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IN THE LABOUR APPEAL COURT OF SOUTH AFRICA

ON PETITION

In re: Case D529/11

In the matter between

ANTHONY ROBIN BRINK — Petitioner

and

LEGAL AID SOUTH AFRICA — Respondent

PETITION FOR LEAVE TO APPEAL AND TO LEAD NEW EVIDENCE ON APPEAL

To: Judge President Basheer Waglay, Labour and Labour Appeal Courts of South Africa, and to the judges designated to consider this petition.

And to: Legal Aid South Africa
c/o Durban Justice Centre
332 Anton Lembede Street
Durban
(Mr Ngcamu)

The petitioner, Anthony Robin Brink, applies for an order granting him leave (i) to appeal to the Labour Appeal Court against the dismissal of his unfair discrimination claim with costs by Cele J in the Durban Labour Court on 18 September 2014, his application for leave to appeal and to present further new evidence on appeal having been refused on 27 November 2014, and (ii) to present further new evidence on appeal.

The petitioner's supporting affidavit under rule 4(1) of the Labour Appeal Court Rules is annexed hereto.

Signed at Eshowe on 7 December 2013

ANTHONY ROBIN BRINK
APPLICANT
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Telefax: 086 672 0776

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SUPPORTING AFFIDAVIT

I, Anthony Robin Brink, affirm:

1. I am an adult male, 55, an advocate of the High Court of South Africa of three decades standing, currently resident at 1 Boast Street, Eshowe, KwaZulu-Natal, where I'm based as an acting magistrate on short-term renewable contracts pending the correct decision of this most important case; and I am your petitioner. This affidavit sets out my case for your leave to appeal, and present further new evidence on appeal, in the form prescribed by LAC rule 4(1). To comply with the stricture imposed by rule 4(3), I've limited it to just 50 paragraphs, so it can't be and isn't exhaustive. For concision, I'll refer to the respondent as 'LASA'; to my main heads of argument as 'my heads'; to the judgment in the case as 'the judgment'; to my application for leave to appeal as 'my application'; and to the judgment refusing it as 'the refusal'. These documents will be bundled with this petition. My considered specific approach in preparing this affidavit has been dictated by the wider public dimensions of the case to be mentioned.

2. As I'll show, this is an extraordinarily serious matter with colossal implications extending way beyond my personal interest in its just resolution. It concerns the personal and professional integrity of a sitting judge president, formerly of this court, and that of the most senior management executives of a major public entity. I speak of the perversion of separate Ministerial and Parliamentary enquiries by dint of multiple, objectively demonstrable lies, and different lies told variously to me, to the LASA Board, to the SAHRC, and to court (different lies told in the pleadings and interlocutory affidavits, and

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then at trial), and of the gross breakdown of proper corporate governance and the rule of law at LASA, all of which the trial judge looked past in his seemingly clear and definitive, but in fact deplorably inattentive, glib, crude, and perfunctory judgment, riddled with the most basic legal and factual misdirections, omissions and non-sequiturs, and characterised by his failures over and over again to consider the radical contradictions and the ludicrously improbable, manifestly untruthful, and objectively contradicted evidence of LASA's single witness at trial, National Operations Executive Brian Nair.

3. I'll advert later in this affidavit to the capital misconduct and massive and pervasive corruption to which I allude here, as well as to the judge's own gravely prejudicial misconduct in the case that thwarted a full and proper ventilation of the issues that I looked to him and trusted him to try.

4. In his refusal the judge didn't treat the clear-cut new evidence surfaced after trial showing unequivocally that Nair had lied to him on oath in two respects.[1] To the judge, Nair's categorically proven repeated mendacity in court made no difference to his assessment of the credibility of his evidence. Your lordships can hardly agree.

5. The judge elliptically conceded[2] his fundamental legal misdirection, identified in my application,[3] that in deciding the case he'd misallocated the final onus of proof, which he'd placed on me[4] instead of on LASA. He then sought to avoid the fatal ramifications of this radical error by two means:

6. First by stating that the Employment Equity Amendment Act, which reversed the onus of proof in unfair discrimination claims by legislation, was only proclaimed in August 2014, after the trial and argument of the case, and didn't have retrospective effect – failing to note that the amendment merely codified the international jurisprudence on the point, supported by the International Labour Organisation and therefore prescriptive and binding on him.[5] That is, the onus was reversed and lay on LASA, even before the amendment of the Employment Equity Act. I treated this crucial, foundational aspect

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[1] Application for leave to lead further evidence (Part One of the application). I'm confident that several pending PAIA requests that I filed after the case, testing novel, surprising claims Nair made at trial – unanticipated by the correspondence, reports, pleadings and interlocutory affidavits, and at odds with them – will yield further cold print evidence of Nair's prolific perjuries at trial, and of his successful fraud on the judge. I'll seek leave to lead this new evidence on appeal, once it's to hand.

[2] Refusal, paragraph 5.

[3] Application, paragraphs 191–211.

[4] Judgment, paragraphs 65 and 67.

[5] EEA, section 3, law and case bundle, pages 16–17.

extensively in my application, quoting the authorities chapter and verse.[6] The judge's response was to silently look away.

7. And second by asserting that even if I was right about the incidence of onus, irrespective of where it lay his decision wouldn't have been any different – notwithstanding that LASA relied entirely on the mere say-so of its single witness Nair, unsupported by any records, and indeed contradicted by them, a witness the judge acknowledged I'd shown to have been 'not generous with the truth'[7] on numerous scores.[8] Instead of considering the implications of this for Nair's credibility as a witness, he took him at his word,[9] mechanically reciting his evidence as gospel, without any endeavour to assay its veracity. It seems to have been inconceivable to the judge that such a high public officer could be a practised, confident, spontaneously inventive, unctuous, bare-faced, abject liar.

8. In his refusal, the judge failed utterly to address and deal with the rest of my attack on his judgment in my application, in which I demonstrated all his basic errors, too many to recite here, including the huge prejudice he caused me by refusing to allow me to cross-examine LASA's officers I'd subpoenaed for the purpose,[10] thus depriving me of some major artillery I'd lined up; and he swept the whole thing – all 59 pages and 323 paragraphs – off the table in a single dismissive paragraph.[11]

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[6] Application, paragraphs 204–11.

[7] Judgment, paragraph 67. I'm currently preparing perjury charges for the criminal prosecution of Nair and other officers for their numerous lies told under oath in this matter to date, and collecting further evidence for this purpose using PAIA. Predictably, nearly all my first three PAIA requests filed after trial were illegally refused on legally spurious grounds, and three applications I've brought to compel are currently pending. I'm awaiting responses to four subsequently filed further requests. I've just discovered from the SAHRC that LASA has once again failed to report its refusals in its 2013/14 report as required by section 32 of the Act, and has concealed its reliance on entirely irrelevant and incompetent sections of it. Despite having been previously censured by the SARHC and taken to task by the Portfolio Committee for this (record, page 472, lines 4–25 to page 477, lines 1–7), it's now the third time that LASA has falsely and deceptively reported to the SAHRC for the misinformation of the National Assembly in turn, to conceal its illegal refusal of my PAIA requests to suppress documentary evidence of corruption in executive management.

[8] Ibid.

[9] Judgment, paragraph 69, last sentence for instance. (By the way, contrary to the judge's misdirected and irrelevant finding here, it was not my case that Nair knew of my background other than from my CV, and later my letter to Vedalankar in July 2010 detailing it further – the first he pretended not to have read until more than a year after receiving it (record, page 416, lines 19–25 to page 417 lines 1–2), and the second he pretended to have stopped reading at precisely the point it began dilating on my political background (record, page 460, lines 3–25 to page 461, lines 1–5); but this latter lie is exposed by his different story to the Minister and to Parliament in the reports to them that he wrote for Mlambo JP to sign and submit to them, which he later repeated even more precisely on affidavit: heads, paragraphs 153–7.)

[10] Application, paragraphs 317–322.

[11] Refusal, paragraph 5.

9. My contentions on the law of costs in unsuccessful constitutional litigation brought to vindicate a fundamental right likewise went completely ignored. That matter alone is eminently fit for appeal, particularly because the judge gave no reasons for condemning me in costs.[12] Which is to say to penury for the rest of my life.

10. Notwithstanding the mountain of papers[13] and the duration of the trial,[14] the case was really quite simple to anyone paying attention.[15] Pared to the bone, here it is:

11. In November 2009 I was interviewed for LASA's top professional post in KwaZulu-Natal, its Senior Litigator post at Pietermaritzburg (there's a twin post at Durban) – repeatedly advertised, and twice in the year that I applied for it. Five strangely silent and glaringly unprofessional months later, I telephoned LASA's national Human Resources Executive Amanda Clark to ask the result. (Nair was out of head office the day I phoned.) She replied she knew nothing about me or the recruitment, helpfully undertook to expedite it, and cheerfully encouraged me to contact the provincial HR manager for updates. I did, but on later finding him no wiser, I reverted to Clark. (Nair was now back.) This time she avoided and didn't return my repeated calls made over several days, with messages left for her. So at last I emailed her, pleading for information about the upshot of the interviews one way or the other, as I needed to settle my plans. She answered stunningly rudely[16] and with studied disingenuity and opacity, and in as many words told me to get lost and not to contact LASA again. Her insolent proposal that I withdraw my application for the post back-handedly confirmed to me that I'd been selected for it, but announced

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[12] In view of his criticism of Morris and Fourie in their case against LASA he'd recently decided (law and case bundle, pages 94–7), in which he'd deprived them of part of their damages, I pertinently enquired of the judge during oral argument whether there was anything about my conduct in the litigation that he thought remiss, so that I might address it and defend myself before he made any possible adverse finding about it. There was nothing. In awarding costs against me, seemingly in line with the general rule that costs ordinarily follow the result, the judge parroted the language of the costs order made in the Germishuys case (Case 10 in LASA's List of Authorities, and cited in footnote 15 of the judgment) – a very different case from mine, in which some disgruntled white woman thinking herself better than a black candidate selected for a post complained of unfair race discrimination without any evidence of it at all. In contradistinction, the judge extensively enumerated (his paragraphs 30–41) all the objective indiciae pointing to unfair discrimination in my case – in the absence of a convincing non-discriminatory reason proved by LASA for aborting my appointment. He accepted I'd made out a prima facie case for such a finding, which is why he dismissed LASA's application for absolution after my evidence. See further, record: page 480, lines 1–25 to page 482, lines 1–22 (Nair clearly dissembling in reply).

[13] Heads, paragraph 6: all the papers in the case are described and catalogued here.

[14] Nine days, 23 July to 2 August 2013.

[15] See paragraph 47 below.

[16] The redacted excerpts quoted in the judgment don't fully convey her snarling tone. The full email is included in my trial document bundle, at page 256.

that I wasn't wanted – especially in light of the exceedingly unpleasant tone of her email, a total reversal of her initial open, impeccably professional, friendly one. Plainly, something seriously improper was afoot.

12. After three further strangely silent months I wrote to CEO Vedalankar, pressing for the finalization of my appointment. Nair answered on her behalf, baldly alleging that it had been decided not to fill LASA's Senior Litigator posts. Now naturally, had LASA duly taken this decision – not to fill one third, 3/9, of LASA's most senior specialist professional positions – there'd have been a record of this, for as Cachalia JA has pithily observed:

> 'Surely there's a letter of appointment, there's a note, there's a minute. Government does not operate like a glorified spaza shop ... In the absence of any paper trail must we just accept that [officials in the Presidency] are people of standing and they will never mislead, just like [then US Secretary of State] Colin Powell never misled the Security Council [over Iraq's alleged possession of "Weapons of Mass Destruction"]?' – 'State grilled over "secret" Zimbabwe report', *Mail & Guardian*, 26 November 2010.

13. So I tested Nair's claim with a comprehensive request for records under PAIA. It was refused in toto, under cover of a fake misquotation from a reported judgment claimed to justify this, and another bogus ground, later abandoned. And here we reach the point:

14. In her letter illegally refusing my request, Vedalankar justified the cancellation of my recruitment on the basis that:

> 'Due to the effects of the recession, anticipated funding for the 2010/11 financial year did not materialise. This had the effect of cutting our baseline funding by a significant amount. It was accepted that this required a reduction to our staff establishment in the 2010/11 financial year in order to meet this shortfall. Since early this year, management has had to identify positions which could be frozen. In July 2010 the NOE and CEO took the decision that all senior litigator posts that were vacant would be immediately frozen. ... Therefore the three vacant Senior Litigator positions for Durban, Pietermaritzburg and Mthatha have been frozen.'

15. Advanced to me nearly a year after my interview, as I was closing in with PAIA, this was LASA's forced justification for aborting my appointment: budgetary insufficiency, affecting not just mine, but two other equivalent posts.

16. It was an audaciously grand, impressively detailed and ostensibly convincing story. And uttered by none other than the CEO, who would disbelieve it? Again I tested it with another searching PAIA request. Again it was illegally refused; Vedalankar even rejected

my prescribed request fee. But annexed to her letter refusing my second request, she put up some documents claimed 'to demonstrate' her story, and intended to put me off for keeps. Only, they didn't. They flatly contradicted it. This is what they revealed:

17. In January 2010 the Department of Justice and Constitutional Development (as it was then called) had confirmed to LASA that funding for phase 1 of the OSD scheme for professional staff salary increases would be included in its baseline budget for 2010/11. The Treasury confirmed it too. But on 10 March LASA learned that it hadn't been. So Vedalankar wrote to the Department a week later, raising LASA's concern about this and noting that since it had already commenced implementing OSD phase 1, LASA would be running an unbalanced budget without this funding: R23.8 million in the red – prohibited by the PFMA. She sent a reminder the following month, warning that unless the money was paid, LASA would have to reduce court coverage, causing backlogs and delays.

18. Vedalankar was referring to LASA's public defender posts serving the lower criminal courts at the bottom of LASA's professional staff establishment – not any other higher professional posts and certainly not Senior Litigator posts at the very top of it – and she and other management executives, Nair included, were explicit about this later on. (She meant reduce in the sense of not fill all the budgeted lower court posts; it's common cause no posts were ever cut.)

19. To interpose: LASA's annual and performance reports to Parliament which I independently sourced and analysed showed that its concern about when its OSD phase 1 funding for the year would be paid made zero difference to its recruitment of legal and other staff. Quite the contrary, this spiked in the April to June 2010 first quarter,[17] and masses of new posts were created.[18] And the reason this boom in new staff recruitment and new post creation occurred in the implementation of the Strategic Plan was because, contrary to Nair's lie in court about it[19] – he later reversed himself[20] and then again[21] (the judge didn't notice) – there was never any question that LASA's OSD phase 1 funding would be paid; the only question was *when* – because it had been paid in the previous financial year, also separately from the main budget transfer, and

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[17] Record, page 423, lines 3 – 25 to page 425, lines 1–9. Nair waffles uselessly trying to evade the sharp point.

[18] Record, page 370, lines 17–18 and page 371, lines 6–8. Lying stupidly in the teeth of LASA's own statistics, confirmed and admitted by LASA before trial, which showed that in the first quarter alone almost as many new posts were created as in the whole of the previous year, Nair repeatedly denied that LASA's staff establishment had increased during the year, and claimed it hadn't changed.

[19] Record, page 344, lines 14–16.

[20] Record, page 420, lines 23–5 to page 421, lines1–3.

[21] Record, page 464, lines 17–20.

afterwards. And the Minister had assured LASA that it would be provided for in the mid-term national budget later in the year, as indeed it was. That is, the money was on its way, and no doubt about it.

20. The OSD uncertainty arising on 10 March 2010 made zero difference to Senior Litigator recruitment specifically: I later found out that two weeks later, while my appointment lay in the deep-freeze, Nair and his Legal Services Technical Committee (LASA's operational engine-room)[22] resolved to recruit a Senior Litigator for Mthatha, and ordered that the budget for it be transferred from Kimberly and that the new post be advertised immediately. As it was:[23] the post was advertised in April, and a recommendation was made in late May – six months after my recommendation the year before and nothing done to finalise my appointment.

21. As the records Vedalankar supplied me show, by July 2010 the OSD phase 1 money wasn't yet in, so Nair suggested to her, the COO, CFO and HRE that recruitment to 56 lower criminal court public defender posts be frozen, more of them if necessary and some even lighter paralegal and administration posts if still necessary after that to meet the shortfall. Not any senior posts. They agreed, and proposed to the Board via the COO[24] that public defender coverage of the lower criminal courts be temporarily limited, in other words that recruitment to some of these vacant posts be frozen – but not any other posts, and certainly not any critical ones. Quite the opposite: they specifically proposed to the Board that as a cost-saving measure the filling of critical posts be prioritized.[25]

22. To interpose again: Contrary to the judge's flat wrong finding that I hadn't shown Senior Litigator posts were critical,[26] this was common cause on the pleadings.[27] Nonetheless, in view of Nair's unbelievably foolish dissimulation at trial – he was a pathetic liar[28] – contradicted by the documentary record and by LASA's pleaded case, that LASA's entry-level lower criminal court public defender posts were critical, and not its top

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[22] Record, page 334, lines 5–16.

[23] Record, page 456, lines 4–6.

[24] Record, page 383, line 19.

[25] Record, page 375, lines 1–4.

[26] Judgment, paragraph 74. C.f: record, page 481

[27] Pleadings bundle, original response, page 170, paragraph 48.9 and pre-trial conference bundle, answer to agenda, page 57, paragraph 43.1, and page 58, paragraph 52.1. (The respondent then contradicts itself in the same pleading: page 63, paragraph 79.1.)

[28] The judge, formerly a criminal court magistrate, didn't remark generally on Nair's repeated immaterial and redundant loquacity as a device to avoid answering my questions, and his constant evasiveness throughout my cross-examination of him.

professional echelon specialist Senior Litigator posts,[29] I showed at trial[30] and called the judge's attention in my heads to all the manifold evidence that Senior Litigator posts are indeed critical, and that the bottom-rung lower criminal court posts can't possibly be and aren't.[31] The judge evidently didn't read that far.

23. At its meeting at the end of July 2010, the Board approved national executive management's proposal to temporarily freeze recruitment to some lower criminal court practitioner posts until the end of the year, and to make up the balance of the deficit at that time (arising from the delayed transfer of LASA's OSD phase 1 funding) from unspent savings. I later discovered that recruitment to other posts continued normally in the second quarter July to September 2010; and that the effect of the approved freeze was to dampen the overall increase in staff recruitment, as compared with the preceding and succeeding operating quarters.

24. All this is fully and comprehensively documented in the records Vedalankar supplied me in January 2011. And what they unequivocally show is that she lied to me in October 2010 about the reason my appointment was aborted. That is, to camouflage the true reason, she'd fed me a false cover-story, as very smooth and convincing as it sounded. But as I probed and tested it relentlessly, it came undone in light of the extant documentary record and the non-existence of records that would have existed had the budgetary story given me been true. The lies then multiplied chaotically in all directions in the classic dynamic of a disintegrating cover-up.[32]

25. At trial I mentioned my conclusions from the evidence I'd just found of this[33] that Nair had ghost-written Vedalankar's letters,[34] and Board chairperson Mlambo JP's subsequent false reports to the Minister and to Parliament to pervert their enquiries into my

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[29] Record, page 373, lines 21–5 to page 374, line 1; page 375, lines 10–11; and page 480, lines 19–24.

[30] Record, page 481, lines 2–22.

[31] Heads, paragraphs 229 and 160. A pending PAIA request I've filed for a list of all LASA's critical posts, both filled and vacant, the sum of which (there are only about two hundred or so) LASA reports annually to the Minister and to Parliament, will further clinch the issue and expose yet another of Nair's obvious lies on oath at trial, which the judge accepted and believed.

[32] Heads, paragraphs 142 and paragraphs 205–6; and record, page 502, lines 11–24. After trial, Nair's confirmatory affidavit surfaced, in which he'd confirmed the lie told by Corporate Services Executive Thembile Mtati on his instructions: application, paragraph 227; and record, page 393, lines 18–25 to 394, lines 1–22.

[33] Heads, paragraphs 233–4.

[34] After trial, I noticed the evidence that junior counsel drafted Vedalankar's second letter, having been briefed to deal with my PAIA requests (per Mtati on affidavit, confirmed by Nair). I've PAIA'd his fee-notes and expect they'll confirm it. But there's little doubt on the evidence that Nair ghostwrote Vedalankar's first letter, and lied to the judge in denying it, just as he eventually admitted (initially disputed) ghostwriting Mlambo JP's reports to the Minister and to Parliament.

complaints, and that for this reason I held them both clear. But in his evidence, Nair denied any hand in Vedalankar's letters to me;[35] and although in evidence he ultimately admitted[36] writing Mlambo JP's reports, he could 'only assume the Judge personally wrote that'[37] (having first insinuated it might have been Vedalankar[38] and then again)[39] i.e. that Mlambo JP had amplified the report for the Minister before sending it to Parliament, with its further lies added about LASA's compliance with my three PAIA requests, and the nature and scale of my claim I'd just referred to the CCMA for conciliation.[40] (It's quite clear that Nair lied to the judge about this, and that he, not Mlambo JP, amplified the report with these additional lies.)[41] This is to say, after I'd told the judge that I held them clear (more about this below), Nair went on to directly implicate Vedalankar and Mlambo JP in lying to me, to the Minister and to Parliament.

26. True to the Minister's assurance, the OSD money was indeed included in the mid-term budget in October 2010, as Vedalankar informed the Portfolio Committee on the 12th – but not me, from whom she concealed this hotly material fact in her letter to me six days later, the better to maintain her pretence that LASA was still too skint to hire me.

27. Recruitment to the limited number of temporarily frozen lower criminal court posts then resumed in the third quarter October to December 2010, and all 100% of the posts were filled; and the increase in new staff recruitment generally then peaked for the year. But my appointment remained permanently frozen off the record, as well as the two other vacant Senior Litigator posts at Durban and Mthatha – although the irregular circumstances in which the appointments to these posts were aborted, also off the record, were quite different.[42]

28. LASA received its OSD money on 15 December 2010. In her second letter to me in January 2011, illegally refusing my second PAIA request testing her financial alibi for the abortion of my appointment, not only did Vedalankar conceal this payment from me, she positively lied to me, again and again, that LASA was still in a financial jam.[43] In fact, with

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[35] Record, page 442, lines 5–25 to page 445, lines 1–24.

[36] Cross-examining me, LASA's counsel persistently disputed Nair's authorship of the false reports signed and submitted by Mlambo JP. I don't yet have the complete record to refer to herein, only a photocopy of Nair's evidence made for me as a favour by the registrar. I've now applied for a copy of it under PAIA.

[37] Record, page 355, line 1.

[38] Record, page 354, lines 1–3.

[39] Record page 482, lines 18 – 25 to page 483, lines 1–21.

[40] Heads, paragraph 234.

[41] Heads, paragraph 235.

[42] Heads, paragraphs 178–9 and 188–204.

[43] Heads, paragraph 29.

the payment of its OSD allocation, LASA enjoyed a very substantial budgetary surplus that year.[44] (And Vedalankar, Nair and other national management executives took home magnificent, unprecedented bonuses.)

29. In March 2011, responding to my third PAIA application, Vedalankar, Nair and Clark all confirmed the lying budgetary excuse on affidavit. That is, LASA's CEO, NOE and HRE all swore the lie was true.

30. Even though it was already obviously false, the financial alibi was inadequate to cover and explain Nair's inaction in finalising my appointment in the initial three-and-a-half month period between the date he received my recommendation on 26 November 2009 and when the OSD uncertainty arose on 10 March 2010. So to patch the gap he concocted another story – later twice retracted by him on affidavit[45] as an obvious error, and consequently nowhere pleaded or alleged in any interlocutory affidavit,[46] then revived by him in court on the basis that his sworn retraction had been a mistake,[47] then contradicted with a different story he told the judge.[48] Who didn't think to note any of this dismal shambles in his judgment.

31. Repeatedly pleading for the Board's intervention in Vedalankar's persistent illegal refusal to comply with my PAIA requests, and the then already clear indications that my appointment had been aborted irregularly, I copied my third petition to the Board in February 2011 to the Minister and to Parliament. Both the Minister and the chairperson of the Portfolio Committee demanded explanations from chairperson Mlambo JP. He referred the matter to Vedalankar, who passed it to Nair. In his reports written for Mlambo JP to sign and submit to pervert the ministerial and parliamentary enquiries I'd initiated, Nair now claimed that what initially held up the alleged next step in my recruitment – a so-called second round interview – was difficulty encountered in coordinating a date suitable for all members of this panel to meet. Another smooth and ostensibly convincing story. After I exposed and refuted it as an outright lie in my original statement of claim, Nair retracted it on oath as 'an error ... palpably an error' that

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[44] Heads, paragraph 30.

[45] By way of a confirmatory affidavit supporting Mtati's affidavit claiming this on his instructions.

[46] LASA's several interlocutory affidavits all essayed into the merits of the main case.

[47] Record, page 477, lines 23–5 to page 478, lines 1–6.

[48] Record, page 339, lines 18–25 to page 341 lines 1–25.

Mlambo JP had made.[49] Except that Nair himself was the author of this brazen lie to the Minister and to Parliament; it was not Mlambo JP's 'error'.[50]

32. But Mlambo JP knew full well that this new story was false, because as a member of this so-called second round interview panel he'd never been contacted for a date. At trial Nair claimed, quite absurdly, that he never opened the recommendation and CV email attachments that he'd specially telephoned for, not until more than a year later, when he did so out of simple curiosity. (The judge found this perfectly credible, even though Nair had told a different story on affidavit before trial, which destructive contradiction I pressed in my heads.[51] The judge didn't note this, and accepted and believed[52] Nair's childishly obvious, self-contradicted new lie told in court, which had featured nowhere in any correspondence, report, pleading or affidavit before trial, all justifying LASA's failure to proceed with my appointment. This was one of the fundamental failures of the judgment.)

33. Fact is, Nair took no steps to set up the so-called second round interview. So, contrary to his lie told to the Minister and Parliament in Mlambo JP's name about this, there was no difficulty fixing a date for it because no attempt was ever made to do so. As said, when I telephoned Clark, also a member of the so-called second round interview panel, in April 2010, five months after my successful interview, she still knew nothing of me and my recommendation or of the KZN Senior Litigator recruitment process. Which means, like Mlambo JP, Nair hadn't approached her for a date either. So Mlambo JP knew full well that the report, which Nair had written for him to sign and to give the Minister and the chairperson of the Portfolio Committee to put down my complaints and pervert their independent enquiries contained a flagrant lie about why no steps were taken to finalise my recruitment in the first few months before the OSD uncertainty arose several months after my selection.

34. Mlambo JP also knew full well that the budgetary justification Vedalankar had fed me to cover the true reason my appointment had been aborted, which Nair repeated in the reports he drew for him, was another lie, because he'd chaired the meeting of the Board in July 2010 at which it approved executive management's proposal to trim costs by temporarily freezing recruitment to some lower criminal court posts only. Not abort three substantially concluded Senior Litigator recruitments and permanently freeze the

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[49] See footnote 37, and the footnote below for particulars.

[50] Heads, paragraphs 143–4.

[51] Heads, paragraphs 153–7.

[52] Judgment, paragraphs 67 and 70–2.

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budgeted, funded posts. Mlambo JP knew full well that the Approval Framework required Board approval for any change to the Business Plan, which is why Board approval had been sought to temporarily freeze recruitment to some lower criminal court posts. He knew full well that no lawful decision had been taken to permanently freeze three Senior Litigator posts for budgetary reasons, because the Board he chaired would have had to approve this. It's common cause on the pleadings that it never did, and that the Board has never even been informed that LASA's three remaining vacant Senior Litigator posts, for whose budgeted salaries LASA applies to the Department and is granted funding every year, have been frozen by Vedalankar and Nair for alleged financial reasons. It's common cause that there's no record of this major alleged decision by executive management whatsoever.[53] Deceptively silent about it, Vedalankar repeatedly falsely reported LASA's Strategic Plan 2009/12 to have been implemented and completed as regards the employment of Senior Litigators in her CEO report for 2011/12 to the Minister and the National Assembly.[54]

35. My discovery on the eve of trial of the evidence that Nair had ghost-written Vedalankar's October 2010 letter to me and Mlambo JP's reports to the Minister and to Parliament[55] felt like a condemned man's reprieve: having to implicate Mlambo JP in my evidence at trial was a mortifying prospect.[56] My discoveries about Nair's authorship led me to inform the judge on the first day that I held them clear, and that I held Nair solely responsible for the lies these documents contained.[57]

36. In his chambers on the second day, when I told the judge I still had a lot more evidence to lead, having already blown the fake budgetary pretext to pieces on the facts set out in my Timeline, he warned me: 'I don't want to tell you how to run your case, but don't make the mistake of throwing your net so far out that you catch more than you can bring in.' These were his exact words, spoken off the record, but contemporaneously recorded that evening in emailed reports of the court day to my family and friends. I understood the judge was giving me an indication, as we lawyers say, and a severe indication at that, namely to limit the spray of my case, and keep it fixed on Nair alone, as I'd indicated I intended doing at commencement, and not present any further evidence implicating the big fish; for if I dared make the dangerous mistake of doing so, this would be too much, and it would doom my prospects of succeeding in his court with my claim. It seemed clear

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[53] Record, page 427, lines 6–14; page 433, lines 2–9; and page 433, lines 2–25 to page 434, lines 1–2.

[54] Heads, paragraph 84.

[55] Application, paragraph 229; heads, paragraphs 223–4.

[56] See paragraph 48.

[57] Application, paragraph 230.

AB JA

to me that the judge wanted the evidence contained. He did not want me to lead more evidence pointing beyond the smaller fry. But as said, Nair himself went on to directly implicate his bosses. He dropped them right in the middle of it.

37. Besides the false claim that LASA didn't have the budget to employ me, Vedalankar, Nair and LASA's Corporate Services Executive and lead in-house attorney Mtati (on instructions) told a colourful variety of other different stories about why my appointment wasn't proceeded with.[58] Among these:

38. After I'd discredited the budgetary pretext fed me for not appointing me, and then the initial delay pretext fed the Minister and Parliament for not immediately proceeding with my appointment, Nair cooked up and fed the Board two brand-new, totally different stories to justify his failure to finalise my appointment at Pietermaritzburg, an internal candidate's promotion at Durban, and another internal candidate's transfer to Mthatha, namely 'recruitment challenges' encountered in filling the posts, and alleged uncertainty that the six incumbent Senior Litigators were up to professional scratch.[59] Both lies.[60] Waffling feebly,[61] Nair was unable to support his first new story[62] and radically changed his second,[63] before which it was repeatedly exposed as a lie by LASA's records.[64]

39. The judge didn't see any significance in all the chopping and changing stories advanced for not finalizing my appointment, to which I called his attention in my heads, for he didn't note them in his judgment. The Labour Appeal Court is sure to.

40. Unlike the judge who didn't note this either, the LAC is likewise certain to point up the destructive implications for LASA's pleaded defence of Nair's abandonment of a major leg of the story initially fed me; confirmed in his, Vedalankar's, and Clark's PAIA affidavits; and repeated in the pleadings and interlocutory affidavits in the case, namely that for budgetary reasons the Mthatha Senior Litigator post was frozen simultaneously with the

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[58] Heads, paragraphs 142, 205 and 206; and record, page 502, lines 11–24. But in his confirmatory affidavit surfaced after trial, Nair had confirmed the lie.

[59] Record, page 359, lines 17–25.

[60] Heads, paragraphs 213–15 and 224–5.

[61] Record, page 360, lines 1–15.

[62] Record, page 398, lines 11–25 to page 399, lines 1–22. And there's never been any suggestion anywhere at any time that the internal candidate selected for promotion to the Durban post wasn't qualified and a good fit for it. As for my qualifications for the post (not a pleaded issue for trial), Nair first dishonestly pretended I'm under-qualified, then dishonestly pretended I'm over-qualified: heads, paragraphs 99–101 and 221; record, page 360, lines 16–25 to 361, lines 1–22. The judge didn't note this.

[63] Record, page 435, lines 9–19. Changing it to pretending that he and the ROEs were concerned that 'we are achieving out purpose with that position' – but being untrue, naturally 'No ... record of this'.

[64] Record, page

Pietermaritzburg one.[65] In court Nair told a completely different story, namely that despite his repeated attempts to persuade her, Vedalankar refused to approve the creation of the post at Mthatha,[66] where it was reportedly sorely needed,[67] after the entire LSTC had unanimously resolved to create it and to transfer the budget from Kimberly, where there was reportedly no need for it,[68] and after the new Mthatha post had been advertised, interviewed for, and a candidate selected for it. It was a risible new lie, sharply contradicting LASA's pleaded and sworn version before trial, unsupported by any record,[69] not alleged in any affidavit or pleading,[70] and contradicted by LASA's recruitment/vacancy statistics for June 2010.[71] But Nair's new lie in evidence made no impression on the judge; as said, he didn't mention it.

41. The LAC is also certain to treat an important aspect of the case, entirely disregarded by the judge[72] (notwithstanding his fine grasp of the specifics of public service appointment procedure displayed in his Baxter judgment),[73] namely Nair's incompetent and illegal so-called second round interview scheme for Senior Litigator candidates – unauthorised by the Board's Recruitment code and inconsistent with its Approval Framework.[74] Unlike the judge, the LAC is certain to remark on the disgraceful breakdown of lawful recruitment procedure at LASA, in blatant disregard of the Board's said regulatory instruments which precisely govern this, and on Mlambo JP's participation in a grossly irregular, prejudicial, and unlawful recruitment practice.[75]

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[65] Heads, paragraphs 188–193.

[66] Record, page 365, lines 10–25 to page 366, lines 1–9.

[67] Record, page 401, lines 7–12.

[68] Record, page 363, lines 8–25 to page 364, lines 1–9 and page 402, lines 3–9.

[69] Record, page 436, lines 8–19 and page 490, lines 6–24.

[70] Record, page 490, line 25 to page 491, lines 1–8.

[71] Record, page 399, lines 9–21.

[72] Judgment, paragraphs 73–4.

[73] Law and case bundle, pages 94–7.

[74] Heads, paragraphs 90–8.

[75] The LAC is also likely to remark on the shocking irregularity of Mlambo JP allowing Vedalankar, the very subject of my complaint to him and the Board about her illegal refusal to comply with my first PAIA request and the indications that her budgetary pretext was false, to fake a letter from him on her own computer while he was abroad, dismissing my 59-page petition in a single sentence, with an scanned image of his signature pasted below it (with his consent, LASA pleaded). Looking the other way as I protested and showed my fundamental rights were being violated. Then, when I petitioned the Board again, insultingly showing me the road and telling the rest of the Board to ignore my further communications. Then defaming me to the chairperson of the Portfolio Committee, in his letter covering his lying report, when I petitioned the Board for the third time, now copying the Minister and Parliament.

AB JM

42. His lies proliferating in court as he was trying to shore up his collapsing story about why he never signed his approval (or disapproval) of my recommendation by the selection panel as the Approval Framework required of him, and as provided at the foot of the document (with its legal nonsense, at his instance, about a further interview), Nair claimed in court that he didn't have to – a lie repeatedly and squarely contradicted by LASA's pleadings and interlocutory affidavits.[76] The judge didn't note this; again the LAC is sure to.

43. Unlike the judge who accepted and believed it, the LAC is also sure to find stupidly ridiculous and manifestly false Nair's evidence, building on his just-mentioned lie, but again explicitly contradicted by LASA's pleadings and interlocutory affidavits,[77] that all candidates interviewed by the selection panel were eligible for interviews by his so-called second round interview panel, including those rejected and eliminated by the selection panel, and that a candidate rejected by the selection panel could properly have been appointed instead of me[78] – stultifying the whole purpose of the selection process by the selection panel comprised of LASA's most senior lawyers in the region: to identify the most suitable candidate for appointment, as the Recruitment code puts it.[79]

44. The LAC is certain to find Nair's evidence to have been obviously untruthful just about whenever he opened his mouth. On a proper allocation of the final burden of persuasion to LASA, therefore, the LAC is certain to find that LASA failed to justify its abortion of my appointment to the Pietermaritzburg Senior Litigator post for which I'd been unanimously recommended. It failed to do so, because its various explanations given were obviously untrue. So what?

45. Pioneered by the U.S. Supreme Court, there's a finely developed body of international labour jurisprudence, supported by the ILO, and therefore binding on our labour tribunals, regarding what inference may properly be drawn where it's been shown that an employer has lied (or its explanation is not worthy of credence) about its reason given for not hiring a job applicant belonging to a constitutionally protected class (racial, political, etc). Copying and pasting from my heads, the judge very ably set this law out in his

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[76] Record, page 502, line 25 to page 503, lines 1–25; heads, paragraphs 146–7.

[77] Heads, paragraph 148.

[78] My manuscript note of Nair's evidence on which I relied for the above-mentioned paragraph of my heads was off; Nair alleged that all candidates were eligible for his so-called second round interviews, not that all would necessarily be interviewed again: record, page 349, lines 7–15 and 21–3; page 350, lines 10–11; page 407, lines 13–17; page 408, line 25 to page 409, lines 1–25 to page 410, lines 1–2 and 10–12; and page 450, lines 7–10.

[79] Heads, paragraphs 90–8.

judgment.[80] Doing the same, he also accurately set out the facts I presented placing me in such a class.[81] He didn't demur at my evidence that in applying for the post I'd been vulnerable to unfair political discrimination.

46. But instead of applying the law that he'd enunciated, and proceeding to draw the due inference indicated by the evidence – the known facts and the exposed and obvious lies – the judge dismissed my claim to have been unfairly discriminated against on political grounds as 'mere speculation'.[82] As if I'd not set up a plausible, prima facie case for it – all I was required to do under international and local unfair discrimination law – answered with one lie after another. Yet during oral argument, the judge took my point and taxed LASA's counsel with it: that an employer's mental prejudice against a job applicant is rarely announced, precisely because it's unconstitutional and therefore gravely illegal, and must therefore invariably be inferred from a conspectus of all the available evidence, weighed with the probabilities.[83] Besides the pivotal evidence I presented that the various justifications advanced for not appointing me were false and pretextual, the judge entirely failed to consider all the other evidence indicating unfair discrimination reviewed in my heads.[84]

47. To conclude: In bringing my claim against LASA I was aware I was breaking three basic rules: never sue a corporation, never represent yourself, and never sue from principle. But I thought the principle extremely important in our post-apartheid order – that a job applicant should not be prejudiced by his political activism, driven by his moral and social conscience, no matter how opprobrious his cause is generally perceived to be – and that my case was so clear that any attentive judge would grasp it. I did not expect the judge to

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[80] Judgment, paragraph 66.

[81] Judgment, paragraphs 30–41.

[82] Refusal, paragraph 5.

[83] I should disclose that documents that came to hand after the trial, considered with others I already had, point at possible corruption in the selection process; in that although I'd been formally, unanimously 'identified' in the recommendation as 'the most suitable candidate for appointment', as the Recruitment code puts it, it may have been intended to appoint a rejected candidate instead: a former Labour Court judge. And this is why my appointment was quietly iced, until I walked away, making way for his appointment in my place. (Recruitment corruption at LASA is commonplace: the previous recruitment for the same post had also been irregularly aborted off the record after the due selection of a suitable candidate by the selection panel; and I've uncovered corruption in other recruitments I've looked at, including the Mthatha Senior Litigator one, a sham for the books.) I'm investigating this possibility with a pending PAIA request, but I'm not optimistic that the records it will elicit will be decisive. So I'm not charging that the selection process was corrupt, and that my appointment wasn't proceeded with for the reason that the said rejected candidate had been favoured for appointment behind the scenes instead of me, because the evidence I have suggesting this is currently too light. If this changes, the LAC will certainly be told.

[84] Heads, paragraphs 246–7.

be nodding off during the afternoon sessions,[85] and finally claiming perversely, but revealingly as to his negative animus, that I ought rather to have taken LASA's abortion of my appointment 'on review'.[86] As if I shouldn't have come bothering him to deliver the justice I craved, and had laboured bitterly year after year before trial to achieve, in the face of every obstacle corruptly placed in my way,[87] viciously defamed all the while, contemptuously redoubled when I complained of it.[88] In a matter of such enormous importance, and with so much on the line extending far beyond my personal interest in the case, and with so much fact to traverse and complex argument to present, including relevant, applicable international labour jurisprudence mentioned in my opening address, I did not expect the judge to prescribe that our heads shouldn't exceed a manifestly insufficient 'fifteen to twenty pages',[89] suggesting that he'd already made up his mind to toss my case. I did not expect that five months after I filed my replying argument,[90] the judge hadn't even troubled himself to read our heads,[91] and was hearing our oral

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[85] I have an audio recording of the trial on DVD, capturing my repeated unnatural pauses as I waited, horrified, for the judge to reopen his eyes and come to. He was literally half-asleep at times. I dared not risk offending him by asking him to take a coffee break to wake up.

[86] Judgment, paragraph 74. I had no cause of action for any review, and duly referred my complaint to the CCMA and then the Labour Court in compliance with the procedural prescripts of the EEA.

[87] Heads, paragraph 256.

[88] Heads, paragraphs 260–5; record, page 485, lines 4–23. Reckless of their professional obligations as officers of court, LASA's counsel themselves put the boot in, wantonly lying to the judge in their answering heads that my precisely accurate CV was 'grossly inflated', which is to say I'm a liar guilty of CV fraud. (Mokoena SC, who argued the case in court, came into the matter after all heads had been filed, and did not draw the answering heads; and he's consequently innocent of this final defamation of me by LASA's counsel, calculated to defeat the ends of justice by prejudicing the judge against me with more lies to make me appear dishonest and therefore an unreliable witness.)

[89] At the end of the trial, the judge asked for heads of argument comprising four sections, 'background, evidence, analysis and conclusion', i.e. in the form of a draft judgment, so he could 'copy and paste from them', 'to expedite judgment production': a fine idea. But he stipulated not more than 15–20 pages: a hopelessly inadequate, improper and prejudicial limitation imposed on me after such a long and important trial with so much oral and documentary evidence and local and international unfair discrimination jurisprudence to canvass and discuss. Unpicking and refuting LASA's many outright lies and tricky half-truths and cataloguing all the contradictions was an immense job, as will be apparent from a look at my heads. After drawing them, as finely detailed as necessary, comprehensively and meticulously referenced to the documentary record, pleadings, affidavits, to the evidence (my notes), and to my law and case bundle, I prepared an unreferenced summary of 20-pages as directed; but I emphasized both in its head-note and at the oral argument that it was no substitute for my heads. From his several mistakes in the judgment identified in my application in regard to several simple facts dealt with in my heads, it seems the judge didn't read them through.

[90] On or about 6 December 2013 (date of signature).

[91] In his chambers before oral argument on 28 May 2014, the judge said jocosely: 'I think you can assume I'm literate and will read your heads.' The oral argument was set down for three days, 28–30 May, but on the basis just quoted the judge asked us to merely outline our main points; and in the result the oral argument wasn't

argument without having prepared for it[92] ten months after the evidence, and relying only on his fading and defective memory of it[93] presented in the course of a nine-day trial concluded the best part of a year earlier. In giving judgment, I did not expect the judge to misstate my case, omitting critical facts and including irrelevant matter, [94] and portray as maladroit and whimsical my precisely considered tactical and strategic decisions taken,[95] wrongly forced by him on the record[96] and improperly pressed by him off it.[97] I did not expect the judge to sugar Nair's lies for his judgment, by stretching and exaggerating them to help them go down.[98] And that besides getting the final onus wrong, he should also have placed on me an impossible, pivotal, evidential onus I very obviously didn't bear and couldn't possibly have discharged.[99] And finally after the trial trucking with LASA without my knowledge in unfavourably disposing of my plea for his directive that it hand over the extra copy of the trial record transcript it had printed for me.[100]

48. As said in the beginning, the stakes in this case are massive, and the implications vast. Professional and personal networks and loyalties being what they are in the real world, I appreciated from the outset that I was up against very long odds, and that notwithstanding his oath of office it would be no easy thing for a judge to impeach the conduct of his own (then) court president, and now president of the biggest, most

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long. I repeatedly emphasized during argument that my case was made in my heads, drawn in the form of a draft judgment, as he'd unambiguously implied after the trial he'd wanted. And that my barest sketch of it in oral argument was no substitute. Besides proof of pretext, the further evidence I relied to generate the inference that I was unfairly discriminated against, canvassed in paragraphs 246 –7 of my heads, wasn't recited in the judgment. Its paragraph 46 sets out a wrong, crude mishmash instead.

[92] At the end of the trial, the judge asked us to file written argument, saying that once it was in, he would want to ask us questions. I understood him to mean he'd read our heads, and question us on them. This didn't happen at all.

[93] As evidenced by the judge's many basic factual mistakes, identified in my application.

[94] Judgment, paragraph 46. Besides proof of pretext, the further evidence I relied to generate the inference that I was unfairly discriminated against, canvassed in paragraphs 246 –7 of my heads, wasn't recited in the judgment; its paragraph 46 sets out a wrong, crude mishmash instead.

[95] Judgment, paragraphs 29 and 68.

[96] His refusal to allow me to cross-examine Vedalankar, Clark and Board member du Rand, stated during the debate of LASA's failed applications on the first day to quash my subpoenas of them. On why I ultimately elected not to call Vedalankar, Clark and du Rand, and settled for affidavits by the latter two in lieu of their oral evidence, see heads, paragraphs 103–4.

[97] His veiled warning in chambers not to go after the big fish (paragraph 36 above).

[98] Application, paragraphs 269–72 and 262–7.

[99] Application, paragraphs 273–82; judgment, paragraph 67.

[100] Per Mtati's wrongly dated letter in October 2014, received on the 13th: 'Cele J, through his office, suggested that the Respondent accommodate the Applicant by providing him with the electronic copy of the record which the Respondent did.'

important high court in the country, and thereby trigger a gargantuan scandal. But the truth must out, and justice needs doing fearlessly.

49. The Judicial Services Commission's response to my complaint about Mlambo JP's perversion of Ministerial and Parliamentary enquiries into my complaints was that it was no concern of theirs, on the technical basis that it didn't involve judicial misconduct per se. My complaints to the Public Service Commission were passed on to the Public Protector, but in view of the then approaching trial my file was closed; and with the dismissal of my claim, there's small chance of it being reopened. These official doors having closed on me for setting matters to rights, your lordships' correct decision of this petition is tremendously important for the ventilation of the truth, and for law and justice in our country. An unattended[101] splinter, so easily removed,[102] has led to widespread gangrene at the top of a major public entity, generally perceived to be the jewel in the crown of the Justice cluster, and a model of good governance. The matter has reached a pivotal moment.

50. Having regard to the profusion of contradictory lies that have spewed out of LASA, including to the highest authorities, in the cover-up following the illegal abortion of my appointment, to get away with and escape accountability for it – successfully so far, like Nixon nearly did after Watergate – your lordships can expect absolutely any lie from LASA in its answering papers, any subterfuge to persuade you to shut down further enquiry into this matter by refusing this petition. Since in-house attorney Mtati acting on instructions[103] can offer you no more than hearsay about the case,[104] and hasn't stinted at committing the most grotesque, poisonous perjury on affidavit on Nair's instructions to prejudice me in the court's eyes before trial;[105] and since the judge found Nair to have

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[101] I petitioned the Board five times in all, plus individual members, plus the Board secretary, all to no avail.

[102] I repeatedly pleaded for a timely, conciliatory resolution before the thing escalated unnecessarily.

[103] Record, page 390, lines 16–21; heads, paragraph 135. When conversing amicably at court before the delivery of judgment, I urged Mtati to seek a personal exit strategy in view of the several false interlocutory affidavits he'd made on Nair's instructions, replete with lies, he shrugged: 'I'm only an agent.'

[104] Record, page 390, lines 6–11. Mtati was appointed Corporate Services Executive in LASA's national office as from 1 July 2010. It's common cause he wasn't party to any decision-making about the abortion of my appointment, and has no direct knowledge of it.

[105] Heads, paragraph 268. Mtati: 'The most disturbing, reprehensible, unprofessional and brazen act of disrespect came recently when the Applicant left the KZN province and attended unannounced and without warning at the office of [Mlambo JP] at the South Gauteng High Court. [He] did not take kindly to the Applicant's conduct. In the face of litigation where the Legal Aid SA is represented this amounts to professional misconduct.' This lying defamation of me was the pure invention of a deeply cunning criminal mind, contrived to poison the court against me, in a bid to defeat the ends of justice (see further: application, paragraph 312). Which foul lie Nair supported with a confirmatory affidavit, surfaced after trial, only to meekly retreat from it

been untruthful under oath on any number of scores,[106] I respectfully entreat your lordships to require CEO Vedalankar, and not the former discreditable and unreliable persons, to depose to any answering affidavit under LAC rule 4(6) in regard to why I should be denied leave to argue my case before three senior, experienced, and attentive judges of appeal. At the centre of the case is the truth or otherwise of the budgetary insufficiency justification[107] for the abortion of my appointment to LASA's most senior professional position in KwaZulu-Natal, and it was Vedalankar who twice advanced it to me in her letters.[108] The prospect of being jailed for perjury may chill any inclination she might have to repeat under oath to your lordships the lies she told me. Like a helicopter, the unwelcome truth must eventually land, somewhere; and if you'll allow it, the proper place for it will be the Labour Appeal Court.

Dated at Eshowe on 7 December 2014.

ANTHONY ROBIN BRINK

Signed before me at Eshowe on 7 December 2014 by the deponent who has acknowledged that he knows and understands the contents of this affidavit and that he affirms its contents to be true to the best of his knowledge and belief.

SOUTH AFRICAN POLICE SERVICE
STATION COMMISSIONER
2014 -12- 07
ESHOWE
SOUTH AFRICAN POLICE SERVICE

COMMISSIONER OF OATHS

Name: Jabulani Dlamini

Address: Eshowe SAPS

Capacity: Policeman 1 Lt 0613427-1

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in court when I disputed it, pointing out that I'd never seen or met Mlambo JP, had never set foot in the South Gauteng High Court, and didn't even know where it was: record, page 485, lines 20–25 to page 486, lines 1–17.

[106] Judgment, paragraph 67.

[107] Heads, paragraph 5.

[108] In her letters of 18 October 2010 and 28 January 2011 (trial document bundle, pages 101–7 and 210–58). Vedalankar is also well placed to deal with Nair's new story in evidence blaming her for aborting the Mthatha Senior Litigator recruitment, diametrically contradicting the reason she gave me in her letters and later confirmed on affidavit. She can also deal with Nair's denial in court that he was responsible for authoring her letters to me (writing or instructing), and his claim that he had no hand in them, despite all indications to the contrary. And that she or Mlambo JP, not him (Nair), added the further new lies inserted into the report to the Minister before it was submitted in 'updated' form to the chairperson of the Portfolio Committee some months later. The look of it is that Nair used Vedalankar in his cover-up. The time's arrived for a division, and the isolation of the rogue(s).