



**9 February 2015**

**DRAFT REPORT OF SELECT COMMITTEE ON PETITIONS AND EXECUTIVE UNDERTAKINGS ON THE HEARING OF THE ANDREW SEHUME PETITION, HELD ON 5 NOVEMBER 2014 AT PARLIAMENT**

**1. BACKGROUND**

The Sehume petition was tabled on the ATC on 3 December 2012 and thereafter referred to the Select Committee on Petitions and Executive Undertakings (Committee) for consideration. The petitioner is Mr Andrew Sehume (Sehume) from Gauteng Province. The petitioner raises a number of contentions in relation to the manner in which he was dismissed and the manner in which his divorce was handled. The petitioner alleges that his human rights were contravened in the course of his dismissal and divorce and consequently seeks the intervention of the Committee in correcting the wrongs he believes were committed in the course of his dismissal and subsequent divorce from his wife.

**2. PURPOSE OF HEARING**

The purpose of the hearing was to afford Sehume an opportunity to make first hand oral submissions to the Committee on the petition he submitted to the NCOP. Sehume had previously made oral submissions to the Committee in the Fourth Parliament during its oversight visit to Johannesburg in or around April 2013.

**3. COMMITTEE MEMBERS AND OFFICIALS**

The following Committee Members were present at the hearing of the petition:

- Hon S G Thobejane, ANC, Limpopo;
- Hon M J Mohapi, ANC, Free State;
- Hon LPM Nzimande, ANC, KZN;
- Hon M T Mhlanga, ANC, Mpumalanga;
- Hon G M Manopele, ANC, Northern Cape;
- Hon D L Ximbi, ANC, Western Cape;
- Hon T Wana, ANC, Eastern Cape;
- Hon Michalakis, DA, Free State;
- Hon J W W Julius, DA, Gauteng; and
- Hon M Chetty, DA, KZN.

The Members at the hearing were supported by Mr T Madima, the Committee Secretary.



#### **4. SUBMISSIONS FROM SEHUME**

At the outset of his submission to the Committee, Sehume pointed out that that he received little or no assistance from Parliament after appearing before the Committee in the Fourth Parliament and he therefore welcomed the opportunity to make a further submission to the Committee in the Fifth Parliament.

##### **4.1 Dismissal**

Sehume then proceeded to relate the events leading up to dismissal. Sehume states that he was the first Black Secretary of Tara Hospital (a provincial hospital in Sandton, Gauteng) however in 1998 he was dismissed following a disciplinary hearing. He contends that the disciplinary hearing took place whilst he was on sick leave. In his petition to Parliament, Sehume submitted supporting documentation which indicated that he was charged for various acts of insubordination during the period 1998 and 1999. The documents submitted by Sehume show that he was charged with numerous acts of insubordination which include defying the hospital superintendent's authority and refusing to discuss the hospital budget with management; and using abusive language. Even though the investigating officer who handled his case made a number of findings pointing to the fact that there was no effective management structures at the hospital, Sehume was found to have grossly undermined hospital principles and management policies and as a consequence he was dismissed. Sehume further informed the Committee he had been experiencing challenges in his job at the time as hospital suppliers were not supplying the hospital with the required products and when he shared these challenges with the hospital's management he was seen as a problem.

In addition the petitioner claimed that at some point he was tipped off by a member of the union (NEHAWU) that a certain Mr Barnard wanted to shoot him and to avoid being shot he has to vacate his position when instructed to do so. He stated that when he raised this with management it did not take him seriously. The then hospital Chief Executive Officer (CEO), Mr Rothschild, told him that they would call the Head Office for further advice and told him to go home since he could see he was disturbed by the challenges he was facing at work.

Sehume added that he was also told to consult a psychologist after his condition worsened and was admitted by Dr Rakgaka. After his admission he was advised not to go back to work and when he went to fetch his personal possession, he discovered the locks to his office has been changed. And when he made enquiries with Mr Barnard about this Mr Barnard told him that they were unhappy with a native who was giving them a problem.

Sehume further submitted that upon consulting some of his colleagues regarding his challenges at work they told him he lacked struggle credentials and also advised him to take early retirement. Ultimately, the hospital management processed his retirement without his consent and he decided



to approach the Bargaining Council and sue for constructive dismissal. Mr Marule was appointed as the investigator but Marule's recommendations namely that Sehume was not retired but forced to resign; evicted by Nehawu and suffered from Post Traumatic Syndrome were never implemented. Sehume further noted that he had exhausted the pension he received from the hospital which worked out to be a 3<sup>rd</sup> of his lump sum benefit and a part of his pension money was supposedly transferred to a certain woman at Sanlam.

The petitioner indicated that he also took a decision to refer his dismissal to the Commission for Conciliation, Mediation and Arbitration (CCMA) and an award was made against him in the CCMA. Thereafter he took the matter on review to the Labour Court in 1999 but to date he had not been given a review date by the Labour Court despite having made several enquiries with the Registrar of the Labour Court. The petitioner also lamented the fact that the lawyers who were assisting him with his dismissal appeared to have colluded against him. And this became evident when his case was said to have been enrolled for a particular day at the Labour Court and when he went there for the hearing his representatives were nowhere to be seen. Upon reporting this to the relevant law society he was told the matter had been removed from the court roll because he had a habit of disappearing. He alleges the following individuals assisted him with his dismissal matter but disappeared without any trace and were negligent in the manner they handled the matter: Mr Nxumalo, Advocate Vuyile and Mr Makopo.

The Committee also learnt from the petitioner's submission that he also approached the Office of the Public Protector (PP) and he would travel from Midrand to Pretoria on foot in order for to consult with officials of the Office of the PP. In the process of his consultations with the Office of the PP, Sehume stated he had learnt the PP is only interested in investigating high profile cases.

#### **4.2 Divorce**

According to Sehume one of the most severe consequences of his dismissal from the hospital was that his wife divorced him in 2004. He told the Committee that the processes leading to the divorce from his wife were flouted and appeared to favour his wife.

Further with regards to his divorce, the petitioner stated that although his wife had agreed to surrender the house, he was only given R334 000 and incurred expenses to the tune of R25 000 which his brother funded. He also maintained the court order for the dissolution of the joint estate was also inappropriately arrived at and he received unfair and partial treatment from the liquidator of their joint estate.

Sehume further alleged the magistrate who presided over the dissolution of his marriage was corrupt and that he experienced abuse and neglect at the hands of the magistrate. Also, according to Sehume the liquidator had on numerous occasions tried to sell the matrimonial home and this was contrary to the settlement agreement reached at the dissolution of his marriage. In terms of the settlement agreement both parties would be granted a right of first refusal in the event the house was sold but the house was eventually sold on auction and he incurred an amount of R120 000 for



the transfer of the house. It is for this reason that he finds it hard to accept that the liquidator had executed his job properly and fairly.

The petitioner also indicated he had lodged complaints with both the Commission for Gender Equality and the South African Human Rights Commission in relation to the manner in which his divorce was handled and the two Chapter 9 institutions had not offered him any reasonable assistance. The petitioner further revealed that he had also lodged a complaint with the Magistrates Commission (Commission) against the magistrate who presided over his divorce but the Commission found that the magistrate had acted appropriately.

In addition, the petitioner related how his lawyer had deserted him and he had to find another lawyer. And as such he struggled to get a copy of the divorce order. The petitioner also claimed Mr Mlambo, one of the lawyers he had engaged, made him pay more than R2000 and was later discovered to not be a member of a law society. Another lawyer he engaged on the matter, one Mr Marumo, also lawyer disappeared.

Sehume indicated that he had incurred so much debt following his divorce that he is now listed with the National Credit Bureau and also lives on hand-outs from his children and on a monthly stipend of R1 500.

## **5. OBSERVATIONS AND FINDINGS**

Following the submission by the petitioner, the Committee observed as follows:

- 5.1 It was difficult for the Committee to make a determination given that Sehume was the only stakeholder at the hearing and as such there was a need for the Committee to hear from other stakeholders before making an appropriate determination on the petition.
- 5.2 The petitioner needs to submit additional document to the Committee and would further need more time to put together and submit this documentation to the Committee.
- 5.3 Despite the fact that certain individuals implicated in the petition might have passed on there were other individuals who would be able to account on some of the issues the petition raises.
- 5.4 Some of the issues raised in the petition appear complex in nature however notwithstanding this these issues would have to be handled on their merits.

## **6. RECOMMENDATIONS**

The Committee also made the following recommendations:

- 6.1 The petitioner to submit all the documentation substantiating the claims he made in his submissions to the Committee via the Committee Secretary.



- 6.2 The Committee to request the CGE, SAHRC and Public Protector to provide reports on the complaints lodged by Sehume; the determinations arrived at in relation to the complaints; and how and why such determinations were arrived at.
- 6.3 Committee to request the Ethics Committee of the Magistrates Commission to reinvestigate the complaints lodged by Sehume in relation to his divorce proceedings.
- 6.4 The Committee take collective responsibility towards the improvement of its objectives and goals by ensuring that petitioners get the relief they seek at all times.

*Report to be tabled for consideration.*

