

IN THE LABOUR COURT OF ZIMBABWE JUDGMENT NO LC/H/39/14

**HARARE, 23 JANUARY 2013 &
31 JANUARY 2014**

CASE NO LC/CON/H/137/2013

In the matter between:-

GABRIEL DIZHA

APPLICANT

Versus

ZIMBABWE LEAF TOBACCO COMPANY

RESPONDENT

Before the Honourable P Muzofa : Judge

(IN CHAMBERS)

MUZOFA J:

This is a Chamber Application for condonation of late noting of an appeal. The Applicant was dismissed from the Respondent's employ with effect from the 21st of April 2011. The Applicant noted an appeal with the Works Council in October 2013. The Works Council dismissed the appeal on the basis that it was out of time. In terms of Statutory Instrument 322 of 1996 (Collective Bargaining Agreement: Tobacco Industry Code of Conduct) Part VII section 23 (2) an appeal should be noted within five working days of the letter of dismissal. The Applicant then appealed to the National Employment Council of the Tobacco Industry which also dismissed the appeal for the same reasons. The Council advised the Applicant to apply for condonation before this Court.

Pursuant to the advice received the Applicant approached this Court applying for condonation of late noting of an appeal. The appeal that the Applicant wishes to lodge would be at Works Council level, it would not be before this Court. I believe the authority before which the appeal would be heard is clothed with the powers to hear an application such as this. It is improper for this Court to condone the late noting of an appeal that would not be before it. Since the Labour Court is a creature of statute it can only hear applications as set out in the Labour Act [*Cap 28:01*]. The Court has not been referred to the relevant section

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giving it powers to hear an application such as the one before this Court. Clearly this Court has no jurisdiction.

Accordingly the following order is made.

The application for condonation of late noting of appeal be and is hereby dismissed.

No order as to costs.

P MUZOFA
JUDGE – LABOUR COURT