IN THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

Not Reportable

Case no: JS287/2012

In the matter between:

MADELAINE DOREY **Applicant**

and

TSB SUGAR RSA LTD **Respondent**

Heard: **13-24 June 2016; 16-20 January 2017 and 27-31 March 2017**

Delivered: **03 May 2017**

Summary: A referral in terms of which the applicant alleged that she was dismissed on account of having made disclosures showing or tending to show impropriety on the part of the respondent. Held: (1) The applicant was subjected to an occupational detriment. (2) The dismissal of the applicant is automatically unfair within the contemplation of section 187 (1) (h) of the Labour Relations Act 66 of 1995. (3) The applicant is awarded compensation equivalent to 24 months' salary within the contemplation of section 194 (3) of the Labour Relations Act 66 of 1995. (4) The respondent to pay the applicant's costs.

JUDGMENT

MOSHOANA AJ

Introduction

[1] This is a referral in terms of section 191 of the Labour Relations Act.[1] The applicant alleges that the respondent subjected her to an occupational detriment by dismissing her on account of her having made a protected disclosure. This trial ran for a period of three weeks. To my mind such was not necessary. On various occasions during the trial, I warned the parties of the possible escalating costs in relation to the trial in this matter. Since both parties were ably represented by counsel I assumed that their respective counsel would take the warning seriously, unfortunately not.

Background facts

[2] The respondent is a producer, distributor and marketer of sugar and related products. The applicant commenced employment with the respondent with effect from 1 July 2002. On 22 December 2011, after a disciplinary enquiry, the applicant was dismissed for reasons related to conduct. At the commencement of her employment, the applicant was a secretary. She later became a Training Coordinator. Later her position as a Coordinator was made redundant. Following that she was transferred to the Risk Control Department to be trained as a Risk Control Officer. Whilst so employed, the applicant discovered certain irregularities, which she disclosed to one Jan de Villiers, the Company Secretary and Risk and Compliance Manager. Following such disclosures, the applicant was charged with acts of misconduct, found guilty of some and dismissed.

[1] Act 66 of 1995, as amended. (LRA)

Aggrieved by her dismissal, she referred a dispute to this Court alleging automatically unfair dismissal.

[3] Various witnesses were called from both sides. Only a summary of the witnesses' evidence shall be stated in this judgment.

Evidence Led

[4] Mr Xolani Lubisi (Lubisi) testified that from August 2011 to September 2011, he was in the employ of the respondent. He was employed as a relieve attendant. Whilst on duty, he sustained serious injuries on his leg. After one week of being at home, he returned to work. Upon his return he was informed that he would perform light duties and he was moved from working night shift to day shift. For a period of about two weeks, he was stationed at Human Resources where he was asked to read books. Later he was informed to go back to the factory.

[5] After he had left the respondent, in 2016, he received a call from an unknown person from the respondent. That person informed him that he was required to sign a document related to his injuries in 2011. He never had an opportunity to sign the aforesaid document, however he was later informed that the document was found. He never gave consent to have his medical records inspected. In cross-examination he testified that his signature was forged. He did not recall signing a consent form.[2]

[6] Mr Richard Tembe testified that from 2000-2012, he worked for the respondent as a driver. He was hijacked in 2010. During the hijack, he sustained injuries[3] following the assault by the hijackers. He was examined at the respondent's clinic. He was booked off. He never returned to work. He was dismissed for being hijacked in 2012.

[7] Ms Madelaine Dorey (the applicant) testified that she commenced employment on 1 July 2002 and was dismissed on notice on

[2] Page 153A of Bundle A.

[3] Page 253 of Bundle D.

22 December 2011. She testified at length about her career path within the respondent. At the time of her dismissal Mrs. Herbst (Herbst) was her direct manager. She gave a detailed account of her duties prior to her dismissal. Amongst others she was dealing with statistics for injuries. She worked closely with Herbst on that. She testified that if the Disabling Injuries Frequency Rate (DIFR) is low, such is good for the respondent and gives the respondent a five-star rating which is good for marketing purposes. Divisional Heads receive bonuses for low DIFR as it is part of their Key Performance Indicators (KPI).

[8] She further testified about the procedure that must be followed once there is an injury on duty. She also explained the types of injuries on duty. A disabling injury is one where the injured will not be able to perform duties for a few days. Major incidents are those where the injured employee would be off duty for a period of 14 days. Such incidents are required by law to be reported to the Department of Labour. She never had any complaints about her work.

[9] She testified about the fitness certificates[4] (green cards). In May 2010, she received a call from Ms Riaan Liebenberg (Liebenberg) – a SHE representative in the Civils Department. Liebenberg informed her that she saw cards that were signed by Sister Wendy Snyman (Snyman). Given the applicant's relationship with Dr Breytenbach, she asked Liebenberg to speak to Herbst. She informed Herbst that such signing of the cards was an irregularity. Herbst told her that she was aggrieved because Dr Breytenbach was no longer doing work for the respondent. She also raised issues around the audiometric tests. Shortly thereafter, she was made to sign a confidentiality agreement.[5] She signed it under protest. It came as a surprise because since she started in 2008, she was never asked to sign such a document. Following discussions around training

[4] Pages 262-265 of Bundle A.

[5] Page 121 of Bundle A.

records, she accidentally sent an email[6] to Herbst. After this email, Herbst started excluding her.

[10] Around 13 September 2011, she sent an email to Mr Jan de Villiers (De Villiers) setting up an appointment in order to disclose the irregularities she observed. One such irregularity related to the injuries of Lubisi. She overhead Herbst and Snyman discussing that Mr Danie Olwage (Olwage) did not want to investigate the injuries because in his view the incident was reportable to the Department of Labour. She overhead the two speaking about light duty, as they did not wish to bring the injury to the attention of the Department of Labour. She indeed met with De Villiers and discussed the irregularities at hand. She was concerned that some irregularities would put the respondent at risk. She disclosed various issues, which in her view, were irregular. She was told that De Villiers would look into the issues, as he does not like grievance processes.

[11] On 15 September 2011, the applicant had another meeting with De Villiers. In this meeting Olwage also explained his role in the Lubisi matter. He also pointed out the irregularities and made a copy of the relevant Act for De Villiers. The applicant disclosed the alleged tampering of the clinic records for purposes of NOSA audits. She gave De Villiers names of people to contact. She did not have access to certain documents during the discussion. Later on she sent some contacts of the relevant people to be contacted. De Villiers did not come back to her.

[12] On 27 September 2011, she had further discussions with De Villiers. By 6 October 2011, she had no feedback from De Villiers. On 26 October 2011, during the external NOSA audit, the Lubisi matter was discussed. The Auditors questioned Herbst. She stated that Lubisi was not reportable. Mr Clinton Vermuelen, who later became the chairperson of her disciplinary hearing, joined the audit. Frustrated by what was happening, she uplifted Lubisi's file, which was lying either in the

[6] Page 129 of Bundle A.

boardroom or Ms. Veldman's office and walked into the office of De Villiers. She said to him, "*here are all the lies*", and that she couldn't take it anymore. She left the file and asked him to deal with it.

[13] On 4 November 2011, she met with De Villiers, who gave her feedback on Lubisi. He told her that NOSA auditors did not have a problem, the incident was handled properly. On 7 November 2011, she was due to be evaluated by Herbst. During that evaluation Herbst wanted to change her KPAs. She refused to sign the new KPAs document. She did not feel comfortable to raise the Lubisi matter. Subsequently, she sent five batches of documents to De Villiers to back her disclosures. At length, with reference to the documents, she sought to explain the irregularities as observed by her.

[14] She also disclosed the issue to Ms Flora Shabangu. She was given a letter indicating that the issues were investigated and there were no irregularities. On 28 November 2011 she met with De Villiers who gave her the letter of the outcome of the investigations. She informed him that she did not agree with the manner in which the issues she raised were investigated. On 6 December 2011, she met with De Villiers again and raised concerns about the investigations.

[15] On 9 December 2011, there was an incident regarding the office set up and cabinets between her and Herbst. She stated that she would be going to the CCMA to report what she believed to be an unfair labour practice. She ended up not going there. Whilst on leave and on her way to a chess competition, she was informed of her disciplinary hearing. The charges she faced related to the disclosures she made. During the hearing, she gave evidence around certain of the aspects relating to injuries on duty, which were not reported or handled properly. Following this disciplinary hearing, she was dismissed. After her dismissal she worked with Dr Breytenbach for two years until the practice closed. She earned around R10 000.00. She does not wish to be reinstated.

[16] She was cross-examined at length. Various versions of the respondent's case were put to her, which she disputed. The cross-examination was largely directed to the veracity of her disclosures.

[17] Liebenberg testified that from 2008-2011, she was in the employ of the respondent as a SHE Administrator in the Civil Department. She further testified about the green cards, which were signed by Snyman. Upon noticing that she phoned Herbst who directed her to phone the applicant. She did phone the applicant and related the incident to her. Later Snyman phoned her informing her that all the cards were returned in order to be re-issued. The cards were re-issued. In cross-examination she disputed Snyman's version as put to her. She testified that she was responsible for employees and not contractors. The cards were re-issued in 2011 and she cannot recall who signed them.

[18] After unsuccessfully applying for absolution from the instance, the respondent called Wendy Snyman. She commenced employment on 1 March 2000 as an OHS (Occupational Health Sister). She spelled out her duties. Regarding the green cards, she confirmed that she did sign the cards. She did that upon the request of Mr Piet Hattingh. The cards were for contractors. In November 2011, De Villiers confronted her about the cards and she explained what happened. She testified about documents drawn by the clinic for the Risk Department. She assists Herbst for audit purposes. She also testified about the Flora Shabangu matter. She investigated the incident. Shabangu had personal problems. She concluded that Shabangu was not paying attention. She sent Shabangu for counselling. Shabangu went for training as required by the regulation and this training was conducted at the clinic of the respondent. She testified how the clinic register gets corrected for the purposes of the audit. She disputed some of the disclosures made by the applicant. She disputed the manipulation of clinic registers.

[19] In cross-examination she testified that she could have asked another OMP (Occupational Medical Practitioner) to complete the certificates. By

signing on behalf of Dr Breytenbach, she was wrong. That was a mistake on her part.

[20] Mr Justin Hobday was the Managing Director of NOSA from 2005 to 2016. They provided auditing services to the respondent from 2005 to 2014. He testified how NOSA worked. Herbst was her contact at the respondent. He dealt with the contents of the audit reports for the period 2009-2011. He touched on documents relevant to Lubisi matter. In cross-examination he admitted that he was not involved in the audits in question. Despite that he was cross-examined on the contents of the audit reports. He testified that there is an advantage to be derived by a company from a good NOSA report.

[21] Mr Jan De Villiers testified that he commenced employment on 1 July 2003 in a legal advisory position. Around 13 September 2011, he received an email[7] from the applicant seeking to discuss a private and confidential matter after work. Indeed, he met with the applicant who laid a number of complaints as to the workings in the Risk Department and the irregularities she observed. She did not wish him to do anything about what she disclosed. He however told her that he would do a discrete inquiry in order to inform himself.

[22] On 15 September 2011, they met again. The discussion was around the exchange the applicant had with Herbst around training, the coming into the picture of Veldman and duties being taken away. He informed her about the new structure stating that the administration function is not the responsibility of a Risk expert. Since the issues were personal in his view, he suggested to her to discuss with Herbst, he mediates or she files a formal grievance. Herbst told him about the email accidentally sent to her, which she saw as a betrayal of loyalty. As part of his enquiry he met with a Marcia, who gave him information.

[7] Page 113 of Bundle A.

[23] On 27 September 2011, the applicant approached him where she indicated that the work situation is not improving as she was sidelined. Again he repeated the suggestions he made previously. He suggested a roles clarification meeting, which he will facilitate. On 6 October 2011 after welcoming Veldman's, roles were clarified. He testified about the job grading and increment of the applicant's salary processes. He disputed the certain accounts of the applicant relating to the meetings they both had. He met with people mentioned in the applicant's disclosures and they expressed their views and effectively differed with the applicant's disclosures.

[24] On 4 November 2011, he met with the applicant and provided her with the feedback. The applicant made reference to the SHE statistics, which were not properly kept. He advised her to discuss that with Herbst since he did not understand her concerns. According to him there was nothing illegal about the SHE statistics. The concerns were more related to the manner in which they were handled structurally. In his view the applicant ought to have determined the accuracy of her complaints before raising them. The issue of the green cards was only brought to his attention on 13 November 2011.

[25] He had investigated the issues raised, discussed with colleagues and thereafter arrived at some findings.[8] His findings were handed to the applicant on 6 December 2011. He then gave testimony in relation to the list of employees, to which the applicant raised certain allegations of irregularities. His investigations revealed that there was nothing untoward.

[26] In cross-examination, he testified that the NOSA reporting was part of the system. Further, he was aware that the AIA had lapsed and he was working towards correcting it. He was aware that it was a legal requirement to do surveys. He was not involved in the disciplinary

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[8] Page 406 Bundle A.

enquiry. The issue on Lubisi was not the reportability thereof but whether Herbst lied to the auditors.

[27] He concluded that she did not lie. He conceded that the Lubisi incident was part of the charges in so far as it relates to the removal of the file. According to him by the 5th and 6th of December 2011, Herbst and the applicant were to work on their relationship. He approved the disciplinary action to be taken against the applicant. The main reasons for discipline were her insolence and abscondment. Had the applicant returned the files and not write the email indicating that she will be leaving the workplace that would have been the end of the matter. There would not have been any disciplinary hearing.

[28] Herbst testified that she retired from the respondent after working for almost forty years. The applicant started to work in her department in November or December 2008. Upon receipt of the clinic register, she would pass it to the applicant in order to do the analysis. The clinic register was received monthly in order to do the statistics. In 2009, the applicant was still undergoing training. She disputed preventing the applicant to do her work. When she saw the email accidentally sent to her she was upset. She found it to be distasteful and disrespectful. Following that she stopped certain responsibilities, which she routinely passed to the applicant.

[29] On 15 November 2011, she was called into the main boardroom where allegations were presented to her. She presented two lever arch files in response to the allegations. She testified as to how the statistics were calculated. She also testified how they were used to prepare for external audits. She could not recall stating that an auditor should be banned. Top management had taken a decision sometime back that medical files would not be given out. The shift boss, Mr Shongwe, obtained the Lubisi consent form. In relation to the green cards, she testified that she directed Hattingh to Snyman to assist him. She testified about some of the incidents, which the applicant observed as irregular. Largely, she

disputed the allegations leveled against her by the applicant. Since 12 July 2011 the relationship between her and the applicant soured.

[30] In cross-examination she testified that her expectation was that after conclusion of the issues investigated by De Villiers the applicant would continue to work as normal. She did not know that Lubisi was reading books on his return. She considered the emails of the applicant to display cheekiness.

Argument

[31] Both representatives submitted written heads to which the Court is grateful. It is unnecessary for the purposes of this judgment to repeat the submissions.

Evaluation

[32] Mr Mooki for the respondent argued that the case as pleaded by the applicant behooved her to show that there are improprieties. The applicant cannot rely on "tends to show". Mr Van Der Westhuizen for the applicant argued that "tends to show" was pleaded.[9] It is trite that only facts need to be pleaded and not conclusions of law.[10] Accordingly, to my mind "tends to show" is a legal conclusion to be arrived at by the Court upon reflection on certain facts. In terms of section 1 of the Protected Disclosures Act (PDA),[11] a disclosure is defined with those two positions-"show" or "tends to show". Accordingly, I come to the conclusion that the facts pleaded allow me to come to a legal conclusion required in this case. The argument by Mr Mooki is thus rejected.

[33] Further Mr Mooki argued that what the applicant did was not a disclosure; it was simply the hand of lawyers, which sought to turn it into a disclosure in terms of the PDA. Fortunately, section 1 of the PDA defines a disclosure. It is defined to mean—

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[9] Paragraphs 33-37 of the statement of case.

[10] See *Jowell v Bramwell Jones 1998 (1) SA 836 (W) and First Rand Bank Limited v Jooste* [2015] ZAGPJHC 11 (3 February 2015).

[11] Act 26 of 2000.

> "any disclosure of information regarding any conduct of an employer, or an employee of that employer, made by any employee who has reason to believe that the information concerned *shows or tends to show* one or more of the following:
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> (a) That a criminal offence has been committed, is being committed or is likely to be committed;
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> (b) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which that person is subject;
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> (c) that a miscarriage of justice has occurred, is occurring or is likely to occur;
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> (d) that the health or safety of an individual has been, is being or is likely to be endangered;
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> (e) that the environment has been, is being or is likely to be damaged;
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> (f) unfair discrimination as contemplated in the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No. 4 of 2000); or
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> (g) that any matter referred to in paragraphs (a) to (f) has been, is being or is likely to be deliberately concealed." (Emphasis added.)

Guided by this definition it is clear to me that what the applicant brought to the attention of De Villiers was information regarding the conduct of Herbst and others. The applicant clearly had reason to believe that what was provided to De Villiers show or tends to show amongst others failures to comply with legal obligations. I fail to comprehend why it could be said that the applicant did not make a disclosure. All the evidence led by the respondent seeks to point out that it complied with the law. If there were no allegations that for instance, Lubisi was reportable to the Department of Labour in terms of the law, it would have not been necessary to present evidence that Lubisi was not off duty for 14 days. The Department of Labour would not have been approached to clarify the 'true' legal position. Clearly the applicant was not simply venting as argued by Mr Mooki. She was raising an issue of non-compliance. I come to the conclusion that the information provided to De Villiers amounts to a disclosure within the contemplation of the PDA.

[34] The approach taken by the respondent in this matter was to show that the disclosure is not true. The Labour Appeal Court in *Radebe and Another v Premier, Free State Province and Others*[12] clarified the position thus:

> "The phrase "tends to show" in section 1 cannot be equated to "show". Had the legislature intended the approach propounded by the Labour Court, it would have used only the term "show". The phrase "tends to show" properly interpreted means that the information in the disclosure "conveyed a suggestion of" an impropriety or conduct that may have taken place or might be continuing. I do not understand the provision itself to include a requirement that what is conveyed must be factually accurate or be the truth. If the employee believes that the information is true it would fortify the reasonableness of his belief from which, in turn, his bona fides can be inferred." (Footnote omitted.)

[35] In line with *Radebe* I need not concern myself with the truthfulness and or accuracy of the allegations.[13] Having concluded that the applicant has made a disclosure, I need to determine whether such a disclosure was *bona fide* or not. Mr Mooki submitted that the applicant was not *bona fide*. I cannot agree. This is not a situation where an employee was acting recklessly and seeking to disparage her employer. She reasonably believed that the respondent was acting improperly. She took the trouble of analysing the records to the extent she could because she reasonably believed that the respondent was acting improperly. As pointed out earlier, her *bona fides* cannot be judged by the accuracy of the allegations. Accordingly, I come to the conclusion that the applicant was *bona fide* in her disclosure thus protected by the PDA.

[12] [2012] (5) SA 100 (LAC); [2012] 33 ILJ 2353 (LAC); [2012] BLLR 1246 (LAC) at para 33. (*Radebe*)

[13] See also *City of Tshwane Metropolitan Municipality v Engineering Council of SA and Another* (2010) 31 ILJ 322 (SCA) at para 42.

[36] In terms of section 1 being dismissed in relation to the working environment of an employee amounts to an occupational detriment.[14] The occupational detriment complained of is the dismissal of December 2012. To the extent that the evidence led by the applicant demonstrates other forms of occupational detriments, such are not before me. This much Mr Van Der Westhuizen conceded. Section 3 of the PDA provides that—

> "No employee may be subjected to any occupational detriment by his or her employer on account, or party on account, of having made a protected disclosure."

[37] Section 187(1) (h) of the LRA provides that contravention of the PDA by the employer, on account of an employee having made a protected disclosure defined in the PDA, amounts to an automatically unfair dismissal. To my mind the text of the section is over embellished. It would have been sufficient to simply provide that contravention of section 3 of the PDA amounts to an automatically unfair dismissal. Nonetheless, it is clear that if an employee is dismissed on account or

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[14] Occupational detriment is defined as follows under section 1 of the PDA:

> ""occupational detriment", in relation to the working environment of an employee, means—
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> (a) being subjected to any disciplinary action;
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> (b) being dismissed, suspended, demoted, harassed or intimidated;
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> (c) being transferred against his or her will;
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> (d) being refused transfer or promotion;
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> (e) being subjected to a term or condition of employment or retirement which is altered or kept altered to his or her disadvantage;
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> (f) being refused a reference, or being provided with an adverse reference, from his or her employer;
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> (g) being denied appointment to any employment, profession or office;
>
> (h) being threatened with any of the actions referred to paragraphs (a) to (g) above; or
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> (i) being otherwise adversely affected in respect of his or her employment, profession or office, including employment opportunities and work security."

partly on account of having made a protected disclosure, such a dismissal is automatically unfair.

[38] For an employee to succeed, an employee must establish a causal link between his or her dismissal and the protected disclosure. Put it differently, an employee must produce evidence sufficient to raise the contravention of the PDA.[15] Once that is done, the respondent bore the onus to prove that the applicant was dismissed for a fair reason.

[39] The respondent alleged in its statement of defence that the applicant was dismissed for misconduct. She was guilty as charged in other words. The evidence of Herbst and De Villiers suggests that the applicant could not have faced disciplinary steps, which led to her dismissal. That being the case, the probabilities are that the dismissal was on account of having made the disclosure.

[40] Closer scrutiny of the charges creates a connection between the disclosure and the charges. As an example, the applicant was charged with having illegally removed a file containing confidential information from a place without permission and following due process. It turned out in evidence that the file in question is that of Lubisi. The applicant's case was that Lubisi was reportable. Clearly she removed that file in order to disclose non-compliance to De Villiers.

[41] Her providing the file to De Villiers was a disclosure, which is protected as she was intending to show the non-compliance. Another charge related to her publication of inaccurate information with an intention to damage the reputation of the Risk Control Department. It turned out in evidence that the said information related to clinical records or files. According to the applicant certain injuries on duty were not recorded properly in order to avoid reporting and also to obtain good NOSA audit ratings. The said information was provided to De Villiers in order to show

[15] See *Kroukam v SA Airlink (Pty) Ltd* (2005) 26 ILJ 2153 (LAC) at paras 27-8.

the alleged manipulation. When she did so she was making a protected disclosure. Dismissing her on account of these two incidents amounts to an automatically unfair dismissal.

[42] I therefore come to the conclusion that the applicant was dismissed for an impermissible reason. Her dismissal is automatically unfair. I now turn to the issue of relief. The applicant did not wish to be reinstated. Therefore, the appropriate relief is that of compensation. Section 194(3) of the LRA caps compensation for automatically unfair dismissal to 24 months. However, compensation ought to be just and equitable. In *State Information Technology Agency Ltd v Sekgobela*,[16] the LAC dealing with a 24 months compensation issue said the following:

> "Insofar as the relief is concerned, the appellant has argued that this was excessive. I do not agree. The PDA is a piece of legislation that addresses a critical area in the sphere of public finance and accountability. It is a piece of legislation that addresses the important constitutional objectives of clean government and service delivery. Public entities have to be scrutinized in terms of their dealings to ensure that they deliver to the general public in terms of the mandate."[17]

[43] I am acutely aware that I am not dealing with a public entity in *casu*. However, I have come to the conclusion that the PDA was contravened. In terms of the preamble of the PDA, the following is recognised:

> "Criminal and other irregular conduct in organs of state and private bodies are detrimental to good, effective, accountable and transparent governance in organs of state and open and good corporate governance in private bodies and can endanger the economic stability of the Republic and have the potential to cause social damage."

[16] [2012] ZALAC 16; [2012] 10 BLLR 1001 (LAC); (2012) 33 ILJ 2374 (LAC).

[17] Id at para 34.

[44] It must then follow that the sentiments echoed by the LAC *supra* apply with equal force to private bodies like the respondent. Also I bear in mind that the respondent dismissed the applicant for an impermissible reason. Such brings to the fore the punitive component.[18] I am also convinced that the applicant was seriously humiliated when in truth she was attempting to act in the interest of the respondent.[19]

[45] Accordingly, I come to the conclusion that it will be just and equitable to award compensation equivalent to 24 months' remuneration. I now turn to the issue of costs. Both parties submitted that costs should follow the results. I pause and mention that I have consistently warned the parties that there was an unnecessary accumulation of costs. The loosing party will suffer as a result. I therefore agree with the parties that the costs must follow the results.

<u>Order</u>

[46] In the results, I make the following order:

1 The dismissal of the applicant is automatically unfair.

2 The respondent is to pay the applicant an amount of **R552 000.00** (Five hundred and fifty two thousand rand only) being an equivalent of 24 months remuneration at the rate of **R23000.00** (Twenty three thousand rand only) per month.

3 The respondent is to pay the costs of the applicant.

GN Moshoana

Acting Judge of the Labour Court of South Africa

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[18] See *CEPPWAWU and Others v Glass and Aluminum* 2000 CC (2002) 23 ILJ 695 (LAC).

[19] See *Minister for Justice and Constitutional Development v Tshishonga* (2009) 9 BLLR 862 (LAC) at para 18 and *ARB Electrical Wholesalers (Pty) Ltd v Hibbert* (2015) 36 ILJ 2989 (LAC) paras 21-3.

Appearances

For the Applicant:	Adv G L Van Der Westhuizen
Instructed by:	MacRobert Attorneys, Brooklyn, Pretoria
For the Respondents:	Adv O Mooki
Instructed by:	Norton Rose Fulbright SA, Sandton