

IN THE LABOUR COURT OF SOUTH AFRICA

HELD AT DURBAN

CASE NO: D529/11

In the matter between

ANTHONY, ROBIN BRINK

Applicant

and

DUNSTAN MLAMBO JP

Respondent

In re:

ANTHONY BRINK

Applicant

and

LEGAL AID SOUTH AFRICA

Respondent

RESPONDENT'S ANSWERING AFFIDAVIT

I, the undersigned,

THEMBILE VUYO MTATI,

do hereby make oath and swear that,

M 1136 

13.4. his recruitment, together with that of the other candidates recommended for the second round of interviews, was aborted immediately after the first round of interviews.

14. I shall deal with the reasons why the recruitment of senior litigators was not proceeded with later in this affidavit.
15. For completeness, I annex hereto the regional panel's recommendation in respect of the Applicant and mark same as **DM2**. What was recommended in this annexure is quite clear, and it is certainly not that the Applicant be appointed to the position applied for. The Applicant has made it his mission to misinform the Court and misrepresent the truth in his campaign against the Respondent by alleging that he was recommended for appointment to the said post and the Respondent was instrumental in thwarting his chances of being appointed to the said post.

16. The second round of interviews with the national office was never continued with simply because at the same time as the recruitment processes took place, Legal Aid SA was busy preparing for its budget for 2010 – 2011.

17. It transpired to Legal Aid SA around November – December 2009, that the Department of Justice and Constitutional Development ("the Department") had delayed to honour its commitment to advance money for Legal Aid SA's affairs, including the money Legal Aid SA was relying upon to appoint professional staff, including, but not limited to, senior litigators. This money was required by Legal Aid SA to recruit and retain suitably qualified professionals at a market related rate and was known as Occupation Specific Dispensation funds ("the OSD").

- 81.9.1 The Northern Cape Province is a very big province comprising of former Cape of Good Hope Province.. It had, all along its own budgeted funds for Senior Litigator to cater for the vast area.
- 81.9.21 Invitations for application for this post were constantly not being responded to until the LSTC decided to recommend to Legal Aid SA executive that the position be transferred internally from Kimberly Justice Centre to Mthatha Justice Centre in the Eastern Cape Province. See herein the resolution of the said meeting annexed hereto as **DM13**
- 81.9.3 Invitations were again called and indeed Mr Skibi applied and was shortlisted for second round of interviews in Johannesburg.
- 81.9.4 This was after the interview of the Applicant in KZN had taken place.
- 81.9.5 Legal Aid SA later decided not to also proceed with this transfer as it had become important to divert the funds budgeted to a different project.

105 AD PARAGRAPH 58.

105.1 I deny the correctness of the contents of this paragraph.

105.2 I submit that the executives, who have the necessary and personal knowledge of this matter will be able to answer all the questions raised by the Applicant. After all, this is their terrain and the Board or the Respondent had nothing to do with the recruitment process in issue herein save to approve cost cutting measures adopted as indicated hereinabove.

106 AD PARAGRAPH 59.

106.1 I deny the correctness of the contents of this paragraph.

106.2 I submit that the Applicant has failed to make out a case for the relief sought and that his application should fail and he be ordered to pay the costs of this application such costs be at a punitive scale.

CONCLUSION

107 I wish to annex hereto confirmatory affidavits of the CEO Ms Vidhu Vedalankar, and Mr Brian Nair and mark them as annexures **DM14** and **DM15**.

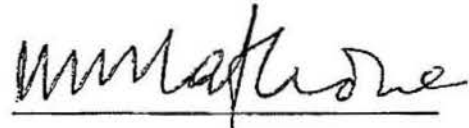
108 I respectfully that the Applicant's application herein and the main action is informed by no desire to vindicate any of his rights but the

need to exact vengeance, to embarrass and to insult people who took a decision that he does not like.

WHEREFORE, it may please this Court to dismiss this application accordingly.


DEPONENT

I certify that the deponent has acknowledged that he knows and understands the contents of this affidavit which was signed and sworn to, before me, at Johannesburg on this 16 January 2013. The regulations contained in the Government Notice No. 1258 dated 21st July 1972 (as amended) and Government Notice No. 1648 dated 19th August 1977 (as amended) having been complied with.



COMMISSIONER OF OATHS

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