



**IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)**

Case No: **38343/2022**

- (1) REPORTABLE: NO
(2) OF INTEREST TO OTHERS JUDGES: NO
(3) REVISED

.....
SIGNATURE

.....09 OCTOBER 2023

DATE

In the matter between:

DON'T WASTE SHARED SERVICES (PTY) LTD

FIRST APPLICANT

DON'T WASTE KZN 1 (PTY) LTD

SECOND APPLICANT

DON'T WASTE KZN 2 (PTY) LTD

THIRD APPLICANT

DON'T WASTE CTN 1 (PTY) LTD

FOURTH APPLICANT

DON'T WASTE CTN 2 (PTY) LTD

FIFTH APPLICANT

DON'T WASTE EC1 (PTY) LTD

SIXTH APPLICANT

DON'T WASTE GAU 1 (PTY) LTD

SEVENTH APPLICANT

DON'T WASTE GAU 2 (PTY) LTD

EIGHTH APPLICANT

DON'T WASTE GAU 3 (PTY) LTD

NINTH APPLICANT

DON'T WASTE GAU 4 (PTY) LTD

TENTH APPLICANT

DON'T WASTE GAU 5 (PTY) LTD

ELEVENTH APPLICANT

DON'T WASTE GAU 6 (PTY) LTD

TWELFTH APPLICANT

And

THE COMPENSATION FUND	FIRST RESPONDENT
THE COMISSIONER OF THE COMPENSATION FUND	SECOND RESPONDENT
MINISTER OF EMPLOYMENT AND LABOUR: TW MXESI	THIRD RESPONDENT
DEPUTY MINISTER OF EMPLOYMENT AND LABOUR: BOITUMELO MOLOI	FOURTH RESPONDENT
THE DIRECTOR GENERAL, DEPARTMENT OF EMPLOYMENT AND LABOUR: THOBILE LAMATI	FIFTH RESPONDENT

JUDGMENT

RETIEF J

1. The Second to Twelfth Applicants [Applicants] appeal against those parts of the judgment which, this Court handed down (ex tempore) on the 21 July 2023, in respect of Part B of the relief sought by the Applicants and costs. The application was argued on the 20 July 2023.
2. The issue for determination was a judicial review brought by way of the Promotion of Administrative Justice Act 3 of 2000 [PAJA] in which the Applicants sought to review and set aside the classification decisions of the First and Second Respondents [Respondents] made in terms of the Compensation for Occupational Injuries and Disease Act 130 of 1993 [COIDA].
3. The nub of the grounds of appeal relied on traverse the interpretation and application, if any, of section 91 of COIDA. The Appellants contend, *inter alia*,

that section 91 is not applicable to the Applicants and that reliance and the application thereof, *vis n vis* as an internal remedy mechanism referred to in PAJA is misplaced.

4. That the provisions of section 17(1)(a)(i) of the Superior Courts Act 10 of 2013 [Superior Courts Act] are satisfied in that the appeal would have a reasonable prospect of success. The Applicants further rely and, set out reasons in terms of section 17(1)(a)(ii) of the Superior Court Act to amplify their section 17 submissions. These reasons appear compelling.
5. Having heard Counsel for both the Applicants and the Respondent I am of the opinion that the appeal would have a reasonable prospect of success and as such, the following order is made:

IT IS ORDERED THAT:

1. The Second to Twelfth Applicants are granted leave to appeal to the Full Bench of this Division.
2. The Respondents are ordered to pay the costs, which costs to be inclusive of two Counsel.

L.A. RETIEF
Judge of the High Court
Gauteng Division

Appearances

Counsel for the Appellants:	Adv. H Gerber SC Adv. M Coetzee
Instructed by:	Cox Yeats Attorneys c/o Alant, Gell & Martin Inc
Counsel for the Respondents:	Adv. MC Phathela
Instructed by:	The State Attorney, Pretoria
Leave to Appeal heard on the:	28 September 2023
Leave granted on the:	9 October 2023