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UNION TRIUMPH

# More than 1 000 EPWP workers made permanent

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THE MUNICIPAL and Allied Trade Union of South Africa (Matusa) has claimed a major victory after the Commission for Conciliation, Mediation and Arbitration (CCMA) ordered the eThekweni Municipality to permanently hire more than 1 400 workers under the Expanded Public Works Programme (EPWP).

Deputy secretary of Matusa, Thulani Ngwenya, told the *Daily News* on Wednesday that the union had "freed more than 1 000 workers from slavery".

He said they would enjoy the benefits of any other government employee.

Ngwenya said they took the matter to the CCMA last year after a string of marches and engagements with city bosses failed to yield positive results. He regarded it as a huge development and a giant step in improving union members' lives.

Delivering his judgment, commissioner Jerald Vedan concurred with almost all the evidence presented by one of the employees as a witness in the matter.

The employee's testimony was based on an alleged violation of the Labour Relations Act's Section 198, which determines employees who

must be regarded as permanently employed.

The employees argued that they were doing work that was done by permanent employees, working the same hours, but the only difference was the benefits enjoyed by their colleagues.

Another strong argument by the workers was the promise made by eThekweni mayor Mxolisi Kaunda, during a meeting at Curries Fountain in 2020, that workers would continue working even after their two-year term had ended.

According to the employees, Kaunda said: "*Ngeke sinilahle* (we will not leave you out)."

Kaunda then promised to absorb some of the employees while others would be assisted through co-operatives. The workers argued that the fact their contracts were not terminated and continuously renewed meant that they were permanently employed and therefore needed to be accorded the same benefits as permanently employed staff.

In the analysis of evidence and argument, the commissioner concluded that it would seem that the application fell under Section 198B of the Labour Relations Act, and referred to a fixed-term contract.

The commissioner also took into consideration that the respondent, which was eThekweni Municipality,

did not oppose the application.

"The respondent failed to attend the hearing, and therefore I only have before me the applicants' version of events, which I accept in the absence of any counterargument.

"First, one has to determine who is the employer of the applicants. The applicants were originally employed as EPWP employees, however, it would seem that the conditions attached to EPWP employees have been flouted by the municipality.

"The respondent continued to retain the services of the EPWP employees on an almost permanent basis. The employment of the applicants in terms of a fixed-term contract is in contravention of Section 198B (3), and is therefore deemed to be permanent as from the date of this award. The applicants are to be afforded all the benefits as pertains to permanent employees," said the commissioner.

Ngwenya said the municipality should be grateful that the order was not backdated to the time workers spent in the "slavery period", saying some workers had started 18 years ago.

eThekweni Municipality spokesperson Msawakhe Mayisela said: "The notice to attend this matter was sent to the wrong email addresses. The city is therefore studying the judgment with the intention of having its ruling rescinded."