



SUPREME COURT OF APPEAL SOUTH AFRICA

MEDIA SUMMARY – JUDGEMENT DELIVERED IN THE SUPREME COURT OF APPEAL

FROM The Registrar, Supreme Court of Appeal

DATE 23 September 2019

STATUS Immediate

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

RAJAN RAMNATH SEWPERSADH

v

THE MINISTER OF FINANCE & ANOTHER

The Interim Constitution of 1993 recognised that many people had made both personal and financial sacrifices in the struggle to rid this country of apartheid, and mandated Parliament to pass legislation providing for the payment of special pensions to those who had served the public interest in establishing a democratic constitutional state. As a result, the Special Pensions Act 69 of 1996 was passed, which came into operation on 1 December 1996

Several years later, the appellant applied for a special pension to the Special Pensions Board established under the Act to process such applications. Years later his pension application was refused. An appeal on his part to the Appeal Board dealing with appeals from decisions of the Special Pensions Board was also dismissed. Eventually he sought to review the decision of the Appeal Board. The high court rejected the review.

The appellant had sought to claim a special pension under s 1 of the Special Pensions Act which required that for a five year period prior to 2 February 1990 (the date on which the ANC and Umkhonto WeSizwe were unbanned) he had been engaged full-time in the service of a political organisation. Both the ANC and Umkhonto WeSizwe fell within the definition of political organization, and during that period the appellant had been a member of both.

The Appeal Board and the court a quo held that despite the appellant's membership of such organisations he, was not entitled to a special pension as, during that five year period, he had held down full-time employment with a jewellery workshop. The Supreme Court of Appeal, however, ruled in the appellant's favour in finding that not to be the case. In interpreting the meaning of 'engaged full-time in the service of a political organisation' used in the section, it has to be remembered that the Act is a remedial statute having as its purpose the extension of rights designed to alleviate the financial suffering of those who fought for freedom, and should therefore be construed liberally in order to afford the greatest relief. Prior to the unbanning of the appellant's organisations it had been a criminal offence to be a member of them and for this reason many persons had been required to operate covertly on their behalf. This

is what the appellant had done. He used his employment at the jewellery workshop as a cover for his clandestine operations.

The court also held that the distinction must be drawn between the concepts of employment on the one hand and service on the other, and bearing that in mind it concluded that there was no reason why a person such as the appellant in full-time employment used as a cover for his covert activities could not be said at the same time to be in the full-time service of the political organisation for which he was working undercover.

The appellant had therefore shown that he was entitled to a pension and this was reflected in the order the SCA made in allowing the appellant's appeal.