



NORTH GAUTENG HIGH COURT

PRETORIA

(REPUBLIC OF SOUTH AFRICA)

Case no: 61919/13

27/11/13

In the matter between:

DEON-JOHN HERMAN

APPLICANT

AND

- (1) REPORTABLE: ~~YES~~ / NO
(2) OF INTEREST TO OTHER JUDGES: ~~YES~~/NO
(3) REVISED.

12/11/2013

**MINISTER OF JUSTICE AND
CONSTITUTIONAL DEVELOPMENT**

FIRST RESPONDENT

NKWADI SIMON MAREMANE

SECOND RESPONDENT

EX TEMPORE JUDGMENT

BAQWA J

- [1] I do not propose to reiterate the facts of the case which are quite apparent too both parties.
- [2] This is an application for an order directing that the appointment of the second respondent by first respondent be suspended pending the outcome of the

review application under case number 61424/13 and proceedings issued in the Equality Court, Pretoria.

- [3] What is clear from the notice of motion is that applicant is already seeking relief and is anticipating getting relief from either the review court or from the Equality Court.
- [4] It is trite that an urgent court will grant relief where an applicant cannot obtain redress in due course. This, from a reading of the papers does not appear to be such a case.
- [5] Further, an applicant in an urgent court has to demonstrate the circumstances that lead to the conclusion that the matter is urgent.
- [6] **In casu** the applicant got to know that second respondent had been appointed on or about the 4th of July 2013. He busied himself with the preparation of a review application because according to his counsel they did not initially intend to come to the urgent court. This period of reaction was further lengthened by the physical indisposition of his counsel.
- [7] Applicant submits that they could not have taken the matter to this court before knowing whether second respondent had accepted appointment.
- [8] Applicant further submits that the application ought to be granted on an urgent basis because he and the persons currently under his employ will lose their employment if this is not done. The basic flaw of this submission is that it ignores that second respondent equally has similar responsibilities. The argument says simply- stop the appointee from resuming employment so that

I can continue my employment. The unfairness that would be caused if this were to be accepted is only too obvious to need any elaboration.

[9] In any event the fact is, applicant did not come to the urgent court timeously. The plus minus three months that he lingered and failed to launch his application in this court eroded the urgency. If the matter was ever urgent it is now no longer urgent.

[10] In the Result the following order is made:
The application is struck off the roll with costs.

S.A.M BAQWA
(JUDGE OF THE HIGH
COURT)