC disagreed with the contrary approach in *November and Others v Burma Plant Hire (Pty) Ltd* (2020) 41 ILJ 1177 (LC), which found that claims are automatically archived after the prescribed six-month period has expired. The LAC further distinguished paragraph 16.1 from other provisions in the Practice Manual, such as paragraph 11.2.7, which provides for the automatic archival in review applications without the Registrar's intervention.

As a result, the LAC held that in relation to Gololo's matter, where the Registrar had not archived the file and no notice had been given to Gololo about the archiving, the matter remained "live" and could not have been deemed withdrawn.

In passing, the LAC commented on the new Labour Court Rules, which came into effect on 17 July 2024. The LAC noted that the new Rule 7(2) requires the Registrar to provide 15 days' written notice to a party before a file is closed and archived due to inactivity, and that the new Rule 69(2) sets out further circumstances in which the Registrar must archive a file. The LAC noted that these new provisions reinforce that notice must be given and that the Registrar must take action before a matter is archived.



Key takeaways

- Archiving requires action by the Registrar and, under the new Labour Court Rules, prior notice is required in certain circumstances.
- In other words, parties should be aware that matters are not deemed withdrawn solely through the passing of time without further steps.
- Whilst the LAC was called upon to decide the now repealed Practice Manual, it made various comments in respect of the new Labour Court Rules on the process/effect of archivals which provide an indication of what the Labour Court will likely do in the future.

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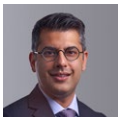
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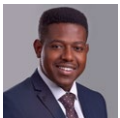
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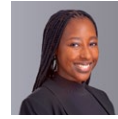
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