

REPUBLIC OF SOUTH AFRICA



**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

CASE Number: 2023/096885

(1)	REPORTABLE: NO
(2)	OF INTEREST TO OTHER JUDGES: NO
(3)	REVISED: NO
15 AUGUST 2025	

In the matters between:-

JOHANNES PAUL STRIKE DZUMBA

Applicant

and

THE MINISTER OF DEFENCE AND

MILITARY VETERANS

First Respondent

SOUTH AFRICAN MILITARY OMBUD

Second Respondent

CHIEF OF SOUTH AFRICAN NATIONAL

DEFENCE FORCE

Third Respondent

SURGEON GENERAL

Fourth Respondent

JUDGMENT

H F JACOBS, AJ

[1] The applicant is a staff sergeant in the South African Military Health Service. He applies for an order reviewing and setting aside a finding by the second respondent (the Military Ombud) dismissing his complaint regarding his promotion and remustering under section 6(7)(a) of the Military Ombud Act, 4 of 2012 ("the Ombud Act"), as well as an order that the applicant must be remustered from the Military Support Operation to Human Resources, as approved by the Surgeon General, and that he be promoted to Warrant Officer 2; alternatively, he requests that "*the matter be referred back to the*" Military Ombud for a fresh investigation under section 4 of the Ombud Act.

[2] Both respondents oppose the application and seek its dismissal. The first respondent seeks no costs order against the applicant, but the second respondent does.

[3] The applicant appeared in person before me. Much court time was spent on giving the applicant an opportunity to present his case. In the replying affidavit, he seems to assume that he is free to broaden the scope of his challenge beyond what is stated in his notice of motion. I limit myself to the challenge outlined in the applicant's notice of motion.

[4] Paragraph 1 of the notice of motion seeks the "remustering" of the applicant and his "promotion." Remustering is a military term used here for transferring a military employee from one division or core to another, specifically from the Military Support Operation to Human Resources. The applicant initiated this application around September 2023. In February 2024, approximately four months after the application was filed, the applicant was remustered, as shown in annexure "AA1" to the first respondent's answering affidavit, which the applicant has simply denied in reply. I find,

as I must, that the respondents have presented facts in their answering affidavit which I should accept and base my decision on, illustrating that the applicant was indeed remustered as claimed and that the relief concerning his remustering is now moot.

[5] As far as the promotion of the applicant is concerned, the following is relevant. In paragraph 18 of the first respondent's answering affidavit, the first respondent refers to the applicable promotion policy to which the applicant is subject. The first respondent explains that after the applicant was remustered from Military Support Operator to the Human Resources department, as stated in the first respondent's letter to that effect dated 16 February 2024 (annexure "AA1" referred to above), the applicant (like all other employees of the respondents) became subject to the promotional policy of members of the South African National Defence Force, dated 9 April 2001 (annexure "AA4" to the first respondent's answering affidavit). The policy document, which I do not quote in this judgment to any extent, expressly provides that for a promotion to be considered, there must be a suitable vacancy that is authorised and funded. The availability of a promotional position for the promotion of a staff member makes common sense and appears to be entirely rational.

[6] In his replying affidavit, the applicant denies the assertion of the first respondent and maintains that the policy document in question is not the only document required for adjudicating his case. He refers to several exceptions listed in the policy document. I could not find any reference or reliance by the applicant in his founding papers on the exceptions he raises in reply. The applicant chose not to mention the promotion policy document (he does not challenge the existence of the document or its date at all) in his papers.

[7] Under the circumstances, the applicant has failed, in my view, to demonstrate that he was treated differently from what is outlined in the policy

document used by the respondents regarding promotions within the South African National Defence Force.

[8] The applicant asserts, referencing numerous provisions of the Promotion of Administrative Justice Act of 2000, that he has been treated unfairly and in a manner inconsistent with the applicable legal principles. In my opinion, the applicant has not met that burden, and his application for review and to set aside the decision, as specified in his notice of motion, must fail.

[9] I have been informed by counsel for the first respondent that no order for costs will be sought against the applicant. Counsel for the second respondent requested an order of costs in favour of the second respondent. In my view, costs should follow the event, and the allegations made by the applicant against the respondents do not justify him not being liable to pay the costs of this application.

[10] Under the circumstances, I make the following order:

The application is dismissed, and the applicant is ordered to pay the second respondent's costs on scale B.



H F JACOBS
ACTING JUDGE OF THE HIGH COURT
GAUTENG DIVISION, PRETORIA

Delivered: This judgment was issued electronically by circulation to the parties' legal representatives via e-mail. The date and time for the delivery is on 15 August 2025 at 10:00.

DATE OF HEARING: 12 AUGUST 2025

DATE OF JUDGMENT: 15 AUGUST 2025

APPERANCES

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