

FREE STATE HIGH COURT, BLOEMFONTEIN
REPUBLIC OF SOUTH AFRICA

Application No: 775/11

In the matter between:-

T D KHATI

Applicant

and

**THE MINISTER OF JUSTICE AND
CONSTITUTIONAL DEVELOPMENT**

Respondent

HEARD ON: 11 FEBRUARY 2013

JUDGMENT BY: THAMAGE, AJ

DELIVERED ON: 14 FEBRUARY 2013

[1] This is an application for leave to appeal to either the Full Bench of the Free State High Court or the Supreme Court of Appeal.

[2] Leave to appeal is on part of the judgment delivered by this court on 29 November 2012 as regards the interpretation and meaning of basic salary as per Proclamation 75 dated 19 November 2009, which reads as follows:

“2.1 A basic salary component equal to 60% of the package, which constitutes a pensionable salary.”

- [3] Counsel for plaintiff submits that basic salary constitute total remuneration whilst counsel for the defendant submits that it is 60% of the total remuneration, which is what I have decided during my judgment.
- [4] It is trite law that leave to appeal should be granted if there is a reasonable possibility that another court may come to a different finding.
- [5] This matter involves interpretation of the word “basic salary” and I am of the view that a different court may and not will come to a different conclusion.
- [6] I was also requested to refer the matter to the Full Bench of the Free State High Court. In the light of the decision of **SHOPRITE CHECKERS (PTY) LTD v BUMPERS SCHWARMAS CC AND OTHERS** 2003 (5) SA 354 (SCA), I share the same view.
- [7] In the circumstances, I thus make the following order:
- 7.1 Leave to appeal is granted to a Full Bench of the Free State High Court.
- 7.2 Costs of this application be costs in the appeal.

S.J. THAMAGE, AJ

On behalf of applicant: Adv S. Grobler
Instructed by:
Kramer Weihmann & Joubert Inc
BLOEMFONTEIN

On behalf of respondent: Mr I.P. Gough
Instructed by:
State Attorney
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