

SOUTH AFRICA / JUDGMENT

PSA obo Jafta v Vilikazi (C176/2020) [2021] ZALCCT 90; (2022) 43 ILJ 891 (LC) (23 November 2021)

[2021] ZALCCT 90

COURT

Labour Court Cape Town

BEFORE

Rabkin-Naicker

CASE / FILE NUMBER

C176/2020

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REPUBLIC OF SOUTH AFRICA

IN THE LABOUR COURT OF SOUTH AFRICA, CAPE TOWN

JUDGMENT

Reportable

C176/2020

In the matter between:

PSA obo JANE JENNIFER JAFTA

Applicant

and

NONTOBEKO EVELINE VILIKAZI IN HER

CAPACITY AS MEMBER OF THE EXECUTIVE COUNCIL FOR

TRANSPORT, SAFETY AND LIASON

(NORTHERN CAPE PROVINCE)

Respondent

Date heard: 10 June 2021 on the papers; further submissions requested 22 October 2021.

Delivered: Sent by email on the 22 November 2021; deemed received at 10.00hr on 23 November 2021.

Summary: Legality review in terms of section 185(1) (h). Deemed Dismissal in terms of section 17 of the Public Service Act, 103 of 1994; executing authority failing to take relevant material into account; decision not meeting the requirements of legality and rationality. Query: Whether the triggering of section 17(3)(a) (i) constitutes a reviewable decision in terms of the principle of legality.

RABKIN-NAICKER J

[1] The applicant seeks the following relief:

“1. That the decision of the Respondent dated 16 October 2019 to discharge the applicant in terms of section 17(3)(b) of the Public Service Act, Proclamation 103 of 1994 is reviewed and set aside;

2. That the Respondent shall reinstate the Applicant with retrospective effect from date of discharge from the public service.
3. That the Respondent pays the costs of this application on the attorney-client scale;
4. Further and/or alternative relief.”

[2] In limine, the respondent submitted that the PSA did not have standing to bring the application on the grounds that the official who signed the founding papers, (who attests he is the labour relations officer of the union) did not show that he is an office bearer or official. In addition that Jaftha (the employee) did not show that she was a member of the union. Reliance is placed on section 161 of the LRA. This reliance is misplaced. In *Manyele & others v Maizecor (Pty) Ltd & another*[1], this Court in a judgment that has been consistently followed held that:

“[15] Section 161 of the Labour Relations Act regulates representation before the Labour Court. That section provides that:

'In any proceedings before the Labour Court, a party to the proceedings may appear in person or be represented only by -

- (a) a legal practitioner;
- (b) a director or employee of the party;
- (c) any member, office-bearer or official of that party's registered trade union or registered employers' organisation....'

[16] It follows from these provisions, that an official of a trade union is a person from a designated class of representatives in litigation before the Labour Court. Where a legal practitioner is appointed by a party to represent it in the Labour Court, it is implicit that the legal practitioner must be properly authorized by way of a power of attorney. In the practice of the High Court, rule 7 regulates the furnishing of powers of attorney in order to eliminate any question of lack of authority to act on behalf of a party. No similar requirement exists in respect of an official of a trade union, who, for no reason other than his status

as such, is entitled to represent members of his union in proceedings. This role of the official is to be contrasted with the role of the union itself when it is a party to proceedings, as contemplated in s 200(1)(b) 'on behalf of any of its members'.

The meaning of this section has been considered by the Labour Appeal Court in *Mzeku & others v Volkswagen SA (Pty) Ltd & others* (2001) 22 ILJ 1575 (LAC) at 1595 para 58. There the full court held that:

'It is therefore clear also that s 200(1) gives a registered union the right to act on behalf of its members when there is a dispute involving any one or more of its members and that s 202(1) takes this further and provides that, once a registered trade union acts, as it is entitled to, on behalf of its members, the employer has a right not to serve the documents on the individual members themselves, but to serve them on the Union. It provides that such service on the union is as good as service on the members of the union themselves. If this is so, the position must be that even with regard to the giving of an opportunity to be

heard the employee is entitled to deal with its union.'

- [17] What is noteworthy from this passage from the judgment of the Labour Appeal Court, is the clear indication that once a union is involved in representing its members in a dispute, an obligation is cast on the employer party to acknowledge that fact and to deal directly with the union."
- [3] The application was brought by the PSA. The founding papers were deposed to by a union official of that registered trade union, acting, as he averred, on behalf of a member. A confirmatory affidavit was deposed to by the member in respect of the allegations in the founding papers. The PSA compiled the representations made to the respondent to consider. The impugned decision reflects same. There is no merit whatsoever in respondent's point in limine.
- [4] The applicant did not bring this review in terms of Rule 7A, eschewing the call for the record of the decision to be produced by the respondent. As the Court stated in *Public Servants Association of SA on behalf of Khan v Tsabadi NO & others* (2012) 33 ILJ 2117 (LC):

"[14] Rule 7A, it has been held, like its close relative, rule 53 of the Uniform Rules of Court, is not peremptory and has been devised largely for the benefit of the applicant. An applicant is accordingly not obliged to follow that procedure and can elect, instead, to follow the procedure contemplated by rule 7. A party who elects to proceed without the benefit of a complete record runs the risk that she will be unable to discharge the onus which is upon her. Moreover, disputes of fact will be decided according to the Plascon-Evans rule which could be obviated to some extent where there is a complete record of the proceedings (assuming, that is, that the ground of review is based upon an issue which appears from the record)."

- [5] In a letter dated 6 June 2019, and signed on the 10 June 2019, the following letter from the Head of Department of the Department Transport, Safety and Liaison was received by the employee on the 13 June 2019:

“Dear Ms. Jafta

DISCHARGE IN TERMS OF SECTION 17(3)(a)(i) OF THE PUBLIC SERVICE ACT, 103 of 1994 AS AMENDED

1. The above subject refers.
2. Kindly take note that you have absented yourself from duty without leave and/or permission for a period exceeding one calendar month (being, 03 April 2018 to date).
3. As such, you are deemed to be discharged from the Public Service in terms of Section 17 (3) (a) (i) of the Public Service Act, 103 of 1994 as amended, with effect from 4 April 2018.
4. Kindly note that your services are terminated by operation of law in terms of the aforesaid section, you cannot appeal but you are entitled to make a formal representation to the Executing Authority in terms of Section 17(3)(a)(ii) of the Public Service Act, 103 as amended.”

- [6] On the 12 September 2019, the Head of Department wrote a second letter to the applicant as follows:

“Dear Madam

RE: RECTIFICATION OF DATE DISMISSAL (sic) IN TERMS OF SECTION 17(3)(a)(i) OF THE PUBLIC SERVICE ACT, 103 OF 1993 (sic) AS AMENDED

Our letter with reference number SP 53523482 dated 6 June 2019 refers.

Kindly take note that this letter is correcting the contents of the above letter, with specific reference to the effective date of dismissal as contained in paragraph 2. The corrected version is therefore stipulating as follows:

Kindly take note that you have absented yourself from duty without leave and/or permission for period exceeding one calendar month (being, from the 1 to 31 May 2019).”

- [7] This so-called ‘rectification’ was sent to the applicant subsequent to the representations on her behalf were made to the Executing Authority on the 20 June 2019. The ‘rectification’ was written one month before the decision sought to be set aside was taken. The period of alleged absence from work by the applicant was changed and not to a minor extent. Rather than relying on 4 April 2018 to be the effective date of discharge as the first letter

stated, reliance was now placed on one calendar month i.e. May 2019 of absence without permission.

- [8] The representations made by the applicant read as follows:

“J.J. JAFTA: DEEMED DISMISSAL: WRITTEN REPRESENTATION: MYSELF

I Jane Jennifer Jafta hereby confirm and state that I was never absent from work, not for a full month nor the period mentioned by the employer in the attached letter.

In 2017 September, Mr Crouch approached me and informing me that I am prohibited from entering the 5th and 6th floor of the Employer building as per directive of the Head of Department Mr. Piet Moeketsi Dichaba.

I requested a transfer from Human Resource Management to Risk Management in June 2017. On 10 July 2017 I withdrew my transfer after consultation with my immediate supervisor Mr Crouch. Despite the withdrawal the Head of Department approved my transfer and forcefully removed me.

I reported on the 3rd floor at risk management unit under Mr Vorster...who refused to work with me, the union representatives of NEHAWU Mr Thabang Seekoel and Mr Tshepo Thebe had meetings with him regarding his conduct towards me, but he made it clear, he (Mr Vorster) does not want to work with me...

In June of 2018, I submitted a grievance on sexual harassment. Immediately the next day, the security officer, Mr Thami Bashole, prevented me from entering the floor as per Mr Crouch instructions. I then called Mr Crouch to ask him about this matter, but he said, it's the Head of Department instructions. I asked him where then I should report, or work and Mr Crouch replied that he doesn't know.

With nowhere to report and no guidance from my Superiors I sat at the offices of Mr Ramon Barlow on the second floor until Mr Barlow was transferred back to his original post. I thereafter reported on the fourth floor with Mr Thebe or Ms Mojaki or Mr Jasson as I was without an office or portfolio.

The following people can attest to what I'm saying, Mr Barlow, Mr Crouch, Mr Thebe, Mr Jammer and Mr Jasson.

The union representatives of NEHAWU, Mr Thabang Serious, of POPCRU Mr Tshepo Thebe and of PSA Mr. Dirkie Jasson had numerous meetings with the Head of Department Mr. Piet Mooketsi Dichaba regarding my issues but he dismissed them saying they can come with any issue but not Jane Jafta.

After the sexual harassment, the Employer victimized me further by sending disciplinary charges, which to date has never materialised.

The employer has to date in no way tried to establish true repudiation of the Employment contract in that they were fully aware of my whereabouts whether in the workplace or outside. I have been reporting for duty all along and it is my contention that the Section 17 dismissal is part of the ongoing victimisation. During my sexual harassment case, the employer never investigated the matter, that's why the matter ended up in the CCMA.

On 19th June 2019, I visited Mr Thebe at his office, the security allowed me in but later escorted me out because the employer does not want me in the building whether as employee or visitor.

In December 2018 I attended the staff indaba which is further proof that I was at work and I vehemently contend that the stipulation of me being absent from work as of 3 April 2018 is totally incorrect. To substantiate my claim I attach hereto Affidavits, emails from my colleagues who can attest to the fact that I was at work and I did report for duty.

It needs mentioning that the former MEC Mr. Lebogang Motlhaping was fully aware of my situation at work and had promised to revert back to me.

I sincerely hope for your swift response on these representations.

Hope you find the above in order.

Regards

J.Jafta”

[9] The above representations are supported by a number of statements by colleagues of the applicant. All support her version that she had been reporting for duty at various floors in the building. Two state that she was present on the 6 June 2019 at an introductory seminar of the respondent where all staff and the head of department were present. According to one account by Mr. Tsepo Thebe, the applicant was sitting with him in the front row of the seminar. The statement by one Nomathemba Mthembu includes the following:

“The last time I saw Ms. Jafta was when we returned from the meeting the MEC had convened at the West End Club, on the 6 June 2019. I met her in the elevator I got off on the 3rd floor and she proceeded to the 4th floor.”

[10] The decision sought to be reviewed reads as follows:

“RE: DISCHARGE IN TERMS OF SECTION 17 OF THE PUBLIC SERVICE ACT – JJ JAFTA

The abovementioned matter bears reference.

My office received representations through your union PSA dated 20 June 2019. Subsequent to the representations, my office was served with a Notice of Motion bearing case number 2031/2019. The matter was heard on the 27 September 2019 and court ordered I provide you with reasons for your dismissal within five (5) days of the order.

I wish to respond as follows to your representation and in compliance with the court order as follows:

1. I have noted your representations. Kindly note that the Public Service Act provides in Section 17(3)(b) thereof that

“if an employee who is deemed to have been dismissed, reports to duty at any time after the expiry of the period referred to, the relevant executive authority may, on good cause shown and notwithstanding anything to the contrary contained in any law, approve the reinstatement of that employee in the public service in his or her former or any other post or position, and in such a case the period of his or her absence from official duty shall be deemed to be absence on vacation leave without pay or leave on such other conditions as the said authority may determine”.

2. The essence of the provision is that when deemed to have been dismissed (and or if on receipt of the Section 17(3)(a)(i) notice), you then report for work, you are required to show good cause why the employer

should re-instate you. Ever since you absented yourself from the workplace and received the notice in terms of Section 17(3)(a)(i) you have not reported for duty. As a consequence thereof the Act does not allow me to consider your representations as contained in your letter of 20 June 2019. I am only allowed to consider representations when an employee reports for duty.

3. Having stated the above, in the interest of fairness and the audi alteram principle I have considered your representations and found that there is no good cause shown because I was advised as follows, that:

3.1. on or about the 29th June 2017 you made an application requesting to be transferred from Human Resources Management to Risk Management within the Department.

3.2. My predecessor approved your transfer to Risk Management as per your request.

3.3. On or about the 11th July 2017 you wrote a letter withdrawing your transfer. The said letter was never directed to nor received by my predecessor. The withdrawal was as such never ratified or approved.

3.4. On the 18th August 2017 your supervisor Mr O. Vorster issued instructions to you to report on progress of the follow up audit and to perform risk management duties as per your approved request to transfer to his unit.

3.5. you instantly replied in writing to Mr O. Vorster indicating to him, amongst other things, that, I quote,

“I therefore unapologetically refuse to report to you and/or vacate my post and office”.

There was therefore no refusal by Mr Vorster to work with you.

3.6. Mr O. Vorster issued further instructions to you on 01 March 2018 to prepare and submit a performance agreement in accordance with the Employee Performance Management and Development Systems policy by 09 March 2018 as well as to take possession of your work tools.

3.7. despite the further instruction of the 01 March 2018 you failed to comply with this lawful instruction

3.8. the department did not receive any formal grievance from you regarding either the forceful removal by the Head of department or the fact that you were barred from entering the 5th and 6th floor or any other floor by a directive of the Head of Department or any member of the department as alleged in your letter.

3.9. the sexual harassment grievance was reported to the Gender Commission and as a result of their intervention, you were forced to report the matter with the Department. The Department at all material times offered assistance and support to you but you never cooperated.

3.10. during the Staff Indaba and Team Building held on 22 – 23 November 2018, a report was compiled by Policy and Planning unit and I am in possession of that report. I have perused it and noted the utterances you made, I quote, “I do not have an office and I have not signed a performance agreement, the Department sends letters to my house whilst I report in my car and in the street”

You have been absent from official duty for more than a month and you have not been reporting for any duty at any office at the Department. Your absence was and still is unauthorized. Further your prolonged absence at work is in contravention of Section 17 of the Public Service Act as previously advised.

As stated above and or on the facts at my disposal, there is no good cause shown for me to consider your re-instatement.

Finally, I have only responded to the salient points relevant to this matter and not to every allegation or every speck of the contents of your letter of 20 June 2019. Such failure to respond thereto should not be construed to mean such contents are true or that such failure constitutes an admission thereof.”

Evaluation

[11] The relevant provisions of section 17 of the PSA read as follows:

“(3) (a) (i) An employee, other than a member of the services or an educator or a member of the Intelligence Services, who absents himself or herself from his or her official duties without permission of his or her head of department, office or institution for a period exceeding one calendar month, shall be deemed to have been dismissed from the public service on account of misconduct with effect from the date immediately succeeding his or her last day of attendance at his or her place of duty.

(ii) If such an employee assumes other employment, he or she shall be deemed to have been dismissed as aforesaid irrespective of whether the said period has expired or not.

(b) If an employee who is deemed to have been so dismissed, reports for duty at any time after the expiry of the period referred to in paragraph (a), the relevant executive authority may, on good cause shown and notwithstanding anything to the contrary contained in any law, approve the reinstatement of that employee in the public service in his or her former or any other post or position, and in such a case the period of his or her absence from official duty shall be deemed to be absence on vacation leave without pay or leave on such other

conditions as the said authority may determine.”

[12] Given there is no record in this review, I am not privy to the issues of the sexual harassment case, its outcome, or other disciplinary charges which the applicant states were threatened, but not followed up, against her.

[13] In regard to the factual matrix on the papers before me, the anomaly of the change in date of applicant’s deemed dismissal was not dealt with by the legal representatives and this led me to ask for supplementary submissions from the parties in a directive dated the 22 October 2021 as follows:

1. Given this matter was heard on the papers and there was no opportunity for the Court to raise certain questions of law with Counsel, the parties are directed to file supplementary submissions within 15 Court days of receipt of this Directive on the following issues:

1.1 The nature of the inter-relationship, if any, between the decisions made in terms of section 17(3)(a)(i) and section 17(3)(b) of the PSA and whether such relationship impacts on the relief sought in an application such as this.

1.2 The legal consequence, if any, of the amendment made to the decision (i.e. to the date of deemed termination) in terms of section

17(3)(a)(i) by the Director General.

1.3 The legal consequence, if any, in the sequence of the following dates:

1.3.1 Of the decision referred to in 1.2 above;

1.3.2 Of applicant’s representations to the respondent; and

1.3.3 Of the impugned decision taken.

[14] In terms of the question raised by me in 1.1 of my directive, both parties submitted that no decision is taken in respect of section 17(3)(a)(i). I return to this question below. As to the further questions, I was surprised to read that Counsel for the applicant referred to a change of date from April to May 2019, whereas the original date of deemed dismissal was April 4 2018, as is evident from the papers. As to applicant’s submissions, in respect to the second and third questions asked in my directive,

it was submitted that the impact of these meant that the decision ‘was bad in law’. Counsel for the respondent submitted

that there was no legal consequence to the ‘rectification’ to the date and that nothing turns on it. I was asked to take into account that subsequent to the receipt of the letter of 12 September 2019 in terms whereof the dates for the applicant’s alleged absenteeism were ‘rectified’, she elected not to make any further submissions in respect of her alleged absence for May 2019.

- [15] I cannot agree that there are no legal consequences to the change of the date of the deemed dismissal. In the impugned decision, the respondent states that: “Ever since you absented yourself from the workplace and received the Notice in terms of Section 17(3)(a)(i) you have not reported for duty.” It is unclear as to whether the respondent is referring to the original Notice or to the Notice that was purportedly rectified. The ‘rectification’ would have the legal consequence that the respondent only relied on absence without permission from 30 April 2019. This was the case to answer, as it were. It was not up to the applicant to make further submissions. Her employer should have requested these when it changed the factual basis for the triggering of Section 17. As stated above, the impugned decision makes no specific reference to this period. Nor did the respondent rely on any evidence relating to the month of May 2019 in finding no good cause existed to reinstate the applicant.
- [16] The impugned decision was only made after a High Court Order was obtained on the 27 September 2019 which made it obligatory on the Respondent to consider applicant’s representations. Her decision however states that she is under no obligation to do so and she responds to the applicant’s representations only on the basis of ‘the interests of fairness and the audi alteram principle’. Further, she reserves her rights in respect of her response, choosing only to deal with certain allegations and making no reference to the statements from the applicant regarding her presence at the workplace and the supporting statement of her fellow employees.
- [17] In MEC for the Department of Health, Western Cape v Weder; MEC for the Department of Health, Western Cape v Democratic Nursing Association of SA on behalf of Mangena[2] the LAC stated:
- “[36] Section 17(3)(a)(i) of the Act legislatively immunizes an employer from an unfair dismissal referral where an employee fails to report for work for a continuous period of at least*
- [30] days. Save for this legislation, as Van Niekerk J remarked in De Villiers, ‘no other employer enjoys the right to consider reinstatement of its employees within its sole discretion’. Thus, it followed that the requirement of ‘good cause’ referred to in s 14(2) (or in the present case s 17(3)(b)) should be interpreted to mean ‘that unless the employer, having regard to the full conspectus of relevant facts and circumstances is satisfied that a continued employment relationship has been rendered intolerable by the employee’s conduct, the employer should as a general rule approve the reinstatement of the employee’ (para 30).
- [37] Correctly in my view, Van Niekerk J held that a contrary finding would represent a breach of an employee’s right to fair labour

practices and the right to equality (since the respondent in this case is treated in a manner which grossly departs from the manner in which other employees in a similar position are treated). The requirements of legality as outlined prevent the employee from being helpless pursuant to an employer's arbitrary decision. In particular, given an employee's rights to fair labour practices, the decision must be tested for rationality as outlined."

[18] In my view the impugned decision has been properly challenged on the grounds of the principle of legality. As was stated in the LAC decision of *Ramonetha v Department of Roads & Transport, Limpopo & another* (2018) 39 ILJ 384 (LAC):

"[21] It is now trite that inherent in our constitutional order is the principle of legality in terms of which by virtue of the rule of law public functionaries, in their exercise of public power, are required to act within the powers granted to them by law and arrive at decisions which are lawful, not arbitrary and are rationally related to the purpose for which the power was given. There can be little doubt that the MEC's decision is capable of review under s 158(1)(h) on the grounds of legality. Since it was not contended that the MEC's decision constituted administrative action, whether a review on such basis would be apposite does not require determination in this matter."

[19] The LAC has emphasized that the principle of legality includes a requirement of rationality. It is a requirement of the rule of law that the exercise of public power by the executive and other functionaries should not be arbitrary. Decisions must be rationally related to the purpose for which the power was given, otherwise they are in effect arbitrary and inconsistent with the rule of law.[3] In casu, the respondent had to make a decision related to whether there was good cause to reinstate the applicant for her absence from duty without permission for the month of May 2019. She relied on representations that were made in respect of an alleged absence

without permission dating from April 2018.

[20] She further disputed that she was obliged to consider any representations at all because the applicant had allegedly not reported for duty since 'her deemed dismissal and/or receipt of the section 17(3)(a)(i) Notice'. I can only presume that the drafting of this clause was effected to cover all bases given that the 17(3)(a)(i) Notice contained a different date of deemed dismissal to that which was purportedly rectified in the letter sent to the applicant after her representations were made.

[21] In any event, as the LAC found[4] in a matter concerning an equivalent provision in the Employment Educators Act:

[42] The discretion to grant reinstatement under s 14(2) of the EEA can be exercised only if the discharged educator 'at any time' reports for duty and on good cause shown. In the letter of 17 June 2016, the appellant maintained that the respondent had not reported for duty. The correspondence shortly after his discharge indicated clearly that the respondent wanted to return to duty. The fact that he did not arrive at the school after his salary was stopped is not a basis for refusing to exercise the discretion or to exercise it adversely. The head of

department, in any event, was directed to exercise the discretion by the order of the Labour Court, which he duly did.”

[22] There could be no question in this case that the applicant wanted to be reinstated. Her union had to go to the High Court to obtain an Order directing the respondent to consider the representations she had been invited to make in the section 17(3)(a)(i) Notice. Further, the decision, as I have dealt with above, simply ignored certain representations and reserved the rights of the respondent in relation to what was stated in it. The respondent was bound to make a lawful decision. The notion of reserving one’s rights in such a context is perplexing.

[23] In *Democratic Alliance v President of the Republic of SA & others* [5] Yacoob ADCJ held:

“If in the circumstances of a case, there is a failure to take into account relevant material that failure would constitute part of the means to achieve the purpose for which the power was conferred. And if the failure had an impact on the rationality of the entire process, then the final decision may be rendered irrational and invalid by the irrationality of the process as a whole.” ’

[24] In my view the impugned decision is a glaring example of such a failure. The rationality of the entire process has been called into question. The impugned decision in no way matches the standard required for rationality in the many respects dealt with above.

[25] I mentioned this judgment would return to the issue of my first question in the Directives sent to the parties. The question was asked (somewhat obliquely) because although it is settled that a deemed dismissal takes place by operation of law, there is a decision made by a state employer to trigger that section. In this matter, a material fact on which the ‘trigger decision’ was made, was sought to be rectified. The implications of the ‘trigger’ decision and how it may be dealt with in a legality review are not necessary for me to decide and indeed were not dealt with by the parties. Another Court may well deal with this question in the future. Neither party sought to join the Head of Department in the proceedings.

[26] In submissions before me, the respondent argued that the employee should have referred a dispute to the Bargaining Council, given that ‘misconduct’ was involved. Given the triggering of section 17 of the PSA by her employer, this is a puzzling proposition. It appears that the employer took no disciplinary action against the employee despite apparent disputes arising between them since 2017. Then, in June 2019, section 17 was invoked.

[27] In all the above circumstances, the application must succeed. I am not inclined to order costs on the usual principles in labour matters. I make the following order:

Order

1. The decision of the Respondent dated 16 October 2019 to discharge the Applicant in terms of section 17(3)(b) of the Public Service Act, Proclamation 103 of 1994 is reviewed and set aside.

2. The Applicant is reinstated into her employment in the Department: Transport, Safety and Liaison as from the date of her discharge.

H. Rabkin-Naicker

Judge of the Labour Court

Representation:

Applicant: J.P. van den Berg instructed by Lovius Block Inc

Respondent: A.D. Olivier instructed by the State Attorney

[1]

(2002) 23 ILJ 1578 (LC)

[2]

(2014) 35 ILJ 2131 (LAC)

[3] Hendricks v Overstrand Municipality & another (2015) 36 ILJ 163 (LAC) @ para 28

[4] Member of the Executive Council, Department of Education, Western Cape Government v Jethro & another NNO (2019) 40 ILJ 2318 (LAC)

[5] 2013

(1) SA 248 (CC) at para 39

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