


REPUBLIC OF SOUTH AFRICA



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

Case Number: 020428/2026

(1)	REPORTABLE: NO
(2)	OF INTEREST TO OTHER JUDGES: NO
3 June 2026	
DATE	SIGNATURE

In the matter between:

CATHERINE MWILA MWABA

Applicant

AND

THE UNIVERSITY OF THE WITWATERSRAND

First Respondent

**THE REGISTRAR: THE UNIVERSITY OF THE
WITWATERSRAND**

Second Respondent

JUDGMENT

MIA, J

[1] The applicant brings an application for leave to appeal against the judgment and the order dismissing the applicant's review application concerning the respondents' refusal to renew her registration for the 2026 academic year.

- [2] The application for leave to appeal is brought in terms of section 17(1)(a) of the Superior Courts Act 10 of 2013. The test for granting leave to appeal is established. The enquiry is whether the appeal would have reasonable prospects of success, alternatively whether there is some other compelling reason why the appeal should be heard.
- [3] The application for leave to appeal identifies several grounds of appeal concerning the proper application of the Promotion of Administrative Justice Act 3 of 2000 (PAJA); the procedural obligations of the respondent, a public university and the effect of the absence of a contemporaneous record of the CRW-2 proceedings; and the proper boundary between institutional academic autonomy and constitutional accountability.
- [4] A central factual issue the applicant relied upon to support her contention was that there were no minutes, recording or a contemporaneous record the WRC-2 proceedings. This evidentiary gap, applicant argued should not have benefited the University, because in a PAJA review the respondents must justify the lawfulness of its decision. The applicant criticises the finding that the respondents' version prevailed despite the absence of an objective record.
- [5] On the question of predetermination, The applicant relies on the respondents' statement that even if the psychologist's letter had been considered, it would not have changed the outcome. The applicant argues that this shows the outcome was treated as inevitable, meaning the discretion was not genuinely exercised.
- [6] The medical evidence is also central. The applicant says the psychologist's letter supported her academic fitness, confirmed her ability to continue studying, and showed that her health difficulties were relevant to the discretionary enquiry. The

applicant argues that the Court wrongly evaluated the medical evidence itself instead of asking whether the University had lawfully considered it.

- [7] In my view, another court may reasonably come to a different conclusion on whether the absence of an objective record of the WRC-2 proceedings was appropriately dealt with in the review. The absence of minutes, a recording, or a contemporaneous record gives rise to an arguable question as to whether the respondents sufficiently justified the lawfulness, rationality and procedural fairness of its decision.
- [8] It is reasonably arguable that, in a PAJA review, an evidentiary gap arising from the absence of the record of the WRC-2 hearing should not automatically operate to the benefit of the respondent whose decision is under review. Another court may find that the absence of such a record affected the Court's ability to assess whether the respondent considered all relevant material and exercised its discretion lawfully.
- [9] A further arguable issue concerns the respondents' stance that the psychologist's letter would not have altered the outcome even if it had been considered. The applicant contends that this demonstrates predetermination by the WRC-2 committee or that it fettered the discretion of the committee. The respondents contend that it merely reflects the immateriality of the letter in light of the binding academic progression rules.
- [10] In my view, this issue warrants the attention of an appeal court. Another court may reasonably conclude that a statement that evidence would not have altered the outcome raises a material question about whether the decision-making process was genuinely outcome-sensitive, particularly where the empowering framework required consideration of exceptional circumstances which the applicant contends the psychologist's letter proved.

- [11] There is also a reasonable prospect that another court may differ on whether this Court impermissibly substituted its own assessment of the medical evidence for that of the WRC-2 Committee. The applicant's complaint is not merely that this Court reached the wrong academic conclusion, but that this Court may have approached the matter as if it were determining the merits of the academic decision rather than reviewing the legality of the administrative process.
- [12] The psychologist's letter and the applicant's health-related representations are central to this dispute. Whether such evidence was properly before WRC-2, whether it was considered, and whether it was capable of affecting the exercise of discretion are all matters on which reasonable judicial disagreement may arise.
- [13] The interpretation of the WRC Policy Booklet also raises an arguable point of law. The applicant contends that WRC-2 was required, in an N+2 case involving exceptional circumstances, not to refuse renewal but to recommend the matter to the VPC for consideration. The respondents contend that WRC-2 acted within its mandate and that there was no discretion to depart from the minimum progression requirements. The only instance allowing for referral to the VPC was if a member of the committee was of the view that the process required such referral. The respondent argued that the applicant ought to be saved from her decision to take the matter on appeal in view of the time that will have lapsed by the time the appeal is considered. The applicant's credits would expire by that time which would be more detrimental to her academic career.
- [14] The proper interpretation of the relevant clauses of the WRC Policy Booklet, including the relationship between the WRC-2 process, procedural complaints, exceptional circumstances, and VPC consideration, is an issue on which another court may reasonably differ.


- [15] The question is not whether the applicant should ultimately succeed on appeal. The question at this stage is whether there is a sound and rational basis to conclude that another court could reasonably reach a different conclusion. I am satisfied that such a basis exists.
- [16] I am also persuaded that there are compelling reasons for the appeal to be heard. The matter implicates broader questions concerning administrative accountability in public universities, the keeping and production of records in student exclusion or non-renewal decisions, and the extent to which academic autonomy coexists with PAJA review.
- [17] The issues raised are not limited to the applicant's individual circumstances. They have potential significance for students subject to academic progression rules, particularly where exclusion or non-renewal decisions involve allegations of exceptional circumstances, health-related evidence, and discretionary institutional processes.
- [18] I am further satisfied that the appeal is not rendered academic merely because the 2026 registration period has closed. The applicant contends that the impugned decision continues to affect her academic standing and future registration prospects. If that contention is correct, effective relief may still be available, including setting aside and remittal.
- [19] Having considered the applicant's grounds of appeal, the respondents' submissions in opposition, and the nature of the issues raised, I am satisfied that the matter crosses the threshold contemplated in section 17(1)(a).

[20] For these reasons, I conclude that the application for leave to appeal should be granted.

Order

[21] Consequently, the following order is made:

1. Leave to appeal is granted.
2. The appeal shall lie to the Full Court of this Division.
3. The costs of the application for leave to appeal shall be costs in the appeal.

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S C MIA

**JUDGE OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG**

Appearances:

On behalf of the applicant:

In Person

mwilacm03@gmail.com

Instructed by:

In person

On behalf of the respondents:

Adv Musatondwa Musandiwa

Instructed by:

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Date of hearing:

2 April 2026

Date of judgment:

3 June 2026