



THE LABOUR COURT OF SOUTH AFRICA, CAPE TOWN

Not Reportable

Case No: 2025-140928

In the matter between:

LANDILE BENGANE

Applicant

and

DEPARTMENT OF STATISTICS SOUTH AFRICA

Respondent

Heard: 27 August 2025

Date of Judgment: This judgment was handed down electronically by circulation to the parties' legal representatives by email, publication on the Labour Court website and release to SAFLII. The date and time for handing down judgment is deemed to be 10h00 on 29 August 2025.

JUDGMENT

DE KOCK, AJ

Introduction

- [1] This matter comes before the court as an urgent application in which the applicant seeks a variety of different forms of relief. Before addressing the relief that is sought, it is necessary to briefly refer to the previous two occasions when the application was heard by this court. The application was firstly enrolled by the applicant, via case lines, for 20 August 2025. The allocation of a court date, as this court understands, is now left for applicants to determine. The application was heard by Gandidze J and was struck off the roll due to lack of a service affidavit.
- [2] The applicant, thereafter, loaded a service affidavit onto case line and enrolled the application for 22 August 2025. On 22 August 2025, Gandidze J again heard the application. This time the application was struck from the roll due to a lack of urgency. The court understands this second order to relate to the applicant's failure to comply with section 68(2) of the Labour Relations Act¹ (LRA) in that the applicant failed to give at least 48 hours' notice and not that the application was struck from the roll after a consideration of the requirement to show urgency in terms of Rule 38 of the Labour Court Rules.
- [3] The applicant then, for the third time, enrolled the application for 27 August 2025. The court informed the applicant that the second order will be accepted as relating to non-compliance with section 68(2) and not that an order was made in respect of urgency in respect of Rule 38, and the applicant was invited to address this court on why the relief sought by him is urgent.

Relief sought

- [4] The applicant seeks the following relief:
- a. Directing the respondent to release the "re-called" salary of 15th August 2025 with immediate effect.

¹ Act 66 of 1995, as amended

- b. Directing the respondent to pay all the deductions deducted from the month November 2024 till to date that were deducted from the salary of the applicant with interest and with immediate effect.
 - c. Directing the respondent to pay the June 2024 salary with interest.
 - d. Directing the respondent to implement accelerated grade progression effectively as from 2020.
 - e. To interdict the respondent to continue with envisaged suspension and disciplinary hearing process in respect of Protected Disclosure.
- [5] The applicant agreed during submissions made in court, and after this court explained the requirement of urgency and what urgency entails, that the urgent relief that he seeks is in relation to the recall of the 15 August 2025 salary. The court explained why the remaining relief sought cannot be regarded as urgent, and in respect of interdicting the suspension and disciplinary hearing, that the applicant must follow the normal procedures provided for in the LRA. The court will therefore only address the urgency with reference to the recalled 15 August 2025 salary.

Urgency

- [6] The court, having considered the applicant's submissions, finds that the application could possibly be regarded as urgent in relation to the recall of the 15 August 2025. The applicant acted with haste in approaching the court after the recall of the salary. However, even if the requirement of urgency has been met, that does not lead to the conclusion that the application must be heard on an urgent basis. The applicant must also show that there is no other alternative relief available, and that he will suffer irreparable harm should the order not be granted.

Alternative remedy

- [7] This court is unable to find that the applicant does not have any alternative remedy available to him. In the event of non-payment of a salary, all employees have the right to pursue a contractual claim either via the CCMA, bargaining council having

jurisdiction, Labour Court or the High Court. There is no reason why such a claim must be determined on an urgent basis, as should this be allowed, it will open a floodgate of urgent applications before this court. There must be an imminent threat of danger, or irreparable harm directly linked to the recall of the salary failing which this court cannot entertain the urgent application.

Irreparable harm or imminent danger

[8] The applicant has failed to show that he will suffer irreparable harm if the urgent application is not granted. The applicant cannot skip the que, so to speak, and seek urgent relief in respect of the non-payment, or as it is referred to in this application the recall of the 15 August 2025 salary. This court understands the applicant's frustrations regarding the recall of the 15 August 2025 salary. However, the requirements for urgent applications must be met before this court can assist the applicant and, in this case, the applicant failed to meet the requirements to obtain final interdictory relief in respect of the recall of the 15 August 2025 salary. In any event, as it stands, it was not the full salary that was recalled, but certain deductions made. The applicant is entitled to approach this court on a contractual dispute regarding any alleged unlawful deductions made from his salary. This court is not on a position to find that the applicant has made out a clear case in respect of the unlawful of the deductions.

[9] In the premises, the following order is made:

Order

1. The application for final interdictory relief is dismissed.
2. The applicant may institute legal proceedings in terms of the Rules of this court to challenge the deductions from his 15 August 2025 salary.
3. No order is made as to costs.



C. de Kock

Acting Judge of the Labour Court of South Africa

Appearances:

For the Applicant:

L Bengane

For the Respondent:

No appearance