

**IN THE HIGH COURT OF SOUTH AFRICA
(EASTERN CAPE DIVISION, MAKHANDA)**

CASE NO: 1613/2020

In the matter between:

**THE AMATHOLE DISTRICT
MUNICIPALITY (THE MUNICIPALITY)**

Applicant

and

**THE SOUTH AFRICAN MUNICIPAL
WORKERS UNION**

First Respondent

and

OTHERS

Second to One Thousand Six Hundred
and Sixteenth Respondents (and which
include the current and various former
employees of ADM)

NOTICE TO ALL CURRENT AND FORMER ADM EMPLOYEES

1. The municipality has issued papers in the High Court under the above case number against various respondents, including SAMWU, IMATU, their respective members, and employees and former employees of the municipality who were or are not members of the said trade unions.

2. ADM seeks in its notice of motion orders in substantially the following terms:

2.1 As Part A relief:

2.1.1 That, *inter alia*, the various individual employees and former employees of the municipality are joined as respondents in the application under case number 1613/2020;

2.1.2 That the following order issued by the Honourable Mr. Acting Justice Matebese in the above matter, under case number 1613/2020, is declared a nullity, alternatively rescinded:

“2.1.2.1 The Applicant’s failure to file the application for review within a reasonable time be and is hereby condoned.

2.1.2.2 The decision of the Fifth Respondent on or about 25 March 2013 to re-categorise the Applicant from a Category 6 to a category 7 municipality be and is hereby unlawful and is hereby reviewed and set aside.

2.1.2.3 The decision of the Fifth Respondent on or about 19 February 2014 to standardize the Applicant’s salaries is declared unlawful and is hereby reviewed and set aside.

2.1.2.4 All consequences flowing from the order setting aside the decision of 25 March 2013 to re-catergorise the Applicant and particularly regarding remuneration and benefits be remitted to the Local Labour Forum of the Applicant for consultation, negotiation and decision purposes.

2.1.2.5 All consequences flowing from the order setting aside the decision of 19 February 2014 to standardize the Applicant's salaries and particularly regarding remuneration and benefits be remitted to the Local Labour Forum of the Applicant for consultation, negotiation and decision purposes.

2.1.2.6 The Applicant is to pay the Third Respondent's costs of opposition, including the costs of two counsel."

2.2 As Part B relief that ADM be granted leave to amend its notice of motion and supplement its founding affidavit in the initial review application and for condonation, to the extent necessary; and for the following further relief:

2.2.1 The decision of the sixth respondent (the former municipal manager of the municipality, Mr Chris Magwangqana), on behalf of the municipality, on or about 17 January 2013 to re-categorise

the municipality from a category 6 to a category 7 municipality is declared invalid in terms of section 172(1)(a) of the Constitution of the Republic of South Africa, 1996, and is set aside, in terms of section 172(1)(b) with retrospective effect from 4 August 2020.

2.2.2 The decision of the sixth respondent, on behalf of the municipality, on or about 19 February 2014 to standardise the applicant's salaries is declared invalid in terms of section 172(1)(a) of the Constitution and set aside, in terms of section 172(1)(b), with retrospective effect from 4 August 2020.

2.3 That the respondents who unsuccessfully oppose the application are ordered to pay the costs of the application, jointly and severally, the one paying the others to be absolved.

3. The trade unions (SAMWU and IMATU) and those of the municipality's employees who are their members, have opposed the application and have filed papers in support of such opposition.

4. All current and former employees of the municipality (the affected employees) have the following rights:

4.1 to oppose the application utilising attorneys of their own choice;

- 4.2 to obtain a copy, without charge, of the main application from the municipality's attorneys of record should they require a copy; and
- 4.3 to oppose the application, if they wish to, by notifying the municipality's attorneys in writing of their intention to do so and within 15 days after having so given notice of intention to oppose the application, to file their answering affidavits, if any; and further to appoint in such notification an address referred to in Rule 6(5)(b) of the Uniform Rules of Court at which they will accept notice and service of all documents in the proceedings.
- 4.4 In addition, if no notice of intention to oppose is given within the time period stated above, the municipality will proceed to set the matter down on the opposed motion court roll and seek orders in the terms set out above without further notice or reference to the affected employees.