

REPUBLIC OF SOUTH AFRICA



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

CASE NO: 2024-052069

(1)	REPORTABLE:
(2)	OF INTEREST TO OTHER JUDGES: <i>No.</i>
(3)	REVISED:
DATE	 SIGNATURE

In the matter between:

MAHLATSE ERNEST MODULA

Applicant

and

MINISTER OF DEFENCE AND MILITARY VETERANS

First Respondent

SECRETARY FOR DEFENCE

Second Respondent

CHIEF OF THE SOUTH AFRICAN

NATIONAL DEFENCE FORCE

Third Respondent

ADJUTANT GENERAL MAJOR GENERAL, E MNISI

Fourth Respondent

JUDGMENT: APPLICATION FOR LEAVE TO APPEAL

**THIS JUDGMENT IS HANDED DOWN REMOTELY AND WILL BE CIRCULATED TO THE
PARTIES ELECTRONICALLY.**

WELGEMOED, AJ

Introduction and background

- [1] This is an application for leave to appeal to the Full Bench of the Gauteng Division of the High Court Pretoria, against the whole of the judgment and order, including the costs order, granted against the applicant by this Court on 14 January 2026.
- [2] The applicant contends that there are reasonable prospects that another court would come to a different conclusion and that there are other compelling reasons why an appeal should be heard, as contemplated in section 17(1)(a) of the Superior Courts Act 10 of 2013.
- [3] The facts of the matter are not contentious and dealt with in the judgment handed down on 14 January 2026.

The grounds of appeal

[4] The grounds of appeal are set out in the applicant's application for leave to appeal. This court must first note that the application itself is lengthy and not to the point. The application lacks precision, coherence and fails to clearly specify and outline the grounds of appeal. On 16 March 2026, before the hearing of the application the attorney for the applicant withdrew as attorney as record. At the hearing the applicant appeared in person on 23 March 2026.

[5] At the hearing of the application I enquired from the applicant what precisely is the grounds of appeal. The applicant was also presented with an opportunity to file heads of argument on any point if he felt the need therefore after argument.

[6] The following grounds were submitted:

6.1 Paragraphs 1 - 10 of the application for leave to appeal raises issues with the term minority and majority judgment, it is argued that there cannot be a two judgments as the rules do not provide for same;

6.2 Paragraphs 12 – 22 of the application for leave to appeal states that the Court made an error in fact by finding that the applicant's contract of employment expired as there was a pending extension received;

6.3 Paragraphs 23 – 25 takes issue with the memorandum of Brigadier Gen Myburgh, as the Brigadier is not the Court of Military Appeals;

6.4 Paragraphs 26 – 29 states that the Court made an error in finding that the Fifth Respondent would still not have any jurisdiction to adjudicate any complaint.

[7] First, the issue surrounding the terminology of the judgment of the CMA is dealt with paragraph 10 of the Judgment handed down on 14 January 2026 and raises no new argument.

[8] Second, the fact remains that nothing came of this extension and the employment contract had in fact expired.

[9] Further, prayer one of the notice of motion cannot be granted by this Court as in law the fifth respondent could not consider the complaint for the reasons already stated in the Judgment of 14 January 2026. The first prayer three, is linked to prayer one, and accordingly cannot be granted for the same reasons.

[10] Prayer two seeks that the Court reinstate the applicant, retrospectively, from 13 December 2017 to date, without any valid underlying employment contract. As set out in the judgment of 14 January 2026 there is no factual

base presented for granting this relief. The second prayer three, is linked to prayer two, and accordingly cannot be granted for the same reasons.

Conclusion

[11] In conclusion, I am not persuaded that the applicant has shown that there are reasonable prospects of success on appeal and that another court would come to a different conclusion. Secondly, the applicant has failed to satisfy the court that there are reasonable prospects of success in the appeal as required by section 17(1)(a)(i) and/or (ii) of the Act. The application for leave to appeal thus ought to be dismissed with costs.

[12] Concerning the costs, the rule that costs follow the result must apply.

[13] In the result, I make the following order:

1. The application for leave to appeal is dismissed with costs on Scale B;



WELGEMOED CJ

ACTING JUDGE OF THE HIGH COURT

OF SOUTH AFRICA GAUTENG

DIVISION, PRETORIA

Date of Hearing: 23.03.2025

Date of Judgment: 1.04.2026

Counsel for Applicant: In person

Counsel for Respondents: Adv F Storm