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Author: MANYANE MANYANE
manyane.manyane@inl.co.za

'UNFAIR TREATMENT'

Employees take Public Works to court over `victimisation`

MANYANE MANYANE
manyane.manyane@inl.co.za

THE Department of Public Works and Infrastructure has been dragged to court over alleged unfair labour practices and victimisation of whistle-blowers who exposed alleged irregular appointments and abuse of power by Minister of Employment and Labour Thulas Nxesi.

The employees told the Labour Court in Johannesburg that they had been targeted for blowing the whistle on Nxesi's alleged shenanigans. This was after allegations that Nxesi, who was minister of Public Works and the chairperson of the SACP between 2011 and 2017, allegedly appointed SACP comrades to positions without due procedures.

It was also reported that Nxesi appointed and promoted to senior managerial positions women he allegedly had sexual relations with. Nxesi is also accused of hiring Clive Mtshisa as the department's deputy director-general of corporate services in order to manage the deployment of SACP members.

The whistle-blowers, who were part of the selection panel, said they reported the matter to the Public Service Commission (PSC), which informed Nxesi of the complaints. This, according to them, led to their victimisation which saw them being charged as well.

The whistle-blowers were charged with misconduct for the appointments of SACP comrades. They said they were taken to a disciplinary hearing in 2019, but it had been shuttled back and forth with the withdrawal and reinstatement of charges.

They said the disciplinary proceedings were brought for ulterior motives of harassing, discouraging, censoring, intimidating and silencing them in relation to the allegations against Nxesi and other officials. In the application, the employees, who are led by chief director Thembi Hlatshwayo, said the continuation of the matter as an internal disciplinary inquiry had become an occupational detriment, given the protected disclosures they had made. They said the inquiry harboured ill intent and was unconstitutional without the protected disclosures being determined by the General Public Sectoral Bargaining Council.

Hlatshwayo said they were willing to undergo any disciplinary process provided it be one as envisaged in terms of Section 188A(1) of the Labour Relations Act 66 of 1995, to avoid them being subjected to an occupational detriment.

"Candidates suitably qualified for the appointments were overlooked or not shortlisted or even appointed as a result of nepotism, cronyism, and favouritism. The department has thus made irregular appointments which will need to be set aside as the subsequent appointments are unconstitutional," said Hlatshwayo.

She said they made a follow-up on the protected disclosures on December 22, 2022, and were still waiting on the department to revert to them. She said that on January 23 they also raised, through their legal representative, advocate MacGregor Kufa, that they had made protected disclosures and it would be unlawful for them to be subjected to an occupational detriment.

She said advocate Beatrice Matlejoane, who chairs the disciplinary hearing, refused to consider their concerns, and "she adamantly stated that she was proceeding with the inquiry".

In his affidavit on behalf of the department, acting director-general Mokoditloa Moemi denied that the employees were targeted, saying Nxesi requested the Public Service and Administration Department to review the appointments. He said both departments appointed the PSC to look into the matter.

He said the PSC made serious findings of non-compliance with public service prescripts in the appointments. He said the commission recommended that Nxesi facilitated the correct steps in the form of disciplinary action against members involved in such irregular appointments.