



- (1) Reportable No
- (2) Of interest to other Judges: No
- (3) Revised

Signature

Date

**THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG**

Case No: 2026-107355

In the matter between:

**MUNICIPAL EMPLOYEES AND**

**CIVIL SERVANTS UNION (“UNION”)**

**Applicant**

and

**CITY OF EKURHULENI METROPOLITAN**

**MUNICIPALITY**

**First Respondent**

**CITY MANAGER, KAGISO LERUTLA**

**Second Respondent**

**ACTING CITY MANAGER TSHOLOFELO KOOPEDI**

**Third Respondent**

**ACTING GROUP CHIEF FINANCE**

**Fourth Respondent**

**HR HEAD OF DEPARTMENT**

**Fifth Respondent**

**MARIPE MATJOKOTA**

**Sixth Respondent**

**XOLANI NCIZA**

**Seventh Respondent**

**SOUTH AFRICAN LOCAL GOVERNMENT**

Heard: 22/05/2026

Delivered: 18/06/2026

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## JUDGMENT

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**ORR, AJ**

- [1] In this matter the applicant seeks an order, on an urgent basis, staying the first respondent (the Municipality) from implementing a settlement agreement entered into between the Municipality and the seventh respondent (Nciza), pending the outcome of an application to review and set aside the settlement agreement brought by the applicant.
- [2] For the purposes of this judgement the facts can be set out briefly. In March 2024 the Municipality dismissed Nciza who held the post of Divisional Head: Employee Relations. Nciza referred disputes to the eighth respondent contending that his dismissal was unfair and that his preceding suspension amounted to an unfair labour practice. At the end of April 2026, the parties settled the disputes on the basis of the reinstatement of Nciza to his previous post and the payment to him of backpay in three tranches.
- [3] The applicant is of the view that this agreement was unlawfully concluded, primarily on the basis that the officials of the Municipality who concluded the agreement did not have the authority to do so.
- [4] The applicant alleges that it raised its concerns with the settlement agreement with the MEC for Corporate Government and Corporate Affairs on 30 April 2026 and the Municipality on 4 May 2026. No response was received from either party

resulting in the applicant launching this application on 12 May 2026 and the application to review the settlement agreement on 16 May 2026. The municipality does not dispute any of these facts in the affidavit opposing the application to stay.

- [5] On these facts the Court is satisfied that the applicant has acted promptly and that the matter should be dealt with as an urgent matter.
- [6] At the hearing of this matter it was common cause between the parties that Nciza had been reinstated and that some of the payments of back pay had already been made to him. There was some dispute as to how many of the payments had been made. For the purposes of this judgement, it is not necessary to resolve this dispute.
- [7] The respondents raised a whole host of grounds on which relief should be refused. The Court is of the view that many of these are more properly to be addressed in the review itself rather than this application to stay. The Court accordingly declines to decide any of these issues nor is it necessary for reasons that will become apparent.
- [8] It is trite that any applicant for interim relief must satisfy the Court that the applicant will suffer irreparable harm if the interim relief is not granted. On the facts of this case the applicant must therefore satisfy the Court that, if the implementation of the settlement agreement is not stayed, irreparable harm will accrue to the applicant, which will not be remedied by ultimate success in the review application.
- [9] Mr. Mlungwana, a union official who appeared on behalf of the applicant, sought initially to persuade the Court that irreparable harm would accrue to the union as Nciza is hostile to the union. Mr. Mlungwana contended that, if the agreement were not stayed, Nciza would take actions detrimental to the union which could not be remedied by the ultimate setting aside of the agreement.

- [10] Presumably realising that this was a purely hypothetical situation and that no basis had been laid out for it in the papers, Mr. Mlungwana shifted to a position based more on public policy. He contended that had Nciza been unlawfully reinstated, any action which he took between now and the hearing of the review would similarly be unlawful, with potential deleterious consequences to the Municipality and its residents. The ultimate setting aside of the settlement agreement would not, in these circumstances, undo that harm. Although this harm would not necessarily be suffered directly by the applicant, the applicant had an interest in the orderly running of the Municipality, and that would be harmed should the agreement not be stayed.
- [11] Fatal to both legs of this argument was Mr. Mlungwana's concession that the Court, in this application, could not undo the reinstatement of Nciza which had already occurred. Mr. Mlungwana conceded that all the Court could do was stay any further payment of whatever tranches remained outstanding. That being the case the irreparable harm contended for by Mr. Mlungwana, if it exists at all, would occur in any event as Nciza would remain in his position, regardless of whether the application to stay was successful or not.
- [12] Put differently the only possible harm that the application to stay could prevent was the payment of further monies to Nciza by the Municipality. This ostensible harm could definitely be rectified by relief in due course. If the applicant is ultimately successful in setting aside the settlement agreement, the reviewing Court could order the repayment of this money to the Municipality.
- [13] For these reasons the requirement of irreparable harm is not established and the Court cannot grant the relief sought by the applicant. The application to stay must be dismissed. In relation to costs the parties agreed that the most appropriate order as to costs was to reserve the costs. The Court shares this view. If the review proceeds the ultimate success or otherwise of the review would be a factor to consider in whether costs should be awarded in this application.
- [14] In the premise the following order is made:

Order

1. The application to stay the implementation of the settlement agreement entered into between the first and seventh respondents is dismissed.
2. The costs are reserved.

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C. Orr

Acting Judge of the Labour Court of South Africa

Appearances:

For the Applicant : A Trade Union Official

For the First to Sixth Respondent : Adv E Sithole

Instructed by : Sibanda Bukhosi Attorneys Inc

For the Seventh Respondent : In Person

For the Eighth Respondent : No appearance

LABOUR COURT