



THE SUPREME COURT OF APPEAL REPUBLIC OF SOUTH AFRICA

MEDIA SUMMARY - JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal

Date: 20 September 2018

Status: Immediate

Please note that the media summary is for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal.

SPECIAL PENSIONS APPEAL BOARD & ANOTHER v MASEMOLA

Today, the Supreme Court of Appeal (SCA) upheld an appeal brought by the Special Pensions Appeal Board together with the Government Pensions Administration Agency (the appellants), against a judgment of the Gauteng Division of the High Court, Pretoria.

The appeal concerns Mr Masemola (the respondent); whom was a recipient of a special pension in terms of the Special Pensions Act 69 of 1996 (the Act). The respondent was disqualified in terms of the provisions of the Act from receiving the special pension; as a result his conviction of fraud.

On 21 July 2011, after he had applied, the respondent received a Presidential Pardon in terms of s 84(2)(j) of the Constitution. The issue in this appeal is whether the respondent is entitled to reinstatement of special pension due to the Presidential Pardon. The provision of the Act in terms of which he was awarded the special pension lapsed in 2006. Therefore the Presidential Pardon granted in 2011 could not assist him.

The SCA held that Presidential Pardon does not have effect contended for and the disqualifying provision of the Act is not to be discarded. This Court further held that the lapsing of part of the Act was on the

basis of the principle of *legality* and consequently there is no statutory provision for reinstatement of the special pension.

The appeal was accordingly upheld and no order was made as to costs.

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