



IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)

Case No: 38343/2022

(1) REPORTABLE: NO
(2) OF INTEREST TO OTHERS JUDGES: NO
(3) REVISED

09 OCTOBER 2022

SIGNATURE

DATE

In the matter between:

DON'T WASTE SHARED SERVICES (PTY) LTD

DON'T WASTE KZN 1 (PTY) LTD

DON'T WASTE KZN 2 (PTY) LTD

DON'T WASTE CTN 1 (PTY) LTD

DON'T WASTE CTN 2 (PTY) LTD

DON'T WASTE EC1 (PTY) LTD

DON'T WASTE GAU 1 (PTY) LTD

DON'T WASTE GAU 2 (PTY) LTD

DON'T WASTE GAU 3 (PTY) LTD

DON'T WASTE GAU 4 (PTY) LTD

DON'T WASTE GAU 5 (PTY) LTD

DON'T WASTE GAU 6 (PTY) LTD

FIRST APPLICANT

SECOND APPLICANT

THIRD APPLICANT

FOURTH APPLICANT

FIFTH APPLICANT

SIXTH APPLICANT

SEVENTH APPLICANT

EIGHTH APPLICANT

NINTH APPLICANT

TENTH APPLICANT

ELEVENTH APPLICANT

TWELFTH APPLICANT

And

THE COMPENSATION FUND

FIRST RESPONDENT

THE COMMISSIONER OF THE COMPENSATION FUND

SECOND RESPONDENT

MINISTER OF EMPLOYMENT AND
LABOUR: TW MXESI

THIRD RESPONDENT

DEPUTY MINISTER OF EMPLOYMENT AND
LABOUR: BOITUMELO MOLOI

FOURTH RESPONDENT

THE DIRECTOR GENERAL, DEPARTMENT OF
EMPLOYMENT AND LABOUR: THOBILE LAMATI

FIFTH RESPONDENT

JUDGMENT

RELIEF J


1. The Second to Twelfth Applicants [Applicants] appeal against those parts of the judgment which, this Court handed down (*ex tempore*) on the 21 July 2023, in respect of Part B of the relief sought by the Applicants and costs. The application was argued on the 20 July 2023.
2. The issue for determination was a judicial review brought by way of the Promotion of Administrative Justice Act 3 of 2000 [PAJA] in which the Applicants sought to review and set aside the classification decisions of the First and Second Respondents [Respondents] made in terms of the Compensation for Occupational Injuries and Disease Act 130 of 1993 [COIDA].
3. The nub of the grounds of appeal relied on traverse the interpretation and application, if any, of section 91 of COIDA. The Appellants contend, *inter alia*, that section 91 is not applicable to the Applicants and that reliance and the

application thereof, *vis n vis* as an internal remedy mechanism referred to in PAJA is misplaced.

4. That the provisions of section 17(1)(a)(i) of the Superior Courts Act 10 of 2013 [Superior Courts Act] are satisfied in that the appeal would have a reasonable prospect of success. The Applicants further rely and, set out reasons in terms of section 17(1)(a)(ii) of the Superior Court Act to amplify their section 17 submissions. These reasons appear compelling.
5. Having heard Counsel for both the Applicants and the Respondent I am of the opinion that the appeal would have a reasonable prospect of success and as such, the following order is made:

IT IS ORDERED THAT:

1. The Second to Twelfth Applicants are granted leave to appeal to the Full Bench of this Division.
2. The Respondents are ordered to pay the costs, which costs to be inclusive of two Counsel.


L.A. RETIEF
Judge of the High Court
Gauteng Division

Appearances

Counsel for the Appellants:	Adv. H Gerber SC Adv. M Coetzee
Instructed by:	Cox Yeats Attorneys c/o Alant, Gell & Martin Inc
Counsel for the Respondents:	Adv. MC Phathela
Instructed by:	The State Attorney, Pretoria
Leave to Appeal heard on the:	28 September 2023
Leave granted on the:	9 October 2023