THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

JUDGMENT

Not Reportable

Case no: 332/2023

In the matter between:

COLLINS LETSOALO	**FIRST APPLICANT**
ROAD ACCIDENT FUND	**SECOND APPLICANT**

And

MOTHUSI LUKHELE	**RESPONDENT**

Neutral citation: *Collins Letsoalo and Another v Mothusi Lukhele* (332/2023) [2025] ZASCA 195 (17 December 2025)

Coram: MATOJANE, GOOSEN and MOLEFE JJA

Heard: 3 November 2025

Delivered: This judgment was handed down electronically by circulation to the parties' representatives by email, publication on the Supreme Court of Appeal website and released to SAFLII. The date and time for the handing down of the judgment are deemed to be 11:00 on 17 December 2025.

Summary: Civil procedure – application for reconsideration of refusal of leave to appeal – Section 17(2*)(f)* of the Superior Courts Act 10 of 2013 – mootness – fixed term employment contract expired by effluxion of time pending appeal – section 16(2*)(a)*(i) – issues are of such nature that the decision sought will never have no practical effect or result – application for reconsideration dismissed.

ORDER

On application for reconsideration: referred by Petse AP in terms of s 17(2)*(f)* of the Superior Courts Act 10 of 2013:

The application for reconsideration under s17(2)*(f)* of the Superior Courts Act 10 of 2013 is dismissed with costs.

JUDGMENT

Matojane JA (Goosen and Molefe JJA concurring):

[1] This is an application for the reconsideration of an order dismissing an application for leave to appeal. On 5 June 2023 the application served before the Acting President of this Court in terms of s 17(2)*(f)* of the Superior Courts Act 10 of 2013[1] (the Act) and was referred for oral argument. The applicants, Mr Collins Letsoalo and the Road Accident Fund (RAF), seek to overturn a judgment of the Gauteng Division of the High Court, Pretoria (Ceylon AJ) (high court) delivered on 1 August 2022.

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[1] 'The decision of the majority of the judges considering an application referred to in paragraph (b), or the decision of the court, as the case may be, to grant or refuse the application shall be final: Provided that the President of the Supreme Court of Appeal may, in circumstances where a grave failure of justice would otherwise result or the administration of justice may be brought into disrepute, whether of his or her own accord or on application filed within one month of the decision, refer the decision to the court for reconsideration and, if necessary, variation.'

[2] While the litigation has a protracted history, the determination of this matter turns on a single issue: mootness. The dispute originates from a fixed-term contract of employment concluded between the RAF and the respondent, Mr Mothusi Lukhele. Signed on 3 August 2021, the contract appointed the respondent as a Senior IT Advisor for a fixed period of 36 months. The contract commenced on 4 August 2021 and was stipulated to terminate on 31 July 2024.

[3] On 5 November 2021, the RAF terminated the respondent's employment. This prompted an urgent interdict application by the respondent in the high court. On 23 November 2021, Sardiwalla J granted an order suspending the termination pending the determination of a review application (Part B). This order was granted in the absence of the applicants.

[4] The applicants subsequently launched an application in terms of rule 6(12)(c) of the Uniform Rules of Court to reconsider and set aside the order of Sardiwalla J. Ceylon AJ dismissed that application on 1 August 2022, finding that the applicants were in wilful default and that the proper course was a rescission application. It is against this judgment that the applicants sought leave to appeal.

[5] Leave to appeal was refused by the high court and subsequently by this Court on petition. The current proceedings before this Court are a reconsideration of that refusal. The applicants urge this Court to consider the merits of the high court's findings regarding service, wilful default, and the applicability of Rule 6(12)(c) Uniform Rules of Court. However, an intervening event of dispositive significance has occurred: the matter has become moot.

[6] When this application was referred for oral argument, the employment contract was extant. Similarly, when the matter was first enrolled for hearing in the high court, the contract was still in force, albeit with only a month or two remaining. The contract expired on 31 July 2024. The relief granted by Sardiwalla J was interim in nature, designed to preserve the *status quo pendente lite*. That *status quo*—the existence of an employment relationship governed by the specific 36-month contract—no longer exists. It cannot be revived, nor can specific performance be ordered for a period that has already lapsed.

[7] Thus, for present purposes, we are prepared to accept, without making any definitive finding, that the applicants' submissions regarding the merits of the high court's decision may well have justified a referral at the time. However, the effluxion of time has now rendered that consideration academic.

[8] Courts exist to determine live disputes and issue orders with practical effect. A case is moot, and therefore not justiciable, if it no longer presents an existing or live controversy at the time it comes before the court. The judicial process is not well served by pronouncing on issues where the sought outcome can no longer provide tangible relief to the parties[2]. The principle is codified in s 16(2)(a)(i) of the Act that provides:

> 'When at the hearing of an appeal the issues are of such a nature that the decision sought will have no practical effect or result, the appeal may be dismissed on this ground alone.'

[9] No practical effect, therefore, attaches to any order that could be made on appeal. Even if this Court were to find that leave to appeal should be granted, and the applicants were successful on appeal, the result would be academic. There is no basis to alter or vary the order already made because the substratum of the dispute has fallen away.

[10] The applicants argued that the matter implicates fundamental constitutional rights, specifically s 34 of the Constitution, and that these constitute a 'compelling reason' to hear the appeal in terms of s 17(1)(a)(ii) of the Act. I am not persuaded. To alter the order refusing leave to appeal, this Court must be satisfied that a 'grave failure of justice'—as required by s 17(2)(f)—would otherwise result. Since the issue is moot, that high threshold is not met.

[11] It remains to deal with the question of costs. The general rule is that costs follow the result.

[12] In the result, the following order is made:

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[2] *Coin Security Group (Pty) Ltd SA National Union for Security Officers and Others* 2001(2) SA 872 (SCA) para 7. *Radio Pretoria v Chairman, Independent Communications Authority of South Africa* 2005 (4) SA 319 (CC)

The application for reconsideration under s 17(2)*(f)* of the Superior Courts Act 10 of 2013 is dismissed with costs.

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KE MATOJANE

JUDGE OF APPEAL

Appearances

For appellants:	M Musandiwa
Instructed by:	Malatjie & CO Attorneys, Sandton
	Honey Attorneys, Bloemfontein
For respondent:	HJ Cilliers and LC Tlelai
Instructed by:	Jeanette Loock
	2 Zola Budd Street
	Bloemfontein