



**Financial Services  
Tribunal**

**THE FINANCIAL SERVICES TRIBUNAL**

**CASE NO:PFA87/2025**

**In the matter between:**

**MMELA FREDERICK MAHLANGU**

**APPLICANT**

**and**

**MUNICIPAL EMPLOYEES PENSION FUND  
(AKANI RETIREMENT FUND ADMINSTRATORS)**

**FIRST RESPONDENT**

**THE PENSION FUNDS ADJUDICATOR**

**SECOND RESPONDENT**

**TRIBUNAL PANEL:** No representation.

**Date of hearing:** N/A

**Date of Decision:** 30 March 2026

**Summary:** Application for reconsideration of decision of the Pension Fund Adjudicator in terms of section 230 of the Financial Sector Regulation Act 9 of 2017; and jurisdiction of the Adjudicator in terms Section 301 of the Pension Funds Act 24 of 1956.

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**DECISION**

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## **INTRODUCTION**

- 1 Mmela Frederick Mahlangu (“The Applicant”) applies in terms of section 230(1) of the Financial Sector Regulation Act 9 of 2017 (“the FSR Act”) for reconsideration of a determination of the Pension Fund Adjudicator (“Second Respondent”) made on 18 September 2025.
- 2 In the impugned determination the Adjudicator declined to investigate and dismissed Applicant’s complaint against the Municipal Employees Pension Fund/ Akani Retirement Fund Administrators (“Fund”), citing a lack of jurisdiction due to the complaint being time-barred as envisaged under the provisions of section 30I of the Pension Funds Act.
- 3 The application for reconsideration raises the question whether the Applicant’s complaint is time-barred as envisaged in section 30I of the Act. If so, would this result in the Adjudicator lacking jurisdiction to investigate the Applicant’s complaint?
- 4 The parties waived their right to a formal hearing, and the reconsideration will be dealt with on the papers.

## **FACTUAL BACKGROUND**

- 5 On the 10 July 2025, the Applicant lodged a complaint with the Adjudicator, the gist of which is that he is aggrieved the Fund’s refusal to investigate what happened to the that the balance of his Pension Fund Benefits payout in the sum of R 1644 856.00. He alleges that:
  - 5.1 He was a member of the Fund by virtue of his employment with the Goven Mbeki Local Municipality, under a Defined Benefit Category (DB) until his withdrawal on the 28 February 2017. When he withdrew from the Pension Fund the pension was R 2 280 439.04 on 28 February 2017 and he only made a partial withdrawal of R 626 981.00 and requested the Pension Fund to transfer the balance of R 1 644 856.00 to Stanlib Preservation Fund as per Section 14 of the Act.
  - 5.2 Throughout the following years, he was under the mistaken impression that the balance of his pension fund had been transferred to Stanlib in 2017. He only found out that it had not been done on 22 April 2025 when he tried to participate in the newly legislated two-pot pension dispensation.
  - 5.3 When he inquired about the balance from the Fund, he was informed that his case has become prescribed.

6 The Applicant contends that prescription should only commence when he became aware of the alleged failure to transfer the balance of his Pension Benefits to Stanlib in 2025.

6.1 The Applicant argues that prescription should only commence when he became aware of the alleged failure to transfer the balance of his Pension Benefits to Stanlib in 2025: and

6.2 that it is disingenuous of the Municipal Employees Pension Fund to hide behind prescription because if they had effective document management system, they would be able locate the funds because they did not implement section 14 transfer.

6.3 In support of his contention, he provided the Fund with supporting documents and the content of which they did not deny. He further provided evidence of a Govan Mbeki Municipal Employee, who handled his exit, and attested to the fact that he only withdrew the sum of R626 000 and submitted section 14 transfer document.

## **THE FUNDS RESPONSE**

7 The Adjudicator lodged a formal complaint on behalf of Applicant with the fund under of section 30A(1) of the Act, to allow the Fund an opportunity to resolve the complaint directly with the Applicant.

8 In response, the Fund confirmed that the Applicant was a member of the Fund by virtue of his employment at the Govan Mbeki Local Municipality under the Defined Benefit Category (DB) until his withdrawal from the Fund on 28 February 2017. The Applicant's withdrawal benefit of R 626 000 was finalized and paid in terms of the Rules of the Fund on 18 August 2017.

8.1 The complaint regarding what happened to the balance of his Pension Benefit in the sum of R 1 644 856.00 which was supposed to have been transferred to Stanlib Preservation Fund as per Section 14 of the Act, the contended his claim had become prescribed as it was filed with the Adjudicator on 10 July 2025 which is 8 years after he withdrew from the Fund.

8.2 They argued that as the complaint falls outside this timeframe, it is time-barred, and the Adjudicator does not have jurisdiction to address it. They cited the provision of Section 301 of the Pension Funds Act, which states that the Adjudicator shall not investigate a complaint if the act or omission to which it relates to occurred more than three years before the date on which the complaint is received by him or her in writing.

## **THE ADJUDICATOR'S DETERMINATION**

8.3 The issue for determination here was whether the Adjudicator had jurisdiction to investigate the Applicant's complaint, under the following circumstances:

8.3.1 On 22 August 2025, this Tribunal informed the Applicant that his complaint appeared to be time-barred in terms of section 301 of the Act, as the Adjudicator does not have jurisdiction to determine a complaint where the cause of action arose more than three years prior to lodging the complaint. He was requested to respond by no later than 28 August 2025 as to why the complaint should be investigated.

8.3.2 On 26 August 2025, a response was received from Applicant, in which he stated that he was under the impression that the balance of his pension fund was transferred to Stanlib in 2017, and only enquired about it this year (2025) due to the two-pot system that has been recently introduced. Further, he is not disputing the receipt of the partial withdrawal which he initiated then because he was financially stable and only needed a net of R626 000.

8.3.3 Furthermore, Applicant was under the impression that a section 14 instruction had been executed.

9 The Adjudicator found that the abovementioned reasons were not sufficient to disturb or warrant the interruption of prescription. Therefore, the complaint was time-barred.

9.1 The Applicant ought to have lodged his complaint on or before 18 August 2020. However, his complaint was only received on 10 July 2025. The adjudicator found that the complaint was time-barred in terms of section 301(1) of the Act read with section 13(1) of the Prescription Act.

9.2 Accordingly, the Adjudicator shall not investigate a complaint if the act or omission to which it relates occurred more than three years before the date on which the complaint was received in writing.

## **ANALYSIS OF FACTS AND LAW**

10 Section 301 of the Act imposes certain time limits concerning the lodging of complaints with the Adjudicator. and provides as follows:

*"(1) The Adjudicator shall not investigate a complaint if the act or omission to which it relates occurred more than three years before the date on which the complaint is received by him or her in writing.*

*(2) The provisions of the Prescription Act, 1969 (Act No. 68 of 1969), relating to a debt apply in respect of the calculation of the three-year period referred to in subsection (1)."*

- 10.1 Section 12(3) of the Prescription Act 68 of 1969 ("the Prescription Act") provides that a debt will be due only when the claimant knows who the offender is and the facts that led to the claim. In addition, section 13(1) of the Prescription Act deals with circumstances upon which the prescription period is delayed. According to this section, the period of prescription would be delayed if, inter alia, a creditor or claimant is a minor child (see *Malcom v Premier, Western Cape Government and Other* [2014] 2 All SA 251 (SCA)).
- 10.2 However, in *Truter and Another v Deyssel* 2006 (4) SA 168 (SCA) at [18] & [20], the Supreme Court of Appeal confirmed that the "facts from which the debt arises" are the underlying, material facts – not legal conclusions (consequences) or expert opinions. Prescription therefore begins when those facts are, or ought reasonably to be, within the creditor's knowledge. Once the material facts are known (or knowable with reasonable care), prescription commences.
- 10.3 The Tribunal is satisfied that the Applicant knew, or could with reasonable diligence and care have known, all material facts whether the benefits were transferred or not.
- 10.3.1 The Applicant knew the identity of both the employer and the Fund and Stanlib but never requested a benefit statement from both.
- 10.3.2 The Applicant offers no credible reason for a delay exceeding eight years. His allegations of being under the impression that a section 14 instruction had been executed was inadequate and not sufficient to disturb or warrant the interruption of prescription, as it does not reveal any new facts that were not already discoverable with reasonable diligence and care at the within the prescribed period of three years. The Adjudicator accordingly found that there was no reason to set aside the Fund's decision.

## **CONCLUSION**

- 11 In our view, the determination of the Adjudicator cannot be faulted. It would be inappropriate for this Tribunal, under the circumstances of this matter, to interfere with the decision of the Adjudicator.
- 12 In the premise, the applicant's application stands to be dismissed.

**ORDER**

We accordingly make the following order:

The Applicant's application for reconsideration is dismissed.

Signed in Johannesburg on behalf of Tribunal on this the 30 March 2026

\_\_\_*Sgd K E Moloto -Stofile*\_\_\_\_\_

**K E MOLOTO-STOFILE**  
**(Member of the Tribunal) obo self; and**  
**LTC Harms (deputy chair)**