

SOUTH AFRICA / JUDGMENT

Bojosinyane v Ditsobotla Local Municipality (2025/013682) [2025] ZALCJHB 119 (20 March 2025) [2025] ZALCJHB 119

COURT

Labour Court Johannesburg

BEFORE

M Makhura

CASE / FILE NUMBER

2025/013682

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THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

Not Reportable

Case No: 2025-013682

In the matter between:

OLAOTSE THEOPHILUS BOJOSINYANE

Applicant

and

DITSOBOTLA LOCAL MUNICIPALITY

First Respondent

COUNCILOR MAZWI MORURI N.O.

Second Respondent

RASUPANG CLARIUS MOOKETSI N.O.

Third Respondent

MEC: COOPERATIVE GOVERNANCE, HUMAN

SETTLEMENT AND TRADITIONAL AFFAIRS, NORTH WEST Fourth Respondent

Heard: In Chambers

Delivered: 20 March 2025

JUDGMENT ON COSTS

MAKHURA, J

[1] On 28 February 2025, this Court issued a judgment in terms of which it was ordered inter alia that:

‘The second and third respondents are each directed to file the affidavit with the Office of the Registrar of this Court within 5 Court days of this judgment, to show cause why they should not be ordered to pay the costs of the application on attorney and client scale, jointly or jointly and severally in their respective personal capacities.’

[2] The above order was issued after the Court observed that the decision of the Municipality, obviously under the mayorship of the second respondent, to constitute a special meeting to uplift its earlier decision to place the applicant on special leave and to terminate the applicant’s contract of employment with immediate effect on 30 January 2025 was intended to circumvent the urgent application launched by the applicant to challenge the decision to place him on special leave which was scheduled for hearing on 31 January 2025.

[3] In addition, the Court observed that the Municipality was well aware that to overturn the applicant’s appointment as a municipal manager, they were required to approach the High Court or this Court for that relief. For the third respondent, he was equally aware of the appropriate judicial process as he had already initiated proceedings before the North West High Court, Mahikeng to set aside the applicant’s appointment. If there was any doubt, the fourth respondent had filed a judicial review process and that application was also pending before the High Court, Mahikeng. However, the Municipality and the second and third respondents elected to oppose the application. The second respondent, with all this knowledge, elected to take up the appointment as an acting municipal manager and further opposed the urgent application.

[4] The Court therefore took the view that “taxpayers’ monies should not be funding what appears to be personal and emotional battles and self-created litigation” and invited the second and third respondents to each file an affidavit with the Registrar to show cause why they should not be ordered to pay the applicant’s costs, on a client and attorney scale.

[5] On 5 March 2025, the Municipality, together with the second and third respondents, filed an application for leave to appeal. On 6 March 2025, the application for leave to appeal was withdrawn. The second and third respondents have rejected the Court’s

invitation by electing not to file affidavits as directed. In the absence of any explanation from the second and third respondents, and for the reasons set out in the main judgment and this judgment, the second and third respondents must be held liable to pay the costs of the urgent application jointly and severally. I have decided to exercise my discretion and award costs on a party and part scale.

[6] In the premises, the following order is made:

Order:

1. The second and third respondents are ordered to pay the costs of the urgent application on a party and party scale, jointly and severally in their respective personal capacities, the one paying the other to be absolved.

M. Makhura

Judge of the Labour Court of South Africa

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