



(1) Reportable: NO
(2) Of interest to other Judges: NO

Signature

Date

THE LABOUR COURT OF SOUTH AFRICA, DURBAN

Case no: 2026-073545

In the matter between:

**NATIONAL UNION OF PUBLIC SERVICE AND
ALLIED WORKERS (NUPSAW) obo MEMBERS**

Applicant

And

**MEMBER OF THE EXECUTIVE COUNCIL FOR
EDUCATION, KWAZULU NATAL**

First Respondent

**HEAD OF DEPARTMENT: KWAZULU NATAL
DEPARTMENT OF EDUCATION**

Second Respondent

OFFICE OF THE PREMIER

Third Respondent

Heard: 01 April 2026

Delivered: 02 April 2026

JUDGMENT

HARVEY J

Introduction

- [1] This matter was heard late on 1 April 2026 and the Court undertook to send the Order to the parties on 2 April 2026.
- [2] The Order is as follows:

Order

[1] The application is struck from the roll for lack of urgency

[2] There is no order as to costs.

- [3] These are the brief reasons for the Order.

Background

- [4] The applicants approached this Court on an urgent basis, seeking to interdict the termination of their fixed-term contracts and the recruitment of replacement workers, pending the outcome of a dispute currently before the CCMA. The applicants were appointed on fixed-term contracts commencing in April 2023, initially for a period of 24 months, thereafter extended for a further year.
- [5] Knowing that their contracts would expire on 31 March 2026, they referred a s200A dispute to the CCMA in 2025, in which they sought a determination of their status as employees and accordingly their entitlement to employment on an indefinite basis. It is alleged, in the founding affidavit, that that dispute has been referred for arbitration.

Urgency

- [6] The first issue to be determined is whether the matter is urgent. The principal enquiry is whether the applicants can obtain substantial redress in due course. In my view, they can.

Substantial redress in due course

- [7] The core of the applicants' case is that they had a reasonable expectation that their fixed-term contracts would be renewed, said to arise from prior renewals, alleged undertakings, the fact that the work continues, and that others are being recruited to perform it.

- [8] That is a conventional dispute about a dismissal of the kind contemplated in s186(1)(b) the Labour Relations Act. Employees who allege that they have been dismissed by reason of a failure to renew a fixed-term contract, where a reasonable expectation of renewal is asserted, are afforded a statutory remedy.
- [9] The fact that the process may take time, and that the applicants may suffer financial hardship in the interim, does not render that remedy inadequate. That is the position faced by all employees who pursue dismissal claims through the statutory framework. If the applicants are ultimately successful, they may obtain appropriate relief in due course.
- [10] In those circumstances, I am not satisfied that the applicants have demonstrated that they will not obtain substantial redress in due course.

‘Self-created’ urgency

- [11] In addition, the applicants culpably delayed in approaching the court. It is precisely because they were aware that their contracts were of limited duration and that their continued engagement was uncertain that they sought undertakings from the employer and made the CCMA referral, in order to secure their employment status. They ultimately approached this court for relief on very truncated time periods at the 11th hour.
- [12] The court appreciates that the explanation is that they hoped the matter would be resolved via engagement. This explains the delay, but does not justify it. In my view the urgency is self-created – that is, the applicants delayed culpably to such an extent that they could have obtained substantial redress had they acted in time.
- [13] There is a further difficulty. The factual position concerning recruitment and appointments is disputed. The respondents contend that recruitment has progressed and that appointments have been made pursuant to an established policy framework, while the applicants contend otherwise. Those disputes underscore the unsuitability of determining the matter on an urgent basis.
- [14] In all the circumstances, I am not satisfied that the applicants have demonstrated that they will not obtain substantial redress in due course, nor that the matter warrants the intervention of this Court on an urgent basis.

Order

[15] The application is struck from the roll for lack of urgency

[16] There is no order as to costs.

SJ Harvey

Judge of the Labour Court of South Africa

Appearances:

For the Applicant: Mr Mamabolo instructed by Cecilia Sithole Attorney

For the First Respondent: Ms Seedat, State Attorney