



IN THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

CASE NO: J 661/23

Honourable Acting Justice **SNYMAN ORDERED on 31 October 2023**

In the matter between:

SOLIDARITY

Applicant

And

**PRESIDENT OF THE REPUBLIC OF
SOUTH AFRICA**

1st Respondent

MINISTER OF EMPLOYMENT AND LABOUR

2nd Respondent

**THE DEPARTMENT OF EMPLOYMENT AND
LABOUR**

3rd Respondent

**THE DIRECTOR-GENERAL OF THE DEPARTMENT
OF EMPLOYMENT AND LABOUR**

4th Respondent

THE COMMISSION FOR EMPLOYMENT EQUITY

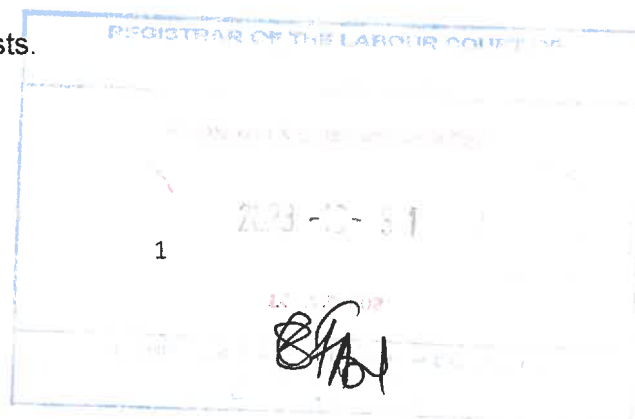
5th Respondent

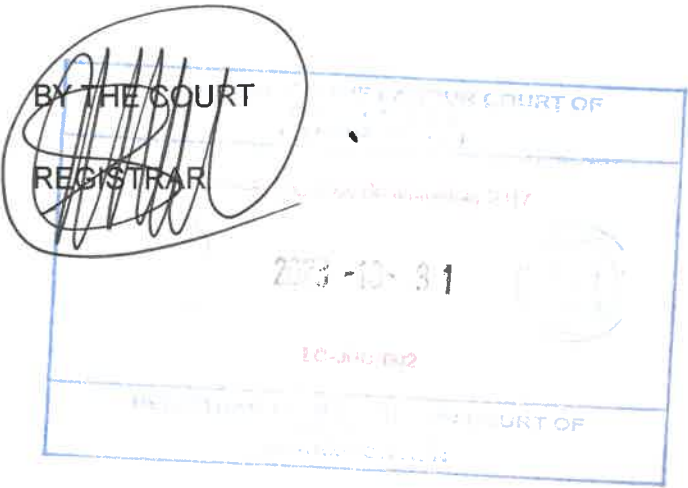
ORDER

Having read the documents and having considered the matter:

IT IS ORDERED THAT:

1. The Settlement Agreement marked "x" is made an order of court.
2. There is no order as to costs.





LABOUR COURT

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**IN THE INTERNATIONAL LABOUR ORGANISATION CONCILIATION PROCESS
AS FACILITATED BY THE COMMISSION FOR CONCILIATION, MEDIATION AND ARBITRATION**

Case no: H02-23

In the matter between:

SOLIDARITY

Applicant

And


The REPUBLIC OF SOUTH AFRICA

Respondent

SETTLEMENT AGREEMENT

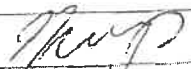
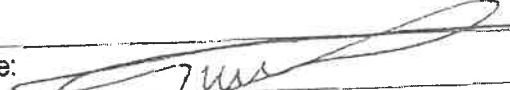
Following the Applicant's article 24 representation to the ILO, and the conciliation process as facilitated by the CCMA, the parties are desirous to settle the above-mentioned dispute as follows:

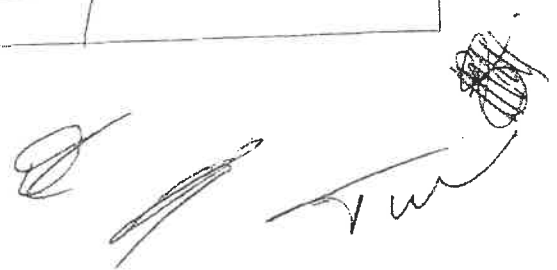
- a) Affirmative action is a coherent packet of measures, of a temporary nature in line with the Constitution, aimed specifically at correcting the position of members of a target group as defined in the Employment Equity Act in the workplace, in order to obtain effective equality;
- b) Affirmative action shall be applied in a nuanced way, as embodied in this agreement, and the economically active population statistics will only be one of many factors that will be taken into account in the compliance analysis of affirmative action in any workplace;
- c) No absolute barrier may be placed upon any employment practices affecting any persons from any group;
- d) For the purpose of preparing and implementing an employment equity plan and reporting and compliance analysis of affirmative action in any workplace, the following criteria must be taken into account—
 - Inherent requirements of the job;



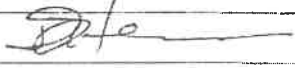

- The pool of suitably qualified persons;
 - the qualification, skills, experience and the capacity to acquire, within a reasonable timeframe, the ability to do the job;
 - the rate of turn-over and natural attrition within a workplace;
 - recruitment and promotional trends within a workplace.
- e) In the compliance analysis of affirmative action in any workplace justifiable/reasonable grounds for not complying with the targets as set by the employer and/or any other targets set by any other party, may include:
- Insufficient recruitment opportunities;
 - Insufficient promotion opportunities;
 - Insufficient target individuals from the designated groups with the relevant qualification, skills and experience;
 - CCMA awards/Court Order;
 - Transfer of business;
 - Mergers/ Acquisitions; and
 - Impact on Business Economic circumstances.
- f) No penalties or any form of disadvantage will be incurred by the employer if in the compliance analysis of affirmative action in any workplace, there are justifiable/reasonable grounds for not complying with the targets.
- g) No employment termination of any kind may be effected as a consequence of affirmative action.

The parties agree that the aforementioned agreement will be gazetted as part of the 2023 Employment Equity regulations, and will be deemed a settlement under case number J661/23 where it will be made an order of a Court.

SOLIDARITY	REPUBLIC OF SOUTH AFRICA
Full Name and Surname: Flip Buys	Full Name and Surname: Thembelani Waltermade Nxesi
Designation: Chairperson: Solidarity Movement	Designation: Minister of Employment and Labour
Signature: 	Signature: 
Date: 28/06/2023	Date: 28/06/2023



Witness:

SOLIDARITY	REPUBLIC OF SOUTH AFRICA
Full Name and Surname: Dirk Hermann	Full Name and Surname: Boitumelo Moloi
Designation: CEO: Solidarity	Designation: Deputy Minister of Employment and Labour
Signature: 	Signature: 
Date: 28/6/23	Date: 28/06/2023

