

**IN THE LABOUR COURT OF SOUTH AFRICA  
HELD AT DURBAN**

**D45/05**

In the matter between:

**MICHAEL McPHERSON**

**APPLICANT**

And

**UNIVERSITY OF KWAZULU-NATAL  
RESPONDENT**

**1<sup>ST</sup>**

**PROFESSOR S. R. PILLAY  
RESPONDENT**

**2<sup>ND</sup>**

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**JUDGMENT**

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**Cele AJ**

Introduction:

[1] This is a claim about an unfair discrimination allegedly meted out to the applicant when the first respondent failed to consider his application for the position of Head of School of Physics. The applicant seeks an order wherein the respondent is directed to re-advertise the said position with the exclusion of the requirement that any permanent academic member of staff, is eligible for appointment as the Head of School. In the first alternative prayer, he seeks to have the appointment of the second respondent, as Head of School, set aside. In that event, he seeks to have his application for the position, accepted and considered together with all other applications for the position of Head of School, for a fresh appointment. In the second alternative, he seeks to be awarded compensation in an amount to be determined by this court.

Background facts:

- [2] The University of Durban Westville (“UDW”) and the University of Natal (“UN”), with one campus in Durban and another, in Pietermaritzburg were autonomous academic institutions with their own policies governing the engagement of employment services for their staff members.
- [3] In 2001 the applicant was appointed as a Senior Lecturer at the University of the North on a three year contract basis. However, at the end of 2002, his employment contract with the University of the North was prematurely terminated for the reason that the University of the North had merged with the University of the Free State, resulting in the post-graduate studies, in Physics that he was teaching, being discontinued. The applicant was then appointed to the position of an Associate Professor of Physics at “UDW”, in terms of a fixed term contract, with effect from 1 January 2003 up to 31 December 2007. He began his employment services with the “UDW” by serving a 12 months’ probation period. As an Associate Professor, he had not yet attained the full professorship. He was thereafter appointed as a Director of the School of Physical Sciences at “UDW”. Accordingly therefore, the remainder of the period of his five year term contract would be spent in the capacity as Director of School of Physical Science.
- [4] After the Applicant joined the “UDW” in 2003, the process of the merger between the “UN” and the “UDW” commenced and discussions progressed between their various departments. The applicant joined the ongoing consultation process, as Director of the School of Physical

- Sciences and represented the “UDW”. The process culminated in the formation of the first respondent. The consultation process also produced, *inter alia*, one merged school of physics and one merged school of chemistry for the merged university. There would be one Head of the School of Physics, for the three campuses. Each campus would have a decentralised school of physics, headed by a Deputy Head, one in Durban, Pietermaritzburg and then Durban Westville. The merger took effect from 1 January 2004.
- [5] Basically, all staff members of the three campuses were taken into the newly formed university, including the staff who were on contract similar to that of the applicant.
- [6] Soon thereafter, Council for the first respondent appointed a sub-committee whose function it was to advise Council on the roles and responsibilities of various senior positions of the merged structure. The sub-committee composed a document entitled:  
“Faculty Management: Role and Responsibilities, Recruitment and Selection of Faculty Management and leadership”  
Various reports, containing recommendations were submitted to council by the sub-committee.
- [7] Subsequent to the merger, the first respondent internally advertised some posts which included that of the Head of School of Physics. The advertisement for the Head of School of Physics had an eligibility requirement that any permanent academic member of staff of the first respondent, at the level of senior lecturer or above, was eligible for appointment. The consequence of the eligibility requirement was that it excluded any staff member who was not on a permanent appointment.

- The applicant who was on a fixed term contract was naturally excluded as an applicant for the post. The bar notwithstanding, the applicant submitted his application for the post on 22 November 2004. He received a written response from the second respondent, dated 27 November 2004, with the acknowledgement of receipt of his application which proceeded to inform him that he regrettably did not qualify to apply for the post and that his application was accordingly rejected. The letter, in the form of an e-mail, referred to the fact that the advertisement indicated that only the existing permanent academic members of staff were eligible to apply for the post.
- [8] The issue of eligibility for appointment to posts created by the merger process was a subject of some consultation and debate during the process leading up to the merger. The extent to which this issue was raised for discussion and council's involvement therein are enshrined in the bone of contention between the parties.
- [9] The post of Head of School is a contract post for three years. Had the applicant been appointed to it, the three years of the contract would have coincided with the remaining three years from his original five year contract. The first respondent appointed the second respondent as Head of School of Physics. The effect thereof was that, the applicant who occupied the position of Head of School of Physical Science at "UDW", had to vacate the post, in favour of the second respondent who took up the post for the merged entity.
- [10] The applicant regarded the first respondent's policy of exclusion as unfairly discriminatory and he referred a dispute which had arisen between him and the first respondent to the CCMA for conciliation. When a conciliation hearing was still pending, he approached this court by way of

an urgent application seeking to interdict the first respondent from proceeding with interviews of candidates or the making of the appointment to the post, pending the finalisation of the dispute he had referred to the CCMA. He was not successful in obtaining an interdict. When conciliation failed to resolve the dispute, the applicant referred it to this court by means of statement of claim filed with the registrar on 18 March 2005.

- [11] On 21 June 2005 the applicant served a written notice of resignation to the first respondent, through the second respondent. After the exchange of some correspondence between the parties, the first respondent accepted the applicant's resignation, which took effect from 31 July 2005. On 1 August 2005, the applicant took the post of Dean of the Faculty of Agriculture, Science and Technology at North-West University, Mafikeng campus. The position of Deanship taken by the applicant had more lucrative benefits totalling R473,430 than those he had been receiving either from the first respondent or from "UDW", which stood at R330 000.

#### The Trial Issues:

- [12] The applicant satisfied me that he personally took up the issue of the prohibition of the temporary staff from being eligible to apply for vacant posts created as a result of the merger. However, his attempt to show the extent to which there was opposition to the proposed limitation of eligibility and the widespread protest and condemnation over the eligibility requirement clearly went in vain. He failed to meet up to the challenge when he was invited to produce any records or minutes which could support his claim. The total probabilities of the evidential material before me point me to only one direction, namely that the applicant is the only person who at the consultation process, took up the issue.

Did the limitation of eligibility for the post of Head of School constitute discrimination? If so, was it unfair discrimination?

[13] It is beyond dispute that the eligibility of candidates for the post of Head of School of Physics was limited in favour of the permanent academic staff members. Any of the staff members of the respondent who were on temporary appointments were expressly excluded. The evidence of the respondent in justification of the differentiation came through Professor Michael Chapman, Professor Staniland, Professor S Pillay and Mr Paul Finden in the main, as being:

- A distinction had to be drawn between a qualification of the Head of School from that of a Dean. A Head of School was firstly an academic leader and then also, a Manager while a Dean moved closer to managerial functions.
- A Head of School was close to the discipline in his or her faculty, close to the teaching and research base of the discipline or disciplines in the School and consequently commanded respect of people close to him in the working environment. He or she should be part of the ranks of that discipline.
- The Head of School has certain managerial functions but these are limited to the practical planning of the teaching program, the design of the curriculum, the delivery of the discipline, supervision of post-graduate students, staff workloads and student details in the everyday working environment. As a result he or she should enjoy the status of permanence in the institution. He or she would be in charge of permanent staff who would have satisfied a probation period.
- The Head of School has to bring about stability and continuity. At the end of the term of appointment, the Head may be reappointed and therefore

has to be available for that eventuality. If he or she is not reappointed he or she returns to his or her previous position, but may be consulted on continuous basis.

- The term of office for a Head of School runs for three years.
- On the other hand a Dean is appointed for five years. It would only be in exceptional circumstances that an incumbent is reappointed as a Dean.
- The selection of a Head of School is done through an internal advertisement, while that of a Dean may also be done by external advertisement.
- As opposed to a Head of School, a Dean has limited contact with students and may not even teach.
- Permanent staff were subjected to rigorous assessment or interview process prior to their appointment unlike the medium or short term contract employees. There was then the possibility of an appointee to the Head of School being unsuitable or being a person unlikely to enjoy the respect of his peers and subordinate staff if the requirement of permanence is not retained.
- There was always the possibility of adverse budgetary consequences where a contract of employment was due to expire prior to the three year term for a contract employee in the position of a Head of School. It might be necessary to provide additional salary for the remaining period as a Head of School.
- As concessions: There were a number of Heads of Schools appointed in 2005 who had since resigned their positions. That in 2003 Professor Saths Cooper of "UDW" converted 300 temporary positions to permanent positions, was not denied. That Professor Makgoba announced a process whereby 250 temporary positions in 2005 would be converted to permanent positions was not disputed. It was not in dispute that some temporary staff were appointed as Acting Heads of School of Medical

Science, Education and Dentistry. Where there were no suitable permanent employees within the institution, head hunting could be done externally.

- The post of Head of School was not a promotional post. It did not help academic advancement as much as it would administratively.

[14] According to the applicant, there was no justification for the limitation of eligibility for the Head of School of Physics because:-

- The managerial functions of a Head of School was one that could be passed on prior to the contract ending. That would be through a handing over process as was done with the post of Dean.
- While academic function required continuity as was dealing with students and their progression, academics were however often appointed on contract basis (as was the case with the applicant).
- The period of tenure for the posts of Head of School and that of the Deputy Head of School was three years for each. All were vacating posts at the same time, unless reappointed.
- The Head of School was entitled to three months' sabbatical leave in addition to sabbatical leave already accrued, immediately after his or her contract of Head of School has expired. That period may be more than a year.
- The physical presence of a former Head was not necessary to offer assistance. The applicant was an example. After he left the first respondent, he graduated his PhD students via e-mail.

Submissions by parties:

[15] Mr Chadwick for the respondents referred to sections 1, 2, 5, 6 and 11 of the Employment Equity Act number 55 of 1998, (“the EEA”) and to various cases in which the mentioned sections found applicability. It was his submission that the following important principles emerged from the cited authorities with reference to the present case :-

- An important consideration was whether the differentiation between employees was :-
  - whether it was based on one of the prohibited grounds mentioned in section 6 of the EEA or
  - whether it was discrimination which undermined the dignity and self respect of the “victim”.
- Whether the differentiation or discrimination was unfair.
- Whether the differentiation or discrimination was arbitrary or whether it might be justified on some rational basis, for instance whether there might be some not insignificant commercial *rationale* for it.

[16] His submission was that the alleged discrimination :-

- did not fall within one of the prohibited grounds mentioned in section 6 of the EEA;
- was not in any sense designed, or likely to impair dignity and self respect;
- was not arbitrary. There was a commercial *rationale* and need for the discrimination.

- [17] He argued that when framing a policy of the nature in question, the policy must needs cater for the general situation rather than the circumstance of particular individuals. Accordingly, it was no answer for the applicant to contend that because his contract would in any event expire after the term of Head of School and/or because he might personally have been subjected to rigorous examination, when applying for his post, that was the reason to condemn the policy as being discriminatory and unfair.
- [18] He averred that the provisions of the policy were to be measured against the operational requirements of the first respondent, in the general situation; it was not to be measured against its effect on individual cases. This, he said, was not a case in which the policy was targeted at the applicant personally.
- [19] He said that there was no justification for the claim based on badly wounded feelings as a result of being ruled ineligible as the applicant had elected to accept other employment where he enjoyed greater status and benefits than of a Head of School of the first respondent.
- [20] He submitted that the appointment of a Head of School constituted a deployment rather than a promotion. As a consequence the exclusion from eligibility would not constitute an unfair labour practice or would impose a particularly difficult burden on the first respondent. He said that the first respondent's decision to exclude the applicant was neither irrational nor prompted by an improper motive.
- [21] Mr Seery who appeared for the applicant submitted that an  
➤ appointment for a Head of School was to be made in terms of the University's Employment Equity Policy. The policy :-

- did not differentiate between contract and permanent employees but applied to both;
  - defined “appointable” as a person who not only met the minimum requirements of the job, but who was likely to be successful in the job;
  - endorsed the principle of equal opportunity for all;
  - prescribed that appointments were to be based on individual merit;
  - specified the content of the advertisements for the posts being advertised.
  - appointments were based on two levels of competency, ie minimum requirements being satisfied and the potential to be successful in the job.
- There was nothing in the policy that specifically stated that contract employees could be excluded from applying for posts.
- The exclusion of contract employees from applying for certain posts could be “catered for” under the requirement of “operational necessity”, which in the present case was not conceded to be applicable.
- The first respondent made a generalised assumption that permanent employees were more likely to remain as functionaries within their respective departments after their tenure as Heads of School. A further assumption that followed was that contract staff would, by choice, not remain within their departments. The first respondent produced no statistics justifying its assumptions. The evidence of the second respondent was that 60% of the Heads appointed in 2005 have already resigned their positions.
- For a Head of School to be close to the discipline, to command respect, to be part of the ranks of the discipline, to supervise post-graduate students and staff workload, the incumbent of the post does not need to be a permanent member of staff.

- The screening process when appointing the Head of School would be able to exclude those contract members of staff that were not subjected to a rigorous screening process when they were employed, if they were not suitable for that position.
- The first respondent had not adopted any policy preventing the conversion of a temporary appointment to one of a permanent nature. The first respondent had a Credentials Committee which was vested with powers to process and grant such conversion. In 2003 Professor Saths Cooper of “UDW” converted 300 temporary positions to permanent positions. In 2005 Professor Makgoba, the Principal of the first respondent, announced a process whereby 250 temporary positions would be converted to permanent positions.
- When it suited the first respondent, it appointed contract members of staff to positions of Acting Heads of School:
  - in the School of Dentistry;
  - in the School of Education and
  - in the School of Medical Science
- The policy of the first respondent was such that if there was no suitable (permanent) employee within the institution (for appointment as Head), the first respondent would look externally. It was manifestly unfair to look outside of the staff compliment and not consider appointing contract members of staff as Heads merely because of their employment status within the institution.
- The post of Head of School was a promotional post (from Associate Professor) carrying with it extra responsibility, authority and benefits. The applicant was prevented from following his chosen progression path merely because he was a contract employee.
- It must be accepted that contract employees who met the minimum requirements to apply for the post (bar the status of permanency) have

been treated less favourably than those with permanent status. The less favourable treatment was discriminatory and unfair.

### Analysis

[22] The recruitment and selection process of the Head of School for the first respondent is governed by the University's Employment Equity policy. When the first respondent set out the role of Head of School, it provided a preamble which states, *inter alia* that:

“The Head of School is expected to provide leadership in scholarship and research within the school whilst, at the same time, ensuring the effective administration of the School.

Heads of School, therefore, are academic administrators who are appointed on the basis of administrative ability, high academic standing and considerable academic experience.

The Head of School has ultimate responsibility for the overall efficient and effective functioning of the School.

The Head of School reports to the Dean of the Faculty. He or she is accountable to the Faculty Board, College Academic Affairs Board, and the Senate for proper management of the School in terms of the policies, vision, mission, goals and core values of the University.

The Head of School will be expected to undergo necessary training and induction in areas such as financial management, human resources and dispute resolution.”

[23] The first respondent described the eligibility requirement for Heads of School as :

“Any permanent academic at the level of Senior Lecturer or above is eligible for appointment as Head of School.”

The descriptive words : “Any permanent academic” are the basis for the claim before me, which is premised on unfair discrimination or unfair labour practice.

[24] Section 9 of the Constitution of the Republic of South Africa, 1996 (“the Constitution”) prohibits both the State and any person from discriminating anyone on the basis of any one or more grounds as listed in subsection (3). Section 10 of the Constitution accords everyone inherent dignity and the right to have their dignity respected and protected. While the applicant had not sought to place reliance on any ground listed in section 9 of the Constitution, in my view, it remains important to keep in mind the constitutional imperative against discrimination.

[25] Discrimination against an employee, directly or indirectly based on any arbitrary ground is prohibited by section 187 (1) (f) of the Act, which section lists some of the grounds. The EEA is more detailed in the prohibition of discrimination in the workplace, Section 2 of the EEA reads:-

“2. Purpose of this Act:

The purpose of this Act is to achieve equity in the workplace by –

- a) promoting equal opportunity and fair treatment in employment through the elimination of unfair discrimination; and
- b) implementing affirmative action measures to redress the disadvantages in employment experienced by designated groups, in order to ensure their equitable representation in all occupational categories and levels in the workplace.”

[26] Section 3 of the EEA deals with the interpretation of the EEA and reads, *inter alia*

“This Act must be interpreted –

- a) in compliance with the Constitution;
- b) so as to give effect to its purpose;

- c) taking into account any relevant code of good practice issued in terms of this Act or any other employment law; and
- d) in compliance with the international law obligations of the Republic, in particular those contained in the International Labour Organisation Convention (111) concerning Discrimination in Respect of Employment and Occupation.”

[27] Articles 1 and 2 of the International Labour Organisation Convention (No. 111) concerning Discrimination in Respect of Employment and Occupation read:

*“Article 1:*

1. For the purpose of this Convention the term “discrimination” includes:
  - a) Any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation;
  - b) Such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation as may be determined by the Member concerned after consultation with representative employers’ and workers’ organisations, where such exist, and with other appropriate bodies.
2. Any distinction, exclusion or preference in respect of a particular job based on the inherent requirements thereof shall not be deemed to be discrimination.

3. For the purpose of this Convention the terms “employment” and “occupation” include access to vocational training, access to employment and to particular occupations, and terms and conditions of employment.

*Article 2:*

Each Member for which this Convention is in force undertakes to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity

and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof.”

[28] Section 6 (1) and (2) of the EEA prohibits unfair discrimination and reads:

“6. Prohibition of Unfair Discrimination:

- 1) No person may unfairly discriminate, directly or indirectly, against an employee, in any employment policy or practice, on one or more grounds, including race, gender, sex, pregnancy, marital status, family responsibility, ethnic or social origin, colour, sexual orientation, age, disability, religion, HIV status, conscience, belief, political opinion, culture language and birth.
  
- 2) It is not unfair discrimination to-
  - (a) take affirmative action measures consistent with the purpose of this Act; or
  - (b) distinguish, exclude or prefer any person on the basis of an inherent requirement of a job.”

[29] The first respondent is the employer against whom there is an allegation of unfair discrimination and therefore has to establish that it acted fairly in the circumstances. The case of the first respondent is that the provisions of the policy in question ought to be measured against the operational requirements of the University in the general situation and not against its effect on individual cases. Seen in that perspective therefore, the distinction or exclusion of staff on temporary posts did not amount to discrimination. However, should it be found to be discriminatory, it is not unfair discrimination. The evidence of the first respondent reminded me of what Willis JA had to say in the case of *Woolworths (Pty) Ltd v Whitehead (2000) (6) BLLR 640 (LAC)* at 665-6. He commented:

“A decision made in regard to a single individual can hardly

be described as a 'policy' or 'practice'. The decision of the employer in this case is, furthermore, not indicative of any policy or practice which it has adopted towards pregnant women. As I have already indicated above, there is nothing remotely to suggest that this particular employer has adopted an attitude akin to: "We do not want women who are or may fall pregnant to work for us"."

The first respondent's witnesses testified in the present case that a policy was adopted, the effect of which was that the first respondent was saying "We do not want temporary staff to work for us as Head of School".

- [30] It was the evidence of the applicant (which was not disputed) that UDW had a number of staff who were appointed on temporary basis. The rationale underlying the approach was the uncertainty of the status of "UDW" due to a transformation which it was known was pending. There was also evidence that the "UN" itself had some temporary staff in its employ. Therefore, when the first respondent came into existence, it would have taken into its employ quite a number of staff who had been employed on temporary basis, *inter alia*, because of the uncertain future of the institutions whence they came. These staff members could very well be South Africans who but for the pending change, could have been taken on permanent basis. There may very well be other underlying reasons why temporary staff were taken on at the time. There is therefore overwhelming evidence before me that the first respondent has in its employ a sizeable number of its staff who are on temporary employment. The position of the applicant was therefore not an isolated case. The first respondent's policy is that none from the group of temporary staff may be appointed as Heads of a School. That itself indicates that the members of staff on temporary employment belong to a vulnerable group.

[31] There is undisputed evidence that in three schools, the first respondent appointed temporary senior staff as “Acting Heads” for a period that would not be longer than 6 months for each. The applicant, while on a temporary post, was appointed by “UDW” as a Head of School. There are therefore identifiable staff members of the first respondent who are adversely affected by the eligibility requirement of a permanent appointment of a Head of School. The eligibility requirement is therefore discriminatory to the temporary appointed staff members of the first respondent.

[32] The first respondent places reliance, for the discriminatory eligibility requirement, to sections 6(2)(b) of the EEA to show that it acted fairly. Commenting on the justification of unfair discrimination, Murphy AJ (as he then was) in the case of *Independent Municipal and Allied Workers Union and Another v City of Cape Town (2005) 26 ILJ 1404 (LC)* had this to say:

“Unfair discrimination can be justifiable in our law. The justificatory stage is where the respondent seeks to justify otherwise unfair discrimination. In human right or constitutional law the notion of ‘unfair’ discrimination focuses on the holder of the right, whereas justification focuses on the purposes, actions and reasons of the government, and not the rights of the holder. Factors that would or could justify interference with the right to equality are to be distinguished from those relevant to the enquiry about fairness. The one is concerned with justification, possibly notwithstanding unfairness; the other is concerned with fairness and with nothing else – *President of the Republic of South Africa v Hugo 1997 (4) SA 1 (CC)* at 36B-C.”

[33] A sub-committee appointed by the Council of the first respondent to advise Council on the roles and responsibilities of various senior positions in the merged universities presented its report entitled: “Faculty

Management: Role and Responsibilities, Recruitment and Selections of Faculty Management and Leadership” to the Senate of the first respondent on 26 October 2004. Final charges were effected on the document and the Senate adopted it. The adopted document was then forwarded to Council: The report which is dated 19 October 2004, was quite comprehensive as it dealt with various issues extensively.

- [34] The only eligibility requirement which appears to have been the subject of discussion with the Senate appeared in the report initially as:

“Any permanent academic at the level of Senior Lecturer or above will be Eligible to be an Academic Co-ordinator.”

“Senior Lecturer” was subsequently altered to “any lecturer”. Again in this group, an academic co-ordinator could only be appointed from permanent academic staff member.

- [35] The report of the sub committee is conspicuously silent on the reasons underlying the appoint of Head of School and an Academic Co-ordinator having to come only from permanent academic members of the first respondent to the exclusion of temporary academic members. It is noteworthy that this limitation was not made applicable to other categories of the academic staff.

- [36] The principle of continuity suggested by the first respondent is, in any view not convincing. The first respondent could very well have applicants for the Head of School who are on a 5 year contract which is in its initial stages. Appointing one such as Head of School for the maximum period of 3 years would still bring about continuity after the end of the three year

term. As evidence showed, permanent staff are not immune from tendering resignation as staff members soon after the three year term. A staff member who has been a Head of School may also have to go on retirement. It is noteworthy that the first respondent has appointed temporary staff as “Acting Head of School.”

- [37] I can conceive of no bar against a temporary staff member achieving academic excellence and through extensive research work, to earn respect by his or her peers. Respect in a discipline may therefore be well earned by a staff member notwithstanding the temporary nature of his appointment. It remained undisputed that the applicant earned such respect with his peers at “UDW”. He was both an academic leader and a manager.
- [38] As I consider the reasons preferred for the inherent operational requirements of the first respondent, I find none that I can regard as permanent attributes or quality, forming an essential element of such requirements. The reasons given, in my view, come across as requirements based on the preferences of first respondent’s senior employees.
- [39] The conclusion is inevitable, in my view, that the eligibility requirement of a Head of School set by the first respondent is unfairly discriminatory.
- [40] From 27 November 2004, when the applicant was informed by the first respondent that he regrettably did not qualify to apply for the Head of School position, till 21 June 2005, when he served the first respondent with a letter of resignation he had to suffer the humiliation of an unfair discrimination at the hands of the first respondent. He is the one who took

the initiative of ameliorating or mitigating the intensity of his suffering. Such suffering was indeed short-lived as he found himself a better position elsewhere. In his evidence and through an amendment of the relief he seeks, he made it abundantly clear that he would not like to consider coming back as an employee of the first respondent. That secures the position of the second respondent. In my view he is entitled to some salutary compensation. I have taken into account the undisputed fact that he has ascended to a higher position which is seeing to it that he is financially better off. I am of the view that the just and equitable compensation to the applicant should be the equivalent of 6 months' remuneration calculated at the rate of remuneration the he was then receiving on 31 July 2005.

[41] Accordingly, the following order will issue:

- (1) The first respondent is ordered to pay six months' remuneration to the applicant, calculated at the rate of the remuneration the applicant was receiving on 31 July 2005.
- (2) The payment is to be made within 14 days from the date hereof.
- (3) The first respondent is to pay the costs of this claim.

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Cele AJ

DATE OF HEARING: 2/4/2007

DATE OF JUDGMENT: 31/8/2007

FOR THE APPLICANT: ADV. T. SEERY INSTRUCTED BY JAY REDDY

ATTORNEYS

FOR THE RESPONDENT: MR A.J. CHADWICK OF SHEPSTONE & WYLIE  
ATTORNEYS

