

2017, well outside the 20 working day period set out in r 11(1) of the Supreme Court Rules 2004. We will, notwithstanding this delay, deal with the application for leave on its merits.

[3] The applicant previously sought leave to appeal against the decision of the Employment Court to the Court of Appeal, but that application was declined.³

[4] The background to the present application is set out in the judgment of the Court of Appeal refusing leave to appeal to that Court.⁴ In broad terms the dispute between the parties arises from an employment relationship under which B was employed by the respondent in an IT capacity. The parties settled the dispute between them and entered into a settlement agreement. A criminal prosecution of the applicant was initiated but subsequently withdrawn.

[5] Some time after the settlement agreement was entered into, the respondent became concerned that the applicant was acting in a manner which disclosed confidential information about the respondent, in breach of the confidentiality provisions contained in the settlement agreement. The respondent applied to the Employment Relations Authority for compliance orders and a penalty, and was successful in that forum. The decision of the Employment Relations Authority was upheld by the Employment Court.

[6] The applicant has placed voluminous material before the Court, including two affirmations, one of 84 pages and one of 97 pages. The applicant seeks to raise a number of points justifying the disclosure of confidential information, based on his allegations of misconduct by those working for the respondent, the respondent itself and those who previously worked for it. However, none of these matters addresses the clear findings against him, to the effect that the disclosures were in clear breach of the confidentiality undertakings he gave in the settlement agreement.⁵

[7] None of the material placed before us satisfies us that the proposed appeal raises matters of general or public importance or that a substantial miscarriage of

³ *B v ALA* [2016] NZCA 385 (Kós P, Cooper and Winkelmann JJ).

⁴ At [2]–[6].

⁵ *ITE v ALA*, above n 1, at [37]–[56].

justice may have occurred or may occur unless the proposed appeal is heard. Thus, the criteria for leave to appeal in s 13 of the Supreme Court Act 2003, which continues to apply in respect of the present application, are not made out. Nor is there anything approaching “exceptional circumstances” sufficient to justify this Court taking a proposed appeal directly from the Employment Court. Thus the pre-condition for a direct appeal set out in s 14 of the Supreme Court Act is not made out either.

[8] The applicant faces concurrent findings in the Employment Relations Authority and the Employment Court and the reality that the Court of Appeal was not satisfied that there was any proper basis to allow him leave to appeal to the Court of Appeal. There are, therefore, no proper grounds for an appeal to this Court.

[9] The application for leave to appeal is therefore dismissed.

[10] The applicant must pay costs to the respondent of \$2,500.