

THE FINANCIAL SERVICES TRIBUNAL

CASE NO.: PFA41/2022

ML ASSET MANAGEMENT (PTY) LTD

APPLICANT

and

KD MABELANE

FIRST RESPONDENT

PENSION FUNDS ADJUDICATOR

SECOND RESPONDENT

PRIVATE SECURITY SECTOR PROVIDENT FUND

THIRD RESPONDENT

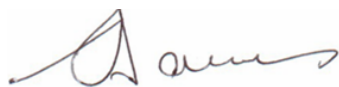
DECISION BY THE DEPUTY CHAIRPERSON

APPLICATION FOR RECONSIDERATION IN TERMS OF SECTION 230 OF THE FSR ACT 9 OF 2017

The application for reconsideration raises critical issues relating to the extent of the PFA's authority to extend the scope of an enquiry beyond the exact terms of a complaint and, if the PFA has such authority, whether the audi rule requires the PFA to give notice of the "new" facts or extended enquiry to the employer (in this case) and any other respondent before issuing her determination. There are also issues that the PFA was not aware of when issuing her determination. It is unlikely that the applicant would or should have anticipated these issues considering of how they were dealt with in other contexts, and it would only be fair if the PFA would consider them.

It would be inappropriate for the Tribunal to decide these matters without the full input of the PFA and the best course to follow is to set the determination aside for consideration by the PFA of all issues to the extent relevant for a decision.

Order: the determination is set aside and referred back to the PFA for reconsideration.



LTC HARMS

Deputy Chairperson

31 October 2022