

IN THE LABOUR COURT OF SOUTH AFRICA

(HELD AT BRAAMFONTEIN)

Case: J 2743/11

In the matter between:

JOSIAS MATLALA

Applicant

and

**NATIONAL COMMISSIONER OF THE
SOUTH AFRICAN POLICE SERVICES**

First Respondent

**PROVINCIAL COMMISSIONER, GAUTENG
MZWANDILE PETROS**

First Respondent

JUDGMENT

LAGRANGE, J:

1. Having considered the matter, I find that:

- 1.1. The court must to be satisfied, on a balance of probabilities, that the respondents had not acted in accordance with the provisions of Regulation 13(2) of the SAPS Regulations Governing the imposition of a Precautionary suspension.
 - 1.2. In deciding to impose a precautionary suspension, the respondents are obliged to act in accordance with the requirements of the said regulation.
 - 1.3. The evidence showed that the respondents only considered the seriousness of the offence relating to which they were contemplating disciplinary action against the applicant.
 - 1.4. However, there was no substantial evidence to demonstrate the basis on which the respondents were satisfied, on reasonable grounds, that the case against the employee was so strong it was likely that that he would be convicted of a crime and dismissed.
 - 1.5. It is also not clear that the applicant's representations against being suspended without pay were in fact considered.
2. It is further recorded that the respondent has undertaken that the applicant shall not be evicted from his residence located at no 604 SAPS Residential Building, Suiderland Flat, pending the outcome of the unfair labour practice. Accordingly, an order in respect of this relief is unnecessary.

Order

3. Accordingly, it is ordered that:

- 3.1. The applicant's suspension without pay is set aside pending the outcome of the unfair labour practice dispute which the applicant referred to the Safety and Security Sectoral Bargaining Council on 25 November 2011.
- 3.2. The respondent must pay the costs of the application.



ROBERT LAGRANGE
JUDGE OF THE LABOUR COURT

Date of hearing : 5 December 2011

Date of judgment: 6 December 2011

Appearances:

For the applicant : L M Malan instructed by Allardye & Partners

For the respondent: B M Lecose instructed by the State Attorney