

Molefe: I was a permanent employee

Former Eskom boss Brian Molefe insists that he was a permanent employee at Eskom and therefore qualified to be a member of its pension fund.



Photo: Destiny Man

Molefe's R30.1m "golden handshake" and his membership of the Eskom pension fund is being scrutinised by Parliament's public enterprises portfolio committee, which is conducting an inquiry into the capture of state-owned enterprises.

Last week, the committee heard from the Eskom Pension and Provident Fund that the utility had misrepresented Molefe's employment status, which allowed him to be a member of the fund.

Molefe was employed on a five-year contract and, according to the fund's rules, only permanent employees qualify. The fund's executives told MPs that Eskom had submitted Molefe's file when he joined, which was marked PPX, denoting that he was a permanent employee, but, in fact, he was on a five-year contract.

Trade Union Solidarity approached the courts earlier in 2017 to declare all Eskom payments in favour of Molefe to the pension fund as well as payments from the pension fund to Molefe unlawful. The Solidarity application lists Molefe, Public Enterprises Minister Lynne Brown and Eskom among the respondents. The matter is to be heard in November.

Molefe has also approached the Labour Court to challenge his dismissal from the power utility. He claims the move was

contractually illegal and was politically motivated.

In the Solidarity matter, the Eskom Pension Fund has submitted a supplementary affidavit stating that because Molefe was a temporary employee he was not an eligible member of the fund and therefore should not have received any pension payouts in the first place.

In the answering affidavit filed last week at the High Court in Pretoria, Molefe said he had received a letter from Brown in October 2015 containing no limitation on the period of employment. At about the same time, he had also received a letter from the then Eskom board chairman Ben Ngubane confirming his appointment as CEO.

He said the letter also contained no restriction on the term of employment. He had subsequently received a contract from Eskom which stated that his employment would continue for an indefinite period.

"I am confident I signed this contract of employment and returned it to Eskom, who will have the signed copy in its possession". I was employed in a permanent position [as CEO] without limitation on the term of [employment]," Molefe said.

In November 2015, Brown had written to Ngubane stating the Cabinet's decision that his contract be altered to a five-year contract, he said. What then followed was a second letter of employment, which he signed on March 7 2017.

"My original contract of employment concluded with Eskom expressly stipulated open-ended employment, which would have been until age 65. It was this contract that determined my eligibility for membership of the [Eskom pension fund]. The subsequent alteration of the term of my employment " did not make me a temporary employee as contemplated in the rules of the fund, nor did it alter my status as an eligible employee," he said.

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