

MEDIA RELEASE **Public Service salaries: PSA files papers at Constitutional Court**

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The Public Servants Association (PSA), which represents some 240 000 public-sector employees, on 29 January 2021 filed its papers at the Constitutional Court, appealing the Labour Appeal Court judgement, which ruled against labour on the non-implementation of the Public Service wage agreement.

Public servants were due to receive their negotiated wage increases with effect from 1 April 2020. When the state as employer failed to implement the last leg of the agreement (PSCBC Resolution 1/2018), the PSA was left with no option but to approach the Labour Appeal Court to enforce clause 3.3 of the Resolution. Unfortunately, the Court ruled against the PSA and other labour parties. In a nutshell, the Court ruled that clause 3.3. of the Resolution is declared unlawful and in contravention of sections 213 and 215 of the Constitution of South Africa and regulations 78 and 79 of the Public Service Regulations.

The PSA is of the view that the judgement hinges more on moral sense than on law and facts. If Cabinet did not have a mandate to sign the Resolution, it raises questions on why only clause 3.3 was declared unlawful instead of the entire agreement that covered other conditions of service such as housing, which the employer, in fact, implemented in 2020.

The PSA and its legal team studied the judgement and subsequently decided to file an appeal application at the Constitutional Court. The PSA's notion of motion and its founding affidavit were filed and served on all interested parties, and subsequently submitted to the Constitutional Court on 29 January 2021. The Constitutional Court has acknowledged receipt of the PSA's application and allocated case number 29/21 to the matter.

The PSA expects the State to oppose the matter, which will result in the matter being heard by the Constitutional Court. In the interim, Public Service wage demands for the 2021/22-financial year are already in process and the PSA has issued a warning that should the employer not accede to labour's demands, industrial action by embattled public servants is imminent.

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