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IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)

Case number: 2025-225779

(1) REPORTABLE: NO

(2) OF INTEREST TO OTHER JUDGES: NO

(3) REVISED

DATE 23 December 2025

SIGNATURE

In the matter between:

MAHLWARA LUCAS MATHAPO

Applicant

and

MINISTER OF DEFENCE AND MILITARY VETERANS

First Respondent

ACTING SECRETARY OF DEFENCE

Second Respondent

**CHIEF OF THE SOUTH AFRICAN NATIONAL
DEFENCE FORCE**

Third Respondent

**SURGEON-GENERAL OF THE SOUTH AFRICAN
NATIONAL DEFENCE FORCE**

Fourth Respondent

CHIEF OF HUMAN RESOURCES

Fifth Respondent

**DEPUTY-DIRECTOR, SECRETARIAT OF
THE GRIEVANCE BOARD**

Sixth Respondent

JUDGMENT

MINNAAR AJ:**INTRODUCTION:**

[1] The applicant brought an urgent application seeking an interim interdict in the following terms:

- a. Pending the final decision in respect of the applicant's internal grievance and any possible subsequent review applications, the respondents are ordered to:
 - i. Maintain the status quo by keeping the applicant employed with current salary and benefits, including housing.
 - ii. Refrain from taking any steps to terminate the applicant's employment.
- b. The applicant is directed to institute any possible review proceedings within 20 days of being notified of a final decision/s in the grievance process.
- c. Costs on the scale C.

[2] The respondents opposed the application and delivered an answering affidavit. The applicant delivered a replying affidavit.

[3] The respondents seek condonation for the late delivery of the answering affidavit. The condonation sought is granted.

[4] The application is regarded as sufficiently urgent to be entertained on the urgent roll.

[5] The applicant is a candidate officer serving on the South African Military Health Services of the South African National Defence Force. The applicant is stationed with the Area Military Health Unit Gauteng under the Medicine Department, and he resides at D[...] G[...] O[...] M[...] in Thaba Tshwane.

[6] The following are common cause between the parties:

- a. On 31 October 2024, the applicant applied for the renewal of his employment contract, which was set to lapse on 31 December 2024.
- b. On 20 November 2024, the Contract Board Minutes recommended that the applicant be reappointed on the Core Services System ('CSS') for a further period of 5 years.
- c. The applicant's contract was extended until 31 December 2025.
- d. On 14 October 2025, the applicant received an indication that his contract would lapse on 31 December 2025.
- e. On 21 October 2025, the applicant filed his grievance (ID 12353), in an attempt to pursue and exhaust the internal remedies available to him.
- f. On 5 November 2025, the applicant received an indication to provide reasons why his contract should be reviewed. These representations were delivered on 10 November 2025.
- g. To date, no feedback on the applicant's grievance nor representations has been provided to the applicant.
- h. As at 31 December 2025, the applicant will no longer be employed if the relief claimed is not granted. The financial and other impact will be devastating, and there can be no substantial redress in due course.

[7] The respondents' defence is difficult to comprehend. In essence, it is my understanding from the respondents' case that the applicant should never have been appointed, as he was recruited to join the SANDF as a nursing student under the SAMHS unit. He failed to complete the required Nursing Training Programme. In the respondents' words, '*in the natural course of events*', the applicant should have been discharged as a direct result of the mentioned failure. Despite this, the applicant was employed. The applicant's employment dates back to 15 January 2012. It is baffling that, 14 years later, despite the respondents' allegation that the natural course would have been to discharge the applicant, the applicant remains employed by the

SANDF and has been serving the SAMHS for several years. To add to the confusion, the SANDF funded some of the courses the applicant attended to empower the applicant. On 14 December 2023, the fourth respondent ended the applicant's employment contract. On 22 December 2023, the applicant's contract was extended by Provost Marshall General Maphoto. It is alleged that junior officials were not authorised to appoint the applicant or extend his employment and, as such, that the decision by the fourth respondent is binding. It is further stated, correctly so, that an official making an administrative decision on behalf of an organ of the State (or a functionary such as SAMHS in the present case), such official, in accordance with the prevailing administrative law is considered and deemed to be *functus officio*, which implies that such an official has no legally recognised administrative powers to reverse his decision. Such an official is incapable of self-correcting his decision. No evidence is provided that the respondents took any steps to review or set aside the actions taken by officials following the fourth respondent's decision. No acceptable explanation is provided for why the applicant's contract was extended on more than one occasion since the fourth respondent's decision.

INTERIM INTERDICT:

[8] The requirements for interim interdicts are well known.¹ The applicant must prove:

- a. that he enjoys a *prima facie* right.
- b. an injury suffered or reasonably apprehended.
- c. that the balance of convenience favours granting the interim interdict; and
- d. the absence of similar protection by another ordinary remedy.²

[9] These general principles provide the lens through which the court must assess the applicant's claim for interim interdictory relief. It should be

¹ Requirements first laid down by Innes, J. A. in **Setlogelo v Setlogelo** *infra* at 227 and adapted by the court in **Webster v Mitchell** 1948 (1) SA 1186 (W).

² **LF Boshoff Investments (Pty) Ltd v Cape Town Municipality; Cape Town Municipality v L F Boshoff Investments (Pty) Ltd** 1969 (2) SA 256 (C) at 267.

borne in mind that an interdict is an “*extraordinary remedy*”,³ and as such, due compliance must be proved to obtain such extraordinary relief.

[10] The remedy is discretionary.⁴ It is trite that no comprehensive rule can be laid down for exercise in judicial discretion in granting or refusing interdicts,⁵ but the court must decide on the circumstances of each case.⁶

[11] Regarding interlocutory interdicts, the court possesses a general and overriding discretion whether to grant or refuse an application for interlocutory relief.⁷ This means that an applicant who establishes the requisites for an interlocutory interdict is not necessarily entitled to that relief.⁸ The factors applicable to interim interdicts⁹ should not be considered separately or in isolation.¹⁰

Prima facie right:

[12] The Applicant’s case regarding his *prima facie* right is his employment and his accommodation in the Officers’ Mess. Reliance is placed on the pending grievances and on a recommendation from the contract Board Committee of the fourth respondent, which met on 18 November 2024 and recommended that a five-year CCS contract be provided to the applicant.

[13] The respondents, although opposing the application, state in paragraphs 52 and 53 of the answering affidavit that the grievances,

³ *Setlogelo v Setlogelo* 1914 AD 221 at 223

⁴ *Knox D’Arcy and others v Jamieson and others* 1996 (4) SA 348 (A)

⁵ *Prinsloo v Luipaardsclei Estates and Gold Mining Co Ltd* 1933 WLD 6 at 25

⁶ *Kemp, Sacs & Nell Real Estate (Edms) Bpk v Soll* 1986 (1) SA 673 (O) at 689I – 690A

⁷ See for example *Messina (Tvl) Development CO Ltd v SAR&H* 1929 AD 195 at 215; *Yusuf v Abboobaker and Pitermaritzburg Local Road Transportation Board* 1943 NPD 244 at 247; *Knox v D’Arcy-supra*

⁸ *Yusuf-supra*; *Limbada v Dwarka* 1957 (3) SA 60 (N) at 628B-F. *Rizla International BV v Suzman Distributors (Pty) Ltd* 1996 (2) SA 527 (C) at 536C-D

⁹ Par 12-*supra*

¹⁰ *Olympic Passenger Services (Pty) Ltd v Ramlagan* 1957 (2) SA 382 (D) at 383E-F; *Eriksen Motors (Welkom) Ltd v Protea Motors, Warrenton* 1973 (3) SA 685 (A) at 691F-G; *Beechman Group Ltd v B-M Group (Pty) Ltd* 1977 (1) SA 50 (T) at 540E; *Bredenkampo v Standard Bank of South Africa Ltd* 2009 (5) SA 304 (GSJ) at 314H

although lacking in merit, should be officially dismissed and finalised by the relevant internal authorities. The deponent to the answering affidavit also undertakes to make the details and records of the irregularities of the applicant's employment available to the authorities that would ultimately consider the grievances. By these assertions, the respondents concede that the grievances must be dealt with internally. This should be the end of the inquiry into the applicant's *prima facie* right to the relief claimed.

Apprehension of irreparable harm:

[14] The applicant's apprehension of irreparable harm is premised on his loss of employment and loss of his access to the accommodation being provided to him. I am satisfied that the applicant will suffer irreparable harm should the application be dismissed.

Balance of convenience:

[15] The applicant has been employed for many years, and he is receiving a salary and accommodation. The balance of convenience clearly favours the applicant.

Suitable alternative remedy:

[16] Within the context of interlocutory interdicts, the requirement of no other satisfactory remedy is closely linked with that of 'irreparable harm',¹¹ for if the injury will be irreparable if allowed to continue, an interdict will be the only remedy. On the other hand, if there is some other satisfactory remedy, it follows that the injury cannot be described as irreparable.

[17] The applicant has no suitable alternative remedy available to him; accordingly, the order sought must be granted.

[18] On the foregoing, I am satisfied that the applicants met the

¹¹ **Ncongwane v Molorane** 1941 OPD 125 at 130

requirements for an interim interdict.

COSTS:

[19] The applicant seeks costs on scale C. The application before me is not of a complex nature; accordingly, costs on scale B will be awarded.

ORDER:

Consequently, I make the following order:

- [1] Pending the final decision in respect of the applicant's internal grievance and any possible subsequent review applications, the respondents are ordered to:
 - a. Maintain the status quo by keeping the applicant employed with current salary and benefits, including housing.
 - b. Refrain from taking any steps to terminate the applicant's employment.
- [2] The applicant is directed to institute any possible review proceedings within 20 days of being notified of a final decision/s in the grievance process.
- [3] The respondents, jointly and severally, the one paying the other to be absolved, to pay the costs of the application on scale B.

Minnaar AJ
Acting Judge of the High Court
Gauteng Division, Pretoria

Heard on	: 18 December 2025
For the Applicant	: Adv. J J G J Hamman
Instructed by	: Griesel Van Zanten Attorneys Incorporated

For the Respondents:	: Adv. B Gededger
Instructed by:	: State Attorney
Date of Judgment	: 23 December 2025