



Picture: Supplied

# Dept employees 'drive off' with R3.4m grader

## STAFF REPORTER

TWO EMPLOYEES attached a R3.4 million grader in lieu of their salaries after the Northern Cape Department of Roads and Public Works failed to pay them.

The employees, Tshepo Mahadika and Tabiso Palweni, were dismissed after they were found guilty on charges of gross insubordination and incitement during a disciplinary hearing.

Although they appealed the outcome of the disciplinary hearing, it was dismissed and they were dismissed by the department on December 5, 2016.

The employees then took the matter to the Bargaining Council for arbitration, which found their dismissal to be unfair on both procedural and substantive grounds and it was set aside.

The Bargaining Council ruled that Mahadika and Palweni be reinstated to their position effective from December 5, 2016 with no loss of benefits or remuneration.

The department was ordered to pay the applicants all their unpaid salaries and benefits for the period December 5, 2016 to June 1, 2019.

The department, however, failed to honour its payment to

Mahadika and Palweni, and the CCMA then issued an Enforcement of Award, which was served on the department, allowing the Sheriff of the Court to attach the moveable goods of the department.

The enforcement was issued on August 27 and the grader was attached last week. It will be sold on auction.

The two employees are both executive members of Nehawu in the department, Mahadika being the deputy chairperson of the branch and Palweni the secretary.

The charges related to a union meeting held on September 12, 2016, in the parking area of the department during lunch.

Although permission was originally granted to hold the union meeting, the department withdrew its permission.

Despite the fact that the meeting was not sanctioned by the department and was supposed to have been cancelled, the two, together with another official, Vuyo Mdladla, who was the branch chairperson of Nehawu in the department, decided to continue with the meeting irrespective and to defy management.

Madlala was also dismissed for his role in the meeting but he was

reinstated on appeal.

The Bargaining Council, in its arbitration ruling, pointed out that while Madlala was dismissed and reinstated at appeal, the two employees' appeals were unsuccessful and they remained dismissed.

"Unlike the two applicants his dismissal was turned into a sanction less than a dismissal and he has since been reincorporated into the department.

"They all agreed to defy the withdrawal of the permission to hold the meeting and instead consciously agreed to continue with the meeting."

According to the Bargaining Council, evidence by Mahadika suggested the meeting did not take more than 20 minutes and they spoke about the cancellation of their meetings and future arrangements and this evidence was not disputed.

"It is my conclusion that the charges of incitement and gross insubordination were not supported by the evidence at hand, instead the evidence presented supports a charge of organising and having an unauthorised trade union meeting in the workplace."

The Bargaining Council pointed out further that undis-

puted evidence suggested that the entire executive of the union, being five members, were involved in defying the decision taken to withdraw a consent that was granted to hold a union meeting.

"Three people were found guilty and one was exonerated. The other officials were not even charged. In my view all members of the BEC should have been made to account.

"The dismissal of the applicants and the reinstatement of Madlala on account that he pleaded guilty would violate the consistency principle as employees should face the same sanctions on the same merits, on this point too, the applicants were right, and I find in their favour."

The spokesperson for the Department of Roads and Public Works, Crystal Robertson, said in response yesterday that the department could confirm that both cases (the Maretela as well as the Mahadika and Palweni cases) were pending before the Labour Court. "Hence we are of the view that these matters are sub judice, meaning under judicial consideration. These officials are fully represented and we respect their right to a fair trial."