



NOT REPORTABLE

**IN THE HIGH COURT OF SOUTH AFRICA
(EASTERN CAPE DIVISION, MAKHANDA)**

CASE NO. CA42/2023

In the matter between:

WINSTON ZAYNE LE GRANGE

Appellant

and

MINISTER OF POLICE

Respondent

**EX TEMPORE JUDGMENT
IN RESPECT OF APPEAL**

THE COURT

[1] We have had regard to the record, the appellant's notice of appeal and the substantial heads of argument filed on his behalf.

[2] The respondent has chosen not to file heads of argument and on 19 March 2024 filed a notice to abide this court's decision.

[3] We are satisfied that the appeal notice raises meritorious grounds which have been well traversed and articulated in Mr. McKenzie's heads of argument.

[4] In short we conclude that the appellant has made out a case for the judgement and order of the court below to be set aside and replaced with the order as proposed by Mr. McKenzie in his heads of argument.

[5] We are also satisfied that the quantum has been reasonably and fairly computed with reference to comparable awards highlighted by Mr. McKenzie in the heads of argument and that the amount claimed adequately reflects the damages that ought to be awarded to a plaintiff in circumstances such as the appellant found himself.

[6] The amount of damages is further also notably justified in our view (as is the costs award on a punitive scale) having regard to the presence of malice and the abuse of power shown on the part of the defendant's employee in the peculiar circumstances of the matter.

[7] In the result, it is ordered that:

1. The appeal is upheld, with costs.
2. The Order of the court *a quo* is set aside and substituted with the following:

“(1) The Defendant is ordered to pay to the Plaintiff general damages in the sum of R151 850.00.

(2) Interest a tempore morae on the above amount, calculated at the prevailing prescribed mora interest rate of 7.75% per annum, calculated from date of service of summons to date of final payment; and

(3) Costs of suit, on an attorney and client scale, to be paid within fourteen (14) days after taxation.”

3. Should any party require comprehensive reasons for this order, such party shall file a request for same within fifteen (15) days hereof.

B HARTLE

JUDGE OF THE HIGH COURT

I AGREE,

F PRETORIUS

ACTING JUDGE OF THE HIGH COURT

DATE OF APPEAL : 22 March 2024

DATE OF JUDGMENT : 22 March 2024

Appearances:

For the Appellant: Mr. P McKenzie of Peter McKenzie Attorneys c/o NN Dullabh & Co, Makhandha (ref. Mr. McKenzie)

For the Respondent: Mr. Jele of the Office of the State Attorney, Gqeberha (ref. Mr. Jele)