



**IN THE COMMISSION FOR CONCILIATION, MEDIATION AND ARBITRATION**

**CASE NUMBER: MPMB 1385-25**

**Nomcebo Kunene**

**EMPLOYEE**

**and**

**Mpumalanga Tourism and Parks Agency**

**EMPLOYER**

**Date of hearing: 03 September 2025**

**Date of submission of heads of argument: 03 September 2025**

**Date of award: 03 September 2025**

**DEFAULT AWARD**

**APPROVED**

**NAME OF COMMISSIONER: THOMAS NTIMBANA**

## DETAILS OF HEARING AND REPRESENTATION

- [1] The arbitration hearing was held at the offices of the CCMA in Nelspruit on the 3<sup>rd</sup> of September 2025 at 09:00 am. The applicant (Ms. Nomcebo Kunene) was present and represented by Mr. Flip van der Walt, a union official from PSA whilst the respondent (Mpumalanga Tourism and Parks Agency) was absent, despite proof of service of the arbitration set down notification which was sent by email on the 25<sup>th</sup> of July 2025 being in the file.
- [2] In terms of Section 138 (5) (b) (i) of the labour Relations act 66 of 1995, the arbitration proceeded in the absence of the respondent. The proceedings were manually recorded. The dispute was referred to CCMA in terms of section 186(2)(a) of the LRA 66 of 1995.

## PRILIMINARY ISSUES

- [3] There were no preliminary issues raised.

## BACKGROUND TO THE DISPUTE

- [4] The applicant was employed by the respondent from the 1<sup>st</sup> of February 2010 until to date and currently occupying the position of an executive manager who is responsible for biodiversity conservation. The applicant is currently earning R 90 000-00 per month.

## ISSUES TO BE DECIDED

- [5] I am required to decide whether the respondent has committed an action of unfair labour practice against the applicant by suspending her for over sixty days without being charged. The relief sought by the applicant is compensation.

## APPLICANT'S EVIDENCE AND ARGUMENTS

- [6] The applicant led uncontested evidence (given the absence of the respondent) that on the 7<sup>th</sup> of November 2024, she was suspended and told to work from home. She was also instructed not to liaise with any staff members or report to the office for her own safety. Whilst she was at home, she could not perform any of her duties since her powers were stripped off.

- [7] On the 11<sup>th</sup> of March 2025, she was served with a formal precautionary suspension letter pending an investigation. The suspension was triggered and sponsored by NEHAWU's complaint against her which was unfounded. On the 15<sup>th</sup> of July 2025, the acting CEO issued a letter instructed her to report for duty on the 21<sup>st</sup> of July 2025.
- [8] On the 16<sup>th</sup> of July 2025, NEHAWU sent a letter to the CEO objecting to such instruction indicating that they wanted to consult with the general membership union before the applicant could report for duty. On the 17<sup>th</sup> of July 2025, the acting CEO wrote another letter to the applicant instructing her not to report for duty on the 21<sup>st</sup> of July as per the letter dated the 15<sup>th</sup> of July 2025.
- [9] On the 26<sup>th</sup> of July 2025, another letter was issued by the acting CEO instructing the applicant to report for duty on the 28<sup>th</sup> of July 2025. The applicant believes that such suspension was unfair since it was against the company policy which prohibit the respondent from suspending an employee for over sixty days without being charged.
- [10] The applicant even forfeited her twenty-five leave days which expired in June 2025. The suspension has also caused emotional stress and reputation since it was baseless and sponsored by hatred from the union NEHAWU. It is on this basis that the applicant requires compensation.

### **ANALYSIS OF EVIDENCE AND ARGUMENT**

- [11] In light of the evidence presented by both parties before, I find the following: Section 186(2)(b) defines unfair labour practice as amongst other things the unfair suspension of an employee or any other unfair disciplinary action short of dismissal in respect of an employee.
- [12] This specific subsection was exclusively singled out because it appears to be the closest if not relevant one to the issue before me especially in relation to the element of suspension.
- [13] The basis of the applicant's challenge was that she was suspended for over sixty days without being charged, she felt humiliated which caused her an emotional stress, such suspension was sponsored by a union, and she also lost her leave benefits because of such unfounded suspension.
- [14] In "casu" the respondent acted against its own policies, and such suspension was not supported by any justifiable reasons apart from personal hatred from the union which is not even her employer. The

applicant also proved to have suffered a financial prejudice when her leave days were forfeited in June 2025.

[15] It must be borne in mind that an employee has a right to fair labour practice which right is constitutionally guaranteed. In this case, the applicant's right was violated when she was suspended without any good reasons. I have also noted that the applicant was not charged for any misconduct, and she was suspended with full pay.

[16] Having said the above, I find the suspension of the applicant by the respondent to be substantively unfair. The applicant prayed for compensation, and I had no reason to deviate from this relief sought.

[17] In determining such, I considered the absence of valid reasons for her suspension, the length of suspension and the affected benefits and the fact that such suspension was with pay. I therefore found that one month's compensation would be appropriate and fair.

#### **AWARD**

[18] I order the respondent (Mpumalanga Tourism and Parks Agency) to pay applicant (Ms. Nomcebo Kunene) one month compensation to the amount of R 90 000-00 which was calculated as follows:  
 $R\ 90\ 000-00 \times \text{one month} = R\ 90\ 000-00.$

[19] The respondent must pay the amount in paragraph (18) by electronic bank transfer on or before the 19<sup>th</sup> of September 2025 into the bank account of the applicant.



Signature:

CCMA Commissioner: Thomas Ntimbana