


REPUBLIC OF SOUTH AFRICA



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

Case Number: 2026-111753

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|-------------------|---|
| (1)               | REPORTABLE: <u>NO</u>   |
| (2)               | OF INTEREST TO OTHER JUDGES: <u>NO</u>  |
| (3)               | <del>REVISED: YES</del>   |
| <u>28/07/2026</u> |  |
| DATE              | SIGNATURE   |

In the matter between:

**KABITSANE LETSIE**

Applicant

**AND**

**NATIONAL HOUSING FINANCE CORPORATION**

First Respondent

**THE BOARD: NATIONAL HOUSING FINANCE CORPORATION**

Second Respondent

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**JUDGMENT**

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**FURMAN AJ**

**INTRODUCTION**

[1] This is an urgent application brought in two parts. In Part A, the applicant seeks interim relief pending the determination of Part B, being review proceedings in which she seeks to review and set aside the respondents' decision to remove her from the position of General Manager: Programme Management and to revert her to the position of Specialist Quantity Surveyor.

[2] The respondents oppose the application on the basis that this Court lacks jurisdiction, that the matter is not urgent, and that the applicant has failed to establish the requirements for interim interdictory relief.

[3] I am satisfied that the matter warrants urgent consideration. The applicant has furnished an explanation for the period which elapsed prior to the institution of proceedings and alleges ongoing prejudice arising from the implementation of the impugned decision. At least *prima facie*, the prejudice complained of extends beyond mere financial loss and includes professional and reputational harm associated with the continued implementation of the decision.

[4] The respondents contend that the dispute falls exclusively within the jurisdiction of the Labour Court as an ordinary employment dispute concerning a demotion. The applicant, however, frames the matter differently. The applicant contends that the impugned decision constitutes the exercise of a public power by a state-owned entity acting pursuant to powers and obligations sourced in the Public Finance Management Act 1 of 1999 and the rule of law.

[5] In support of the impugned decision, the respondents themselves invoke section 56(3) of the PFMA, section 195 of the Constitution, and the need to remedy what is alleged to be an ongoing illegality. *Prima facie*, therefore, the dispute raises issues extending beyond mere unfairness in an employment relationship.

[6] Counsel for the respondents relied upon paragraph 51 of *Famous Idea Trading 4 (Pty) Ltd t/a Dely Road Courier Pharmacy v Government Employees Medical Scheme and Others*, where the Constitutional Court reiterated that courts must determine the true nature of a dispute and that litigants may not, by mere characterisation, convert ordinary employment or contractual disputes into legality or administrative-law challenges. I am mindful of that principle. However, at this interlocutory stage, and without making definitive findings concerning the ultimate jurisdictional characterisation of the dispute, I am satisfied that the applicant has advanced at least a *prima facie* legality challenge directed at the exercise of public power by an organ of state. The jurisdictional issue is closely intertwined with the merits of the review relief sought in Part B.

[7] At least at this interlocutory stage, the applicant's reliance upon *Oudekraal Estates (Pty) Ltd v City of Cape Town and MEC for Health, Eastern Cape v Kirland Investments (Pty) Ltd* cannot be dismissed as lacking merit. Those authorities establish, broadly stated, that an administrative or public decision exists in fact and has legal consequences until properly set aside by a competent court.

[8] The applicant occupied the position of General Manager: Programme Management for an extended period, performed the functions associated with that office, received the remuneration attached thereto, and participated at executive level within the organisation.

[9] *Prima facie*, and without making definitive findings at this stage, the respondents' contention that no valid promotion or appointment ever existed appears difficult to reconcile with aspects of their own conduct and correspondence, including references to the applicant's "demotion" and reassignment to her previous position.

[10] I am mindful that courts ordinarily exercise caution before intervening in employment disputes on an interim basis. However, the applicant's case is framed not merely as a complaint concerning the fairness of a demotion, but as a legality challenge directed at the exercise of public power by an organ of state. Whether that characterisation ultimately prevails is a matter to be determined in Part B.

[11] In the circumstances presently before the Court, I am satisfied that the applicant has established a *prima facie* right, albeit one open to some doubt.

[12] The applicant has further established a reasonable apprehension of irreparable harm should the implementation of the impugned decision continue pending the

determination of Part B. At least prima facie, the prejudice alleged includes ongoing professional, reputational and institutional harm which may not adequately be remedied by a subsequent damages award or retrospective relief.

[13] The balance of convenience favours the preservation of the status quo pending the determination of Part B. The greater prejudice may lie in permitting the continued implementation of a decision alleged to constitute unlawful administrative self-help by a public body before the legality of that decision has been judicially determined.

[14] I accordingly conclude that the applicant has established the requirements for interim interdictory relief.

### **ORDER**

1. The application is enrolled and heard as one of urgency in terms of Rule 6(12).
2. Pending the final determination of Part B of this application, the respondents are interdicted and restrained from implementing or continuing to implement the decision reverting the applicant from the position of General Manager: Programme Management to the position of Specialist Quantity Surveyor.
3. Pending the final determination of Part B of this application, the respondents are directed to preserve the applicant's remuneration, benefits, status and conditions associated with the position of General Manager: Programme Management.
4. Pending the final determination of Part B of this application, the respondents are interdicted from permanently filling the position of General Manager: Programme Management.
5. The costs of Part A are reserved for determination in Part B.

  
**FURMAN AJ**  
**Acting Judge of the High Court**

### **Appearances**

On behalf of the Applicant: MUSATONDWA MUSANDIWA

Instructed by: TRACEY LOMAX ATTORNEYS

On behalf of the Respondent: M MANALA  
Instructed by: MAKHUBELA ATTORNEYS  
  
Date of hearing: 27 May 2026  
Date of Judgement: 28 May 2026