



**MASERUMULE**

Corporate Employment Law

## PERFORMANCE PRESSURE, FAIRNESS AND DISCIPLINARY ACTION IN THE WORKPLACE

### *Lessons from Samson v CCMA and Others*

*by Maserumule Corporate Employment Law*

#### **Introduction**

In today's high-pressure work environments, performance expectations are often stringent, particularly in industries requiring tight deadlines and large-scale project execution. The recent case of *Samson v Commission for Conciliation, Mediation and Arbitration and Others*<sup>1</sup> provides valuable insights into fair disciplinary processes, the distinction between poor performance and misconduct, and the necessity of ensuring employees are not unfairly penalised for operational challenges beyond their control.

This case, which progressed from an internal disciplinary process to the CCMA and ultimately to the Labour Court, raises critical questions about procedural fairness, managerial expectations, and an employer's responsibility to provide adequate resources to employees.

#### **Background of the Case**

Ms. Cindi Alani Samson (the "applicant") was employed as a Project Manager: Recruitment and Placement at Reach Summit (Pty) Ltd (the "employer"). She was responsible for managing high-volume recruitment projects, a role that required meeting tight deadlines and coordinating extensive recruitment efforts across multiple locations. During a critical period, a key recruitment manager resigned, which significantly increased the applicant's workload.

Despite her efforts to manage recruitment drives the applicant's performance came under scrutiny after a series of recruitment deadlines were allegedly missed. The employer, citing concerns about negligence and inefficiency, initially pursued a disciplinary hearing against the applicant but later opted to issue a final written warning instead.

The applicant challenged the warning at the CCMA, arguing that it constituted an unfair labour practice. The commissioner ruled in

favour of the employer, finding that the warning was justified. Dissatisfied with this outcome, the applicant took the matter to the Labour Court for review.

#### **Key Issues in the Dispute**

The case revolved around several important legal and procedural questions, including; whether the final written warning amounted to an unfair labour practice, whether the commissioner had adequately considered all the material evidence, whether the applicant's alleged underperformance was due to negligence or circumstances beyond her control and whether the employer had provided the necessary support and resources to enable the applicant to meet her targets.

#### **Labour Court's Findings**

The Labour Court found that the commissioner had failed to properly assess the evidence presented. The key factors leading to the court's decision to overturn the CCMA ruling included:-

##### **→ Failure to Consider Context**

The court noted that the applicant's workload had significantly increased due to the resignation of key team members. Additionally, she had to oversee multiple recruitment projects with limited resources. These factors were not adequately considered by the commissioner.

##### **→ Procedural Unfairness**

The employer issued a final written warning without giving the applicant a proper opportunity to respond. The court emphasised that such disciplinary sanctions require a fair process, which had not been followed in this instance.

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<sup>1</sup> (JR2023/22) [2025] ZALCJHB 13

### → **Mischaracterisation of Performance Issues**

The employer treated the alleged failures as misconduct rather than as poor work performance. The court reaffirmed that the distinction between negligence and incapacity is crucial. Disciplinary action is appropriate when an employee could have met expectations but failed due to carelessness or wilful disregard. In contrast, incapacity procedures should be followed when external factors prevent an employee from meeting expectations.

### → **Unreasonable Arbitration Outcome**

The commissioner relied on incorrect assumptions, treating it as undisputed that the applicant was negligent. However, the applicant had strongly contested these claims, and her evidence had not been adequately weighed. Ultimately, the Labour Court ruled that the final written warning constituted an unfair labour practice and should be expunged.

### **Conclusion**

The *Samson v CCMA* case serves as an important reminder that disciplinary measures must be rooted in fairness and context. Employers should not rush to penalize employees without assessing the full picture, particularly when external pressures and resource constraints contribute to performance challenges. Similarly, commissioners must ensure that their decisions are based on a careful and complete evaluation of the facts.

Fostering a fair and reasonable approach to workplace discipline not only upholds legal standards but also cultivates a culture of trust, transparency, and mutual respect in the workplace.

### **Key Takeaways for Employers and Employees**

#### → **Fair and Transparent Disciplinary Processes**

Employers must ensure that disciplinary actions, whether warnings or dismissals, follow due process. Employees should be given a fair opportunity to respond to allegations before sanctions are imposed.

#### → **Understanding the Difference Between Poor Performance and Misconduct**

Misconduct generally involves intentional or negligent behaviour, whereas poor performance often results from incapacity. Employers should carefully assess whether

an employee was unable to meet expectations due to external factors rather than assuming wilful failure.

#### → **The Impact of Workload and Resources**

Performance should not be assessed in isolation. If an employee is expected to meet demanding targets but lacks adequate support, dismissal may be unfair. Employers should regularly evaluate whether employees have the tools and manpower needed to perform effectively.

#### → **The Role of Arbitration in Ensuring Fairness**

Commissioners must thoroughly consider all evidence before making a determination. If material facts are overlooked, their decisions may be set aside on review. The *Samson* case reinforces the principle that arbitration awards must be reasonable, well-reasoned, and based on all available evidence.

#### → **Balancing Performance Expectations with Employee Well-being**

High-pressure environments can lead to unrealistic demands. Employers should be mindful of how performance targets impact employees' ability to work ethically and effectively. A supportive management approach rather than a punitive one can lead to better long-term outcomes for both employees and the business.

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March 2025