



**In the High Court of South Africa
(Eastern Circuit Local Division, Thembaletu)**

Case number: 639/2025

In the matter between:

THABANG MOTJAMELA

Applicant

and

GARDEN ROUTE DISTRICT MUNICIPALITY

Respondent

Coram: Van Zyl, J
Heard on: 31 July 2026
Judgment: : 24 August 2026

Summary: Application seeking declaratory relief and delictual damages – application fundamentally defective – better suited to action proceedings no case made out for relief sought - application dismissed

ORDER

1. The application is dismissed.
2. There is no order as to costs.

JUDGMENT

VAN ZYL J:

Introduction

1. The applicant seeks damages of more than R17 million from the respondent, arising from the latter's failure permanently to employ him under what is known as the Expanded Public Works Programme contracts.
2. The *quantum* is set out in a schedule prepared by the applicant in December 2025, with reference to a "*Salary, Bonus, Provident Fund, and 5% Contribution Table (2021 – 2054)*", amounting to a total salary claim R32 285 106, 58. From this, income tax of R14 528 298,96 is deducted, leaving a net amount of R17 756 807,62.

The merits of the applicant's case

3. It appears from the founding affidavit that the applicant's claims are for delictual damages, constitutional damages, and "unlawful administrative conduct", as well as declaratory relief. In oral argument he emphasised and focused on the delictual damages sought. He seeks orders:
 - 3.1. Declaring that the respondent is delictually liable for wrongful, negligent, unlawful conduct and misrepresentation committed against the applicant during the recruitment process for the position of Senior Worder in 2021. The
 - 3.2. Directing that the respondent compensate him for past loss of

earnings as from 21 April 2021 to the date of the judgment, future loss of earnings up to his projected retirement year (2054), general damages for emotional distress, psychological harm, loss of dignity, and humiliation, and damages arising from a violation of the applicant's constitutional rights, including the right to privacy, human dignity, and equality, due to a medical examination that the applicant underwent in anticipation of employment, prior to be informed of the respondent's refusal to appoint him.

4. The applicant says that the respondent acted contrary to its own Recruitment and Section Policy when it decided not to appoint him in a permanent position after having shortlisted him, and required of him to undergo a medical examination. It appears that the applicant was not appointed because he had a criminal record. The applicant says that he had informed the respondent of such criminal record before he was sent for his medical examination. He says that the respondent misled him into thinking that he would be a successful candidate. That gave rise to his dissatisfaction with the respondent's conduct, and is the basis for the relief sought in this application.
5. In a "Proposal of settlement" filed of record, for example, the applicant suggested that he be paid a total settlement amount covering:
 - 5.1. *"Loss of salary and benefits from 23 April 2021 to 31 August 2026, including base salary, provident fund, UIF, medical aid, bonus, and 7% annual increase"*
 - 5.2. *"Compensation for emotional, reputational, and psychological harm suffered as a result of the unlawful refusal to appoint."*
 - 5.3. *"Interest on the amounts owed, calculated at the prescribed legal rate from the date the loss arose until payment is made."*
 - 5.4. *"Costs of these proceedings, including legal and administrative*

costs, annexures, and supporting documentation.”

6. All of this should be done, he suggested, “*without admission of liability by the Respondent*”.
7. It is trite law that, to recover patrimonial loss (including pure economic loss) suffered through a wrongful and negligent (or intentional) act, or omission, the applicant must plead and prove:¹
 - 7.1. An act or omission on the part of the respondent;
 - 7.2. Wrongfulness;
 - 7.3. Fault (negligence or intention);
 - 7.4. Causation; and
 - 7.5. Loss.
8. The problem is that these enquiries do not easily lend themselves to being dealt with on application. The applicant’s claims are generally not determinable on affidavit, and particularly not on the sparse information set out in the founding and supplementary affidavits. Oral evidence is required on at least four of the elements of the alleged delict upon which the applicant relies. The lack of clarity in the papers is exacerbated by the fact that no supporting documentation has been annexed to the founding affidavit.
9. Having nevertheless had the benefit of oral argument, and having considered the notice of motion and founding affidavit, as well as a host of extraneous documentation emailed to my registrar in relation to the matter, I must conclude that the application is still-born. It is bare and vague. No case is made out on the papers for any of the relief sought.
10. Another issue is that the present application is not, as they say, the applicant’s first rodeo. The applicant is passionate about his case, and

¹ See, for example, *Coronation Brick (Pty) Ltd v Stracham Construction Co (Pty) Ltd* 1982 (4) SA 371 (D) at 377.

has cast it repeatedly against various respondents. As against the George Local Municipality, it has featured in various courts and other forums, amongst them the South African Local Government Bargaining Council, the Commission for Conciliation, Mediation and Arbitration, the Labour Court, and the Labour Appeal Court. An application to the Constitutional Court for direct access was refused. Further litigation followed, until the applicant was finally declared a vexatious litigant as against that municipality, which declaration was confirmed by the Constitutional Court.²

11. An application by the current respondent to have the applicant declared a vexatious litigant as against it was dismissed in an unreported decision of this court in December 2024.³ The Constitutional Court has nevertheless had the following to say about the applicant's persistent litigation:⁴

“[43] One final issue must be addressed in relation to Mr Motjamela's relentless campaign of litigation before this and other Courts. At the time that this Court issued its order on 28 May 2026, Mr Motjamela had two additional applications before this Court relating to the same constellation of matters involving the public works contracts and his efforts to obtain permanent employment with the Local Municipality or the District Municipality.

[44] One of these applications, CCT 363/25 Motjamela v Garden Route District Municipality, substantively replicates CCT 316/23 Motjamela v Garden Route District Municipality, which was dismissed by this Court in 2024 for lack of reasonable prospects of success. Another application, CCT 44/26 Motjamela v Labour Court of Cape Town, involves a second applicant, Deneo Motjamela, but follows the same pattern as the matters I have just described. While considering the current matter, this Court received a further application from Mr Motjamela seeking directions clarifying whether the vexatious litigant order remains in effect pending the determination of this appeal, and an order affirming his ability to continue to pursue litigation before other courts if it does not.

[45] Since issuing the order of 28 May 2026, this Court has received four further applications from Mr Motjamela relating to employment disputes with the

² See *Motjamela v George Local Municipality* [2026] ZACC 31 (7 July 2026).

³ *Garden Route District Municipality bv Motjamela* (case number 529/2024), delivered on 11 December 2024.

⁴ *Motjamela supra* paras 43-46.

Local Municipality and the District Municipality. These applications all relate to the public works contracts, Mr Motjamela's dissatisfaction with subsequent hiring processes with the Local Municipality and District Municipality or related litigation initiated in lower courts or tribunals. Three of these applications relate directly to Mr Motjamela's dispute with the Local Municipality. The fourth substantively replicates Mr Motjamela's arguments in CCT 363/25 Motjamela v Garden Route District Municipality, which itself centres on the same issues as in Mr Motjamela's unsuccessful application to this Court in CCT 316/23 Motjamela v Garden Route District Municipality.

[46] Additionally, since 2023 Mr Motjamela has brought four applications before this Court, including three applications for leave to appeal which were dismissed for lack of reasonable prospects of success and an application for direct access which was dismissed as no case had been made out for direct access. In two of these matters, he filed rescission applications following this Court's initial decisions, both of which were similarly dismissed as no case was made out for rescission. With the exception of CCT 262/24 Motjamela v Dispute Resolution Commission, which relates to a deceased estate dispute, all of these applications relate to Mr Motjamela's ongoing disputes with the Local Municipality and District Municipality over the public works contracts and his subsequent efforts to obtain permanent employment. Cumulatively, these cases present a pattern of wanton and reckless litigation against a variety of parties directly or tangentially involved with Mr Motjamela's employment disputes."

12. Against that background, the issues raised by the applicant in the present application have been traversed uphill and down dale in various courts, both in relation to the George Local Municipality and the respondent. There is nothing left for this court to say about them.

Conclusion, and costs

13. In these circumstances, the application is fundamentally defective, and there is no point in extending its lifetime on the court roll.
14. I considered granting a costs order against the applicant, if only in an attempt to dissuade him from pursuing this same (or similar) litigation

under another guise. Having engaged with the applicant on various occasions over my two-week stint on circuit, however, I do not think that he will be moved in his approach. The order by the Constitutional Court declaring him a vexatious litigant as regards the George Local Municipality, in proceedings based upon substantially the same facts, has only made him more steadfast in his search for what he regards as justice. He is unemployed and indigent, and his family's financial circumstances are poor. I am therefore loath to mulct him in costs, despite his persistence.⁵

Order

1. **The application is dismissed.**
2. **There is no order as to costs.**

P. S. VAN ZYL
Judge of the High Court

Appearances:

For the applicant: In person

For the respondent: Mr E. Brand, instructed by Brand & Van der Bergh Attorneys

⁵ See, too, the costs order granted in *Motjamela supra* para 49.