

Supreme Court of Appeal of South Africa

MEDIA SUMMARY– JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal

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Status: Immediate

Please note that the media summary is intended for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal.

Natal Joint Municipal Pension Fund v Endumeni Municipality

The SCA today upheld a claim by the Natal Joint Municipal Pension Fund for payment of an adjusted pension contribution by the Endumeni Municipality. The claim arose in consequence of a municipal employee exploiting the rules of the Provident and Superannuation Funds administered by the appellant to secure that he was credited with 46 years of pensionable service in the Superannuation Fund, although he was only 43 years old and had only worked for the municipality for some 15 years. He then resigned his employment and was immediately re-employed on a contract basis in his former position. However, as a result of his resignation he became entitled to a payment from the fund of some R2.7 million.

The Fund sought an adjusted contribution from the municipality to cover the shortfall in funding of this withdrawal benefit. The municipality successfully resisted this claim in the lower court on the grounds that the claim was impermissible in terms of the applicable rule of the Fund. However on appeal the claim succeeded. As a result the municipality will have to pay an additional contribution to the Fund of some R2.4 million together with interest and costs.