

**THE FINANCIAL SERVICES TRIBUNAL**

CASE NO: PFA72/2023

In the matter between:

**GANESAN MOODLEY**

Applicant

and

**ALEXANDER FORBES RETIREMENT FUND**

First Respondent

**ALEXANDER FORBES FINANCIAL SERVICES**

Second Respondent

**NATIONAL HEALTH LABORATORY**

Third Respondent

**THE PENSION FUNDS ADJUDICATOR**

Fourth Respondent

Summary: Reconsideration of a decision of the Pension Funds Adjudicator (30M) in terms of Section 230 of the Financial Sector Regulation Act 9 of 2017- Application lacks merit.

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## DECISION

- [1] This is an application for reconsideration of a decision by the Pension Funds Adjudicator (PFA) ordering that the complaint lodged by the Applicant does not fall within the definition of a “complaint” as defined by section 1 of the Pension Fund Act (“the Act”). The PFA further found that she lacks jurisdiction to deal with the Independent Counselling and Advisory Services (“ICAS”) process in relation to the Applicants alleged disability. The parties waived their right to a formal hearing and this is the decision of the Tribunal.
- [2] The PFA’s determination was mainly premised on the grounds that the Applicant’s membership of the Fund (the first respondent) ceased when he took an early retirement in 2016. It is common cause that on 23 August 2016 the Applicant received his early retirement benefit. An amount of R 740 995.56 was payable to the Applicant of which the Applicant elected to transfer a portion of R 603 735.45 to purchase a retirement annuity and opted to take R 100 292.00 as a cash option. A proof of payment forms part of the record together with the election form signed and completed by the Applicant.
- [3] Prior to the Applicant’s early retirement, he had initiated a disability claim

process with the Fund and through his employer. However, the Applicant later abandoned that claim when it became apparent that he could not provide his insurer and the Fund with the required medical reports and undergo the required medical evaluations in support of his claim.

- [4] The record indicates that the Applicant's financial circumstances have changed, and that this prompted him to reinstate and rehash the disability claim which he had abandoned in 2016, some eight years ago. In his recent complaint to the PFA the Applicant says that he was not assisted with ICAS by the Fund in relation to that disability claim. In response to the PFA, the Fund pointed out that its fund rules and policies are only applicable whilst individuals are still members of the fund. A disability claim cannot be lodged after a member has exited the Fund, nor can a disability claim be revisited or reinstated after a member has abandoned his claim and exited the fund.
- [5] The only issue the Applicant raises concerns his allegation that the Fund failed to assist him when he lodged his disability claim in 2016. The complaint is time barred and, in addition, there is nothing to suggest that the Fund acted contrary to the provisions of the Act or of its rules or that the Fund otherwise acted wrongfully or negligently. The Applicant's complaint does not relate to his withdrawal benefit. He abandoned the disability claim in 2016, and failed to furnish the insurer with the required

medical reports in substantiation of his disability claim. He also failed to undertake the necessary medical examinations as required by his insurer. Consequently, the PFA correctly found that the Applicant failed to make out a case against the fund.

## **CONCLUSION**

[6] The application for reconsideration lacks merit and should accordingly be dismissed.

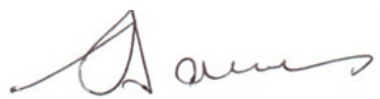
## **ORDER**

The application is dismissed.

Signed on behalf of the Tribunal on 05 February 2024.

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Zama Nkubungu-Shangisa (MEMBER) with



JUDGE LTC HARMS (DEPUTY CHAIR)

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