IN THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

Not Reportable

Case No: 2025-183690

In the matter between:

NORAH MOKGADI LION **APPLICANT**

and

DEPARTMENT OF INFRASTRUCTURE DEVELOPMENT: GAUTENG PROVINCE **FIRST RESPONDENT**

HEAD OF DEPARTMENT: DEPARTMENT OF INFRASTRUCTURE DEVELOPMENT: GAUTENG PROVINCE **SECOND RESPONDENT**

ADV RAMIN RAM SC N.O **THIRD RESPONDENT**

GENERAL PUBLIC SERVICE SECTOR BARGAINING COUNCIL **FOURTH RESPONDENT**

Heard: **09 October 2025**

Delivered: **This judgment was handed down electronically by uploading on *Caselines*; circulation to the parties' legal representatives by email, and publication on the Labour Court's website and *SAFLII*. The date for hand-down is deemed to be on 16 October 2025.**

JUDGMENT

TLHOTLHALEMAJE, J

Introduction:

[1] In *Passenger Rail Agency of South Africa and Others v Ngoye and Others(Ngoye)*[1], the Labour Appeal Court (LAC) had observed that it had become commonplace, mostly for white-collar employees, to challenge their dismissals or disciplinary action initiated by their employers, on the basis of unlawfulness and/or breach of contract, rather than to dispute the fairness of the employer's action. This matter before the Court on an urgent basis is yet another example.

[2] The Applicant is currently in the employ of the First Respondent (Department) in the position of Chief Financial Officer (CFO). She seeks a variety of orders including interdicting the continuation of a disciplinary hearing scheduled from the 6 - 10 of October 2025 as well as on 13 - 14 November 2025, pending the finalisation of referral of a dispute under section 188A (11) of the Labour Relations Act (LRA)[2] before the Fourth Respondent (GPSSBC). The dispute is set down for hearing before the GPSSBC on the 24 October 2025.

[3] Where the interdict is not granted, the Applicant seeks an order declaring the disciplinary hearing to be an unlawful process, and in addition, that her suspension since 04 March 2024 had automatically lapsed under the provisions of clause 8.13 of the Directive on Discipline Management in the Public Sector (Directive), and that the Department's decision to place her on extended precautionary suspension from 15 August 2025, was irregular, unlawful, invalid and ought to be set aside. She also seeks that she be *reinstated* into her position with immediate effect.

[4] Notwithstanding the legal basis upon which the primary relief was sought, in the Applicant's Practice Note, the Court is called upon to determine whether the Department's decision of August 2025 to extend her suspension is *unlawful* and *unfair*.

[1] (JA78/21) [2024] ZALAC 18; (2024) 45 ILJ 1228 (LAC); [2024] 7 BLLR 706 (LAC); 2025 (2) SA 556 (LAC) at para 1
[2] Act 66 of 1995

[5] Clearly from a mixed bag of orders sought and the pleadings, different causes of action arise as well as different remedies applicable in each instance. In *Baloyi v Public Protector and Others*[3], which was also referred to in *Ngoye*, it was held that the same set of facts may give rise to several different causes of action. However, the Constitutional Court emphasised that a litigant must choose the cause of action she wishes to pursue and prepare her pleadings accordingly[4].

[6] In line with the above principle, and to the extent that the Applicant in this case had relied on both the alleged unfairness and unlawfulness of the Department's conduct in subjecting her to disciplinary measures, the Department was correct in raising the fact that it was entitled to know which case was pleaded which it had to meet, and the conflation of the two causes of action with different remedies, *albeit* they arose from a single or continuous conduct of the Department complained of, did not assist it in meeting the Applicant's case. The Court will not elaborate further on this issue, as primary to this application is whether it deserves urgent attention.

Background:

[7] The background to this application is fairly common cause. To the extent that the Department disputed the urgency of the matter and the failure to meet the requirements of relief sought, the following timeline and events are material;

7.1 On 20 November 2023, the Applicant lodged a formal grievance against the former HOD (Mr Mutlwaneng). The grievance was lodged with the Gauteng Member of the Executive (MEC) and Premier of Gauteng. The grievance, which the Applicant subsequently deemed to be a protected disclosure under the Protected Disclosure Act (The PDA)[5], mainly related to the performance of her responsibilities.

7.2 On 4 March 2024, the Applicant was placed on paid precautionary suspension pending investigations into broad allegations of misconduct

[3] CCT03/20) [2020] ZACC 27; 2021 (2) BCLR 101 (CC); [2021] 4 BLLR 325 (CC); (2021) 42 ILJ 961 (CC); 2022 (3) SA 321 (CC)
[4] At para 38
[5] Act 26 of 2000

against her. The initiation of the investigations was at the behest of Mutlwaneng, against whom the Applicant had lodged a grievance.

7.3 The Applicant contends that since the precautionary suspension lapsed as at 5 May 2024 in accordance with the provisions of clause 8 of the Directive on Discipline Management in the Public Sector[6], she ought therefore to have been reinstated into her position.

7.4 On 1 November 2024, the Applicant was furnished with a 'charge sheet' which outlined numerous allegations of misconduct against her. The appointment of the Third Respondent as Chairperson of the Disciplinary enquiry was confirmed on 11 November 2024. A pre-hearing was held on 12 November 2024, and the hearing had commenced in earnest from 20 January 2025.

7.5 On 15 August 2025, and whilst the disciplinary enquiry was ongoing, the Department had extended the Applicant's precautionary suspension. That extension had followed upon the Applicant's attorneys' correspondence of 13 August 2025, in which she had contested her prolonged suspension and indicated her intention to report for duty on 18 August 2025. It was added that should the Department prevent the applicant from resuming her duties, an urgent application would be brought and a punitive cost sought.

7.6 It is common cause that notwithstanding the Applicant's failure to mention in the founding affidavit, she had indeed on or about 22 August 2024, launched an urgent application before this Court. In that application, she had sought a declaratory order that her suspension on March 2024 had automatically lapsed; that the decision of the Department to extend her precautionary suspension on 15 August 2025 was irregular, unlawful, invalid and to be set aside. That application was struck off the roll on 4

[6] Clause 8 of the Directive (**MANAGEMENT OF PRECAUTIONARY SUSPENSIONS**) provides:

8.10 The disciplinary inquiry must be commenced strictly within a month or 60-days of the suspension, which days are counted from the date after the employee received the suspension letter.

8.13 In cases where, at 60-days, a hearing is not scheduled to consider the continuation of such suspension, the precautionary suspension falls away, and the employee must be permitted to return to the workplace.

September 2025, on account of lack of urgency. The applicant has not re-enrolled that matter on the ordinary roll, nor is that application withdrawn.

7.7 On the Sunday of 24 August 2025, the Applicant through her attorneys sent an attached notification of a hearing scheduled before the GPSSBC on 24 October 2025, following her referral and a request for an enquiry by an Arbitrator under section 188A(11) of the LRA.

7.8 On 26 August 2025 at the continuation of the disciplinary hearing, the Applicant's then Counsel brought an application before the Chairperson to halt the proceedings pending the determination of the referral before the GPSSBC. The Chairperson had refused to grant a postponement in a ruling issued on 22 September 2025.

Urgency:

[8] The urgent application before the Court was launched on the Saturday of 4 October 2025. Notwithstanding the fact that the Applicant had enrolled the matter for a hearing on 7 October 2025, it appears that she and her legal team had attended and participated in the disciplinary enquiry on 6 and 7 October 2025. The application however came before the Court on 8 October 2025.

[9] The application was launched via an email sent to the Chairperson and the Department. That application had no case number and was thus not issued by the Registrar of this Court. It was nonetheless enrolled for 7 October 2025. In the Notice of Motion, the Applicant required of the Department to file its Notice of Intention to Oppose on the same day, and to file an answering affidavit the following day by no later than 16h00.

[10] It was averred on behalf of the Department that it was not aware of the application until on 6 October 2017 at the disciplinary hearing. It was further averred that the Applicant or her attorneys even failed to say anything to the Department or the Chairperson about the application at the disciplinary enquiry held on 6 October 2025.

[11] The Department had then filed a notice of intention to oppose (without a case number), on 6 October 2025 at about mid-day. The matter was however not heard on 7 October 2025 as enrolled by the Applicant. On 7 October 2025, and during the disciplinary enquiry proceedings, the Department was then informed via email from this Court that the urgent application will be heard on 8 October 2025. At the time, however, the application had not been uploaded on *Caselines.*

[12] The Department is correct in contending that the initiation of this application was not in compliance with Rules 38(1) read with 35(4), to the extent that at the time that it was purportedly served, it had no case number assigned by the Registrar of this Court. Worst still however, was the non-compliance with the Directives issued by the Judge-President of this Court requiring the uploading of urgent matters on *Caselines*[7]. Equally so, the basis of the truncated time periods set by the Applicant is unclear. Thus it is not known why the applicant had not only filed the application on a Saturday and requiring responses on that day and an answering affidavit the following day by merely sending an email. The affidavit of proof of service in all instances requires of a serving party, to at least on a minimum, indicate not only that the email was sent but that the recipient had telephonically confirmed receipt of the urgent application.

[13] Other than the truncated time periods which on the facts could hardly be justified, and upon which the Department sought a cost order, central to its opposition to this application and in the light of the background as set out in this judgment, is that it lacked urgency. It was further submitted that the Applicant has not satisfied the requirements of the relief she seeks. The latter ground of opposition will only be considered by this Court if the Applicant surmounts the hurdle on urgency.

[14] The requirements to be met when urgent relief is sought are trite emanating from now familiar authorities[8]. Under Rule 38 of the Rules of this Court, an

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[7]Clause 3 of Directive 01 of 2025: Implementation of Court Online Electronic Platform in the Labour Court (Effective from 4 April 2025)

[8] See *Jiba v Minister: Department of Justice and Constitutional Development and Others* (2010) 31 ILJ 112 (LC) at para 18; *Tshwaedi v Greater Louis Trichardt Transitional Council* [2000] 4 BLLR 469

applicant seeking urgent relief must in her founding affidavit, set out the reasons for urgency; why urgent relief is necessary; and the reasons why the requirements of the rules were not complied with. Aligned to these requirements is that an applicant cannot claim urgent relief, where on the facts and circumstances of the case, it is apparent that the urgency claimed is self-created. Further considerations the Court must take into account are the interests of the respondent party, and any prejudice it may suffer if the matter is disposed of on an urgent basis.

[15] Equally so, an applicant must also explicitly advance the reasons why it claims that it will not be afforded substantial redress in due course if it had brought the matter to Court by way of an ordinary non-urgent procedure. The question of whether a matter is sufficiently urgent to be enrolled and heard as an urgent application is underpinned by the issue of the absence of substantial redress in an application in due course. The court upon a consideration of all these interlinked factors, will in the end, exercise its discretion in determining whether the matter deserves its urgent attention.

Grounds for urgency:

[16] Against the background and timelines set out in this judgment, the basis upon which the applicant claims that the matter is urgent, is the pending referral before the GPSSBC under section 188A (11) of the LRA, which is to be heard on 24 October 2025.

[17] It will be recalled that the referral was made on 24 August 2025. This is in circumstances where her grievance was lodged on 20 November 2023; her initial precautionary suspension was effected with effect from 4 March 2024; where she has since been served with a notice outlining numerous allegations of misconduct against her, and further where the disciplinary enquiry had commenced in earnest at least since January 2025.

(LC) at para 11; *Dynamic Sisters Trading (Pty) Limited and Another v Nedbank Limited* [2023] ZAGPPHC 709 (21 August 2023); *Luna Meubel Vervaardigers v Makin and* Another 1977 (4) SA 135 (W) at 136H-137F).

[18] As things stand, the only basis of the protective disclosure is the grievance, which has since transformed into a protected disclosure. It is trite that a urgency is triggered by any harm suffered or anticipated by a litigant. It follows that the necessary haste is required in preventing that harm from taking place, or if it had already occurred, to stop its continuation. Thus, to the extent that the protected disclosure is the basis of the urgency claimed, that urgency could not have arisen when the precautionary suspension was extended on 15 August 2025, or when the GPSSBC set down the referral for a hearing.

[19] It was contended on behalf of the Applicant that upon the extension of the precautionary suspension, the Applicant's attorneys of record had sent correspondence to the Department informing it that the initial suspension had lapsed and that the extension was null and void, and further that should she not be permitted to return to work, an urgent application would be brought. The urgent application brought in that regard was struck off the roll on account of lack of urgency. Thus far, and until the referral to the GPSSBC, central to the Applicant's consistent complaints had been her suspension and its extension.

[20] The point being made is that since the applicant had made her alleged protected disclosure on 20 November 2023, at the very least, her initial suspension on 4 March 2024 ought to have triggered any urgency. This is so in that from a mere reading of the definition of *'occupational detriment'* under section 1 of the PDA and in relation to the working environment of an employee, this include being subjected to any disciplinary action, which ordinarily would include any form of suspension, let alone being subjected to a disciplinary enquiry.

[21] If the initial suspension did not compel the Applicant to approach the Court on an urgent basis, the next available opportunity was to do so immediately upon being served with a notice to attend a disciplinary enquiry and a charge sheet on 01 November 2024. She knew that the disciplinary hearing was to commence on 12 November 2024, and had in fact participated in it. This was despite the fact that the enquiry was a stop-start affair as a result of numerous postponements, and the Applicant's change of representatives (including

attorneys, counsel and union officials), on no less than eight occasions during the hearing since it started. Added to the delays were numerous requests for discovery of documents and other requests as and when new representatives came on record.

[22] The Applicant only approached this Court for urgent relief on 4 October 2025. This is in circumstances where the alleged protected disclosure was made in November 2023 and where she was suspended on 4 March 2024. Given the alleged urgency, the applicant on the facts, endured the alleged harm and occupational detriment for over a period of one year and seven months. Any explanation for the delay in approaching the Court at this belated stage, is in my view contrived and self-serving.

[23] What is even more of a red-herring is the Applicant's contention that the urgency further arose after the Chairperson's ruling of 22 September 2025. The Applicant regards that ruling as '*critical and the pivotal event'* that had necessitated this application. This according to the Applicant, was because the Chairperson had mentioned in his ruling that only the Court could stop the disciplinary hearing.

[24] The issue which the Chairperson had to consider was whether to postpone the disciplinary hearing pending the determination of the referral before the GPSSBC. Significant with the Chairperson's ruling, which is well-reasoned, is that it was pointed out that the Applicant had not satisfied the jurisdictional elements of demonstrating that indeed she had made a protected disclosure. The chairperson had questioned the Applicant's bona fides in view of the timing and absence of absence of any explanation as to the reason the referral was only made on 25 August 2025 which is one (1) year and ten (10) month after she had lodged her grievance on 23 November 2023. This was notwithstanding the fact that the disciplinary hearing had commenced on 20 January 2025 , and subsequent days thereafter.

[25] In view of the Chairperson's observations as above, if the Applicant could not explain the delay in referring the dispute to the GPSSBC at the time a postponement of the enquiry was sought, neither could she do so for the

purposes of urgent relief in this Court. Worst still, the Chairperson was correct in pointing out that if he refused a postponement of the hearing, it was for the Applicant to approach this Court. The Chairperson could not have created any urgency by informing the applicant and her legal team of an obvious legal fact in the light of his ruling. In a nutshell, reliance on the Chairperson's ruling and when it was issued is clearly not a basis for urgent relief.

[26] It is strange that since the Applicant's initial suspension on 4 March 2024 and the commencement of the disciplinary enquiry into October 2025, she had not once raised the issue of protected disclosure, other than through her referral. Prior to then, she had participated in the disciplinary enquiry through her various representatives, and as I understood from the facts, the Department had called no less than six witnesses over the period since the enquiry started. It is safe to conclude that given the timing of the referral and prolonged participation of the Applicant in the on-going disciplinary enquiry, the alleged protected disclosure and the referral to the GPSSBC is a ruse and an afterthought. It is not even necessary for this Court to deliberate on the merits of the alleged protected disclosure.

[27] The Applicant further sought to rely on a change of her legal team on 9 August 2025 and the withdrawal of her counsel on 30 September 2025, in failing to approach the Court timeously. She also blamed the delay on the Department to discover documents required. It was further submitted that the delays were as a result of attempts by the Applicant to resolve the matter on 25 September 2025.

[28] It has already been stated that throughout the disciplinary hearings, the Applicant had changed legal or other representation on no less than eight occasions. This was between 12 November 2024 when the disciplinary enquiry initially commenced, and into October 2025. This represents a change of representatives at least once a month on average. Of course the Applicant is within her rights to secure representation that best serves her interests. In the same token however, the interests of the Department to have the disciplinary enquiry finalised given its financial impact (fees for its attorneys and the Chairperson, let alone time off taken by witnesses from their daily

jobs), had to be taken into account. A change of legal representatives can clearly not be a basis of granting urgent relief in this case.

[29] In equal measure, the issue surrounding the Applicant's attempts to resolve the dispute is a red herring. The mere fact that the Applicant had referred a dispute to the GPSSBC did not imply that the Department had to negotiate any attempts to resolve the matter or the request to postpone the disciplinary hearing.

[30] The contention on behalf of the Applicant that urgency also arose from the improperly convened disciplinary hearing in view of the initial suspension having lapsed is also without merit. To reiterate, the initial suspension of 4 March 2024 had in accordance with clause 8.10 of the Directive, lapsed on 5 May 2024. At the very least, the issue of delays in convening the hearing ought to have been raised in November 2024 when it commenced. Any urgency could not have arisen after the continuation of the disciplinary enquiry and the extension of the suspension in August 2025.

[31] Equally without merit is the contention that the Department caused delays in not providing the documents requested. This contention however came about in circumstances where it was not in dispute that the Applicant had over the duration of the disciplinary enquiry, consistently made requests for further documents and was provided with same. Even then, it is not specified which discovery would have been important for the purposes of this urgent application. If the alleged failure to respond to a request for discovery related to the referral before the GPSSBC, it is not clear what that discovery entailed, that would have impacted on the timeous bringing of this urgent application.

[32] Further without merit is the Applicant's contention that imminent prejudice will flow from the continuation of the disciplinary hearing, and that if application is not accorded urgency, she will be compelled to participate in a disciplinary process which she alleged in good faith constitutes an "occupational detriment" in violation of the PDA. Elsewhere in this judgment, conclusions have been made in regard to any urgency arising out of the alleged "occupational detriment", and no more need be said in regard to these

contentions other than that she had since November 2024, endured the alleged prejudice.

[33] The Applicant's contentions that her rights of access to court, fair labour practices, and *audi alteram partem* will be undermined are equally far-fetched. The right to access to Court, especially to the urgent Court, is not unfettered. This is so in that the urgency must be pleaded and demonstrated, against the established legal principles already outlined somewhere in this judgment. Equally so, her right to *audi alterem partem* remains extant, starting with subjecting herself to the on-going disciplinary process and finalising it. Where she would be aggrieved with the outcome, her right to approach the bargaining council remains extant. This is even more so since notwithstanding her pleadings being littered with allegations of unlawfulness, she nonetheless ultimately seeks a reinstatement within the framework of the LRA. On that note, it is not even necessary to deliberate on the issues of fairness and unlawfulness as simultaneously pleaded in her papers. This is so in that given the timelines as repeated throughout this judgment, it follows that reliance on all the grounds raised by the Applicant in claiming urgency are without merit. On the opposite end, the timeline clearly points to a classic case of self-created urgency, which by all accounts is fatal to this application.

[34] As to whether the Applicant will not be able to obtain substantial redress at the hearing in due course is an issue which is curiously not even addressed with any clarity under the rubric of 'Reasons for urgency' in the founding affidavit. In *East Rock*[9], it was held that the question of whether a matter is sufficiently urgent to be enrolled and heard as an urgent application is underpinned by the issue of absence of substantial redress in an application in due course. Thus, the rules allow the court to come to the assistance of a litigant because if the latter were to wait for the normal course laid down by the rules, it will not obtain substantial redress.

[35] The Applicant cannot by any stretch of imagination allege that she will be deprived of substantial redress in due course. This is so in that she is currently in the employ of the Department and receiving her salary. She is or

[9] *supra*

is supposed to go through the disciplinary enquiry, wait for its finality and then take the matter further if she is aggrieved by its outcome.

[36] In the end, with this self-created urgency, the applicant conveniently forgets that substantial redress can be obtained at a later stage through the purpose-built dispute resolution mechanism in Chapters VII and VIII of the LRA. That is to the extent that the end results of the disciplinary proceedings may be unfavourable to her. If in the end her services are terminated more specifically since she held a view that she had made a bona fide protected disclosure, the provisions of section 187(1) (h) of the LRA is an avenue to obtain substantial redress.

[37] There is nothing spectacularly unique and exceptional about the facts of her case. Like all employees, she is subject to management's prerogative to call her to answer to allegations of misconduct in a disciplinary processes. It is not for this Court, let alone on an urgent basis, to wily-nilly interfere with that prerogative. This is particularly so in such cases, where the Applicant had been supine during prolonged periods of a paid suspension, and only to wake up when the disciplinary process is at a stage where she is about to give testimony against the allegations of misconduct.

[38] All that can be said is that there is no basis upon which it can be said that the applicant had set out forth in his founding papers, the facts and circumstances that make the matter urgent, nor has she demonstrated that she will not obtain substantial redress in due course. Equally so, the applicant has not acted with the necessary expedition in approaching the court, in order to prevent any alleged harm.

[39] Of course the issue of prejudice and the interests of the parties in such cases play a role. It is in the interests of the Municipality to find finality in the matter. The applicant cannot complain of any prejudice in circumstances where she continues to be on paid precautionary suspension, and where her every effort at frustrating the finalisation of the disciplinary enquiry is unsuccessful. Against these conclusions, it follows that this application ought to be struck off the roll.

Costs:

[40] The Department had asked that the application be dismissed with costs either *de bonis propiis* or on attorney and client scale. It can only be repeated that this Court has consistently rebuked litigants, especially those who occupy senior positions and with deep pockets, to refrain for bringing urgent applications which ought not have burdened the Court's urgent roll in the first place. In most instances that such matters are on the urgent roll, the familiar pattern is to raise spurious grounds and allegations of unlawfulness, with the primary purpose of either stalling or completely putting an end to internal disciplinary hearings. Sadly, notwithstanding punitive cost orders being made against such litigants, these types of cases continue to over-burden the urgent roll.

[41] What makes this case even more worrisome and almost daring, is that a similar application, in which the suspension of the Applicant was challenged, was before this Court a month preceding the one in *casu.* That application was struck off the roll with no order as to costs. One would have expected the applicant and her legal team to have taken a cue from the previous application that the second one would meet the same fate. Clearly this was not the case.

[42] It is trite that this Courts has a discretion upon the consideration of law and fairness, to make cost orders, taking into account the unequal power relationship between employees and employers. In *Member of the Executive Council for Finance, Kwa Zulu Natal v Dorkin NO*[10], the Constitutional Court said that in making decisions on costs orders, a fair balance should be struck between not to unduly discourage workers, employers, unions and employers organizations from approaching the Labour Court to have their disputes dealt with, and being burdened with frivolous cases that should not have been brought in the first place. This application falls into the latter category.

[43] Inasmuch as it is appreciated that litigants are entitled to access to justice and the Court, this application however represents an abuse of Court process and

[10] 2008 (29) *ILJ* 1707 (CC)

upon a consideration of law and fairness, it is deserving of a punitive costs order.

[44] In *Vermaak v MEC for Local Government & Traditional Affairs, Northwest Province & Others(Vermaak)*[11], it was held that;

> *"…The scale of attorney and client is the highest scale possible that a litigant can be ordered to pay. It is an extraordinary one which should be reserved for cases where there is clearly and indubitably vexatious and reprehensible conduct on the part of a litigant The nature and reach of such an order has been described as "exceptional, very punitive and as indicative of extreme opprobrium." The learned authors of Erasmus Superior Court Practice list various circumstances in which the courts have, over the years, awarded costs on an attorney and own client scale. One of the instances is where a party's conduct has been found to be "unconscionable, appalling and disgraceful". See also Sentrachem v Prinsloo where it was reiterated that an award of attorney and own client costs had to be seen as an attempt by the Court to go one step further than an ordinary order of costs between attorney and client so as to ensure that the successful party was indemnified with regard to all reasonable costs of litigation, and that it was an extraordinary order which could not be made without good reason."*[12]*(Internal citations omitted)*

[45] It was reiterated in *Baloyi*[13] that the purpose underlying costs is to indemnify the successful litigant against the expenditure incurred as a result of having been unjustly compelled to either initiate or to defend litigation.

[46] In this case, the abuse already pointed out was further compounded by the manner with which the application was brought before the Court, without any due regard to Rules 38(1) read with 35(4). The Directives issued by the Judge-President pertaining to uploading of matters on *Caselines* were completely ignored. The manner of service of the application over a weekend without even obtaining a case number from the Registrar was improper. The truncated time periods for the filing of opposing papers were unreasonable. This was a classic case of litigation by stealth, and it was compounded by the

[11] (JA15/2014) [2017] ZALAC 2 (10 January 2017)
[12] At para 13
[13] At para 51

failure of the Applicant’s legal team on 6 October 2025 to even mention the urgent application to the Department when the disciplinary hearing had convened on that day, and when the matter was enrolled in Court for the following day.

[47] The mere fact that the matter was re-enrolled to be heard on 8 October 2025 does not detract from the fact that the Applicant’s legal team lacked common and professional courtesy to warn the Department’s legal team of the application served over a weekend. Even on 8 October 2025, the matter could not be heard and had to be postponed to the following day, as the papers were not properly uploaded on *caselines* coupled with the fact that the answering affidavit was filed a few hours prior to the hearing. As at 9 October 2025 when the matter was heard, the Applicant, notwithstanding the postponement, had not despite the alleged urgency, uploaded the replying affidavit on *caselines*. This was only done after the matter was heard.

[48] The Court has already concluded on the self-created nature of this application and its frivolous nature. The conduct of the applicant and her legal team when bringing this application before the Court and the prejudice it had caused the Department cannot be discounted. Clearly the Department was placed under undue pressure to meet the unreasonable time periods set by the Applicant, and thus compelled to oppose this application. This application was equally ill-considered in view of the Applicant’s previous and similar application having been struck off the roll. Worst still, the issues surrounding unlawfulness of the suspension ought not to have burdened this Court as they were pending in the application that was initially struck off the roll. That application was neither enrolled on the ordinary roll nor withdrawn. The Applicant however appears to have sought to downplay its significance, as this application was brought as if the first did not exist.

[49] Against the above observations and conclusions, it follows that a consideration of law and fairness, dictates that the Applicant be mulcted with costs on attorney and client scale, as the conduct in bringing it, falls squarely within the type that was described in *Vermaak*. Any employment relationship

between the parties as it exist, cannot absolve the Applicant from the consequences of equally abusing that relationship.

[50] Accordingly, the following order is made;

Order:

1. The applicants' urgent application is struck off the roll on account of lack of urgency.

2. The Applicant is ordered to pay costs of the First Respondent, on a scale as between attorney and client.

Edwin Tlhotlhalemaje

Judge of the Labour Court of South Africa

APPEARANCES:

For the Applicant:	Adv. L Oken, instructed by ATR Attorneys Inc
For the First – Second Respondents:	Adv. X Mofokeng, instructed by GSI Attorneys