

Supreme Court of Appeal of South Africa

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal

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Status: Immediate

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

South African Local Authorities Pension Fund v Mthembu

The SCA today dismissed an appeal against a decision of the KwaZulu-Natal Division of the High Court rejecting the contention of the South African Local Authorities Pension Fund that it was not obliged to pay to Mrs Mthembu a child's pension in respect of her daughter, Mbali, while she was studying at UNISA. The fund contended that as UNISA is a distance learning institution that does not provide lectures to its students, Mbali could not be a full-time student as required by the rules of the fund.

The factual position was that Mbali had only registered to study at UNISA because she had not obtained admission to the University of KwaZulu-Natal where she would have been registered as a full-time student. She was however carrying the same study load as any student registered for a similar primary degree at any other university and aiming to complete her degree in three years. She spent all her time during the day working on her studies and participating in study groups organised by UNISA.

The fund relied upon certain documents it had obtained from UNISA that it said showed that Mbali was not a full-time student because the university had not full-time students. However, when examined it appeared that these documents were ambiguous and not decisive of the issue. Furthermore the answer had to be sought in the rules of the fund and not in UNISA's classification of its students. That required the fund to examine the course of study being undertaken by the student and the commitment of the student to those studies in order to determine whether she was a full-time student. When that was done in respect of Mbali she was plainly a full-time student. It followed that her mother was entitled to claim a child's pension in terms of the rules of the fund.