



CASE NO: PFA57/2025

In the matter between:

SELLO GIDEON RAPASA

Applicant

and

EVR TRANSPORT (PTY) LTD

First Respondent

TRANSPORT SECTOR RETIREMENT FUND

Second Respondent

THE PENSION FUNDS ADJUDICATOR

Third Respondent

Decision on Papers

Date of Decision: 1 December 2025

Summary: Application for Reconsideration in terms of section 230 of the Financial Sector Regulation Act, 9 of 2017 against determination of Pension Funds Adjudicator not to investigate due to lack of jurisdiction as the complaint is time-barred as envisaged in section 30I of the Pension Funds Act, 24 of 1956.

DECISION

1. The Applicant applies in terms of section 230 of the Financial Sector Regulation Act, 9 of 2017 ("the FSR Act") for the reconsideration of a decision by the Third Respondent, the Pension Funds Adjudicator ("the Adjudicator"), dated 10 July 2025. The Adjudicator declined to

investigate the Applicant's complaint regarding outstanding provident fund contributions allegedly due by **EVR TRANSPORT (PTY) LTD** ("the employer") and the **TRANSPORT SECTOR RETIREMENT FUND** ("the Fund") prior to 30 September 2021, on the basis that the complaint was time-barred in terms of section 30I of the Pension Funds Act, 24 of 1956 ("the Act"). The Adjudicator further directed the Fund to furnish the Applicant with his latest benefit statement within a specified period and issued directions to the Fund and the Applicant concerning payment of the Applicant's withdrawal benefit.

2. The First Respondent is, **EVR TRANSPORT (PTY) LTD** ("the employer").
3. The Second Respondent is, the **TRANSPORT SECTOR RETIREMENT FUND** ("the Fund").
4. The Third Respondent is, **THE PENSION FUNDS ADJUDICATOR** ("the Adjudicator").
5. The parties waived their rights to a formal hearing.
6. The application for reconsideration raises, *inter alia*, the question of whether the Applicant's complaint is time-barred as envisaged in section 30I of the Act. If so, the Adjudicator would lack jurisdiction to investigate the complaint regarding outstanding contributions prior to 30 September 2021.
7. The Applicant was employed at EVR Transport (Pty) Ltd as a truck driver from 1 April 2013 to 30 September 2018. The Applicant disputes the date of termination of his employment. According to him, his employment terminated in December 2019. He was registered as a member of the Fund on 1 November 2015 by virtue of his employment. The Applicant had a Fund credit of R23 832.47 as of 10 January 2025, representing contributions for November 2015 to October 2016.

Complainant

8. The complainant (Applicant) was dissatisfied with his Fund credit and alleged that his employer failed to remit all provident fund contributions deducted from his salary. He also complained that the Fund failed to issue a benefit statement, and that the employer did not provide him with UIF forms. He submitted payslips dated 30 November 2015 reflecting a provident fund deduction of R789.80 and January 2016 reflecting a provident fund deduction of R684.44, together with a contribution schedule from the Fund (showing the Fund's name and showing the Fund's administrator's name) showing a Fund credit of R23 832.47 for the

period November 2015 to October 2016. The complainant further stated that, as of 8 April 2025, he had still not received his benefit statement or UI19 forms. He lodged a complainant with the Adjudicator on 17 December 2024.

Fund's Response

9. The Fund stated that the employer began participating in the Fund on 1 July 2012 and is non-compliant with section 13A of the Act. Section 13A letters were issued and the non-compliance was reported to the Financial Sector Conduct Authority ("FSCA").
10. The Fund confirmed that the complainant was registered from 1 November 2015 by virtue of his employment and that his employment continues. His Fund credit as of 10 January 2025 was R23 832.47, representing contributions for November 2015 to October 2016.
11. Based on a payslip reflecting an employment date of 1 April 2013, the Fund submitted that the employer should have registered the complainant and commenced contributions from April 2013.
12. The employer owes R78 765.46 in contributions for April 2013 to October 2015 and November 2016 to September 2018, plus late-payment interest of R333 849.56 calculated to 20 April 2025.

Employer's response

13. The employer stated that it sent the complainant a claim form and list of required documents and informed him that his daughter could not request information without his consent. It requested a certified ID to obtain his benefit statement, which the complainant provided at the end of November 2024.
14. The employer submitted that all employees were registered with the Fund on 1 November 2015, with no deductions prior to that date. It advised the complainant that his employment commenced in 2013 and not in 2011 as stated in his complaint. A copy of the complainant's Fixed Term Contract of Service ("Service Contract") was provided, which shows that the Service Contract was first signed on 7 February 2013 for a probation period of 1 month and

thereafter signed on 8 March 2013. The effective date of employment as reflected on the complainant's payslip was 1 April 2013.

15. The employer stated that the complainant was suspended on 2 December 2016, which he disputed at the Bargaining Council in May 2017, and that there is no record of reinstatement. Payslips for 2018 reflect no provident fund deductions.
16. The employer provided payslips from 30 April 2013 to 30 September 2018, showing no provident fund deductions except for a single deduction of R789.80 on 30 November 2015.

Adjudicator's determination

17. The Adjudicator declined to investigate the complaint regarding outstanding provident fund contributions prior to 30 September 2021, finding the complaint time-barred under section 30I of the Act. The Adjudicator directed the Fund to provide the complainant with his latest benefit statement within a specified period and issued directions to the Fund and complainant regarding payment of the complainant's withdrawal benefit.
18. The Adjudicator recorded that the complaint was received on 17 December 2024. The complainant's employment terminated on 30 September 2018, and his withdrawal benefit became payable on that date. The employer ceased deducting contributions from January 2018. The Adjudicator held that the complainant ought reasonably to have been aware of any non-compliance when his employment ended and should have lodged his complaint by 30 September 2021.
19. On 27 June 2025, the complainant was asked to explain the delay. He responded that he had been engaging the employer since 2018. The Adjudicator found this insufficient to interrupt prescription, as the complainant could have lodged a complaint earlier. Accordingly, any claim for contributions prior to 30 September 2021 was held to be time-barred. The Fund confirmed a Fund credit of R23 832.47 as of 10 January 2025. This is supported by a Transport Sector Retirement Fund and Member Contribution Schedule issued by the Fund's Administrator (Salt Employee Benefits) submitted by the complainant. Accordingly, the Adjudicator addressed only the Fund's failure to provide the complainant with benefit statements.
20. On 22 August 2025, the Applicant filed his Application for Reconsideration of the decision of the Adjudicator.

21. *Applicant's grounds for reconsideration, including his augmented grounds*

- The Adjudicator failed to determine the real dispute, misapplied prescription, and issued a premature and incomplete determination.
- The Adjudicator failed to determine admitted non-compliance by the employer for unpaid contributions and resulting loss of benefits.
- The complaint was mischaracterised as relating only to benefit statements.
- No findings made on employer's liability for arrear contributions or the Fund's duty to enforce section 13A of the Act.
- Prescription was misapplied by the Adjudicator
 - Adjudicator found that prescription ran from 30 September 2018.
 - Applicant only became aware of the Fund's identity and the employer's non-payment in October 2024.
 - The Fund still has not provided full contribution/benefit records.
 - Applicant could not reasonably have known the facts to trigger prescription earlier.
- Adjudicator relied on incorrect employment termination date (2018 instead of December 2019).
 - Access records, exit certificate and bank statements confirm termination in December 2019.
 - This factual error materially affects the prescription ruling.
- Determination was premature and incomplete
 - Fund failed to provide the required detailed financial statement.
 - Statement was furnished only on 25 August 2025, after the reconsideration application.
- Adjudicator failed to consider the Fund's admission of unpaid contributions.
- Employer had a contractual and statutory duty to pay contributions. The Applicant never requested or consented to non-payment.
- Relief sought
 - Setting aside the Adjudicator's determination in respect of the time-barred finding and referring it back for reconsideration for a full and proper investigation into the merits of the case.
 - Directing the Adjudicator to ensure active recovery of all arrear contributions and interest from the employer via the Fund.

22. *Tribunal's analysis and decision*
23. The Adjudicator's decision to decline further investigation of the Applicant's complaint regarding the outstanding provident fund contributions is based on section 30I of the Act, which provides:
- “(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, 68 of 1969, relating to the calculation of a debt's prescription period, apply to the computation of the three-years period referred to in subsection(1).”*
24. Section 30I(3) of the Act was repealed by the Pension Funds Amendment Act, 11 of 2007. This subsection previously allowed the Adjudicator to condone non-compliance with time limits for lodging complaints. With its repeal, the Adjudicator no longer has the discretion to extend or condone delays beyond the prescribed three-year period for filing of complaints (See: *Brinant Security Services (Pty) Ltd v Private Security Sector Provident Fund and Others [2023] ZAGPPHC 1113 – “The Adjudicator does not possess the discretion to condone nor extend the time bar as was provided for in the unamended section 30I in subsection (3). Subsection (3) has been deleted by the 2007 amendment to the Act.”*)
25. This means that complaints must be lodged within three years from the date of the act or omission, and this period is calculated in accordance with the Prescription Act.
26. The Adjudicator declined to investigate the Applicant's complaint, citing a lack of jurisdiction under section 30I(1) of the Act, as the complaint was time-barred. The “act” to which the complaint relates occurred more than three years before the date on which the complaint was received in writing by the Adjudicator – the relevant “act” – the termination of the Applicant's employment – 30 September 2018 alternatively December 2019. The Applicant's complaint was only lodged on 17 December 2024 – well beyond the statutory three-year period. If the termination date was 30 September 2018 the three-year period expired on 30

September 2021, and if the termination date was in December 2019 the three-year period to file a complaint with the Adjudicator expired in December 2022.

27. The Applicant disputes the termination date of his employment on the basis that salary payments appear on his 2019 bank statements and an exit certificate reflects that he exited the mine on 20 November 2019. However, the bank statements do not identify the employer from whom these payments originated, and no 2019 salary slips were submitted to substantiate continued employment with the First Respondent. The exit certificate was issued by the Occupational Health Centre at Sibanye Stillwater mine (“the mine”) for a medical examination of the Applicant that may be issued on the date of termination of employment or at any point, thereafter, including after the Applicant had already left the employer’s service, and as such it does not proof continued employment with the First Respondent. There is no supporting affidavit of a relevant person at the mine to substantiate the Applicant’s continued employment after 30 September 2018 with the First Respondent.
28. The Applicant’s complaint records his employment period as 1 October 2011 to 30 September 2018. The termination date accords with the First Respondent’s submissions. However, in his reconsideration application he stated that he was employed from November 2012 to December 2018. These contradictory versions undermine the Applicant’s credibility. The Service Agreement confirms his employment commenced on 1 April 2013, consistent with the commencement date reflected on his payslips.
29. On 27 June 2025, the Adjudicator requested reasons from the Applicant for the delay in claiming his benefit. The Applicant replied that he had been engaging with the employer since 2018. The employer confirmed these engagements, which related to the Applicant’s withdrawal benefit and UIF payments – benefits that arise only upon termination of employment. His reliance on such engagements therefore indicates that his employment terminated in 2018. In the absence of any evidence to the contrary, this tribunal accepts the Adjudicator’s finding that the Applicant was employed by the First Respondent from 1 April 2013 to 30 September 2018 as the more probable version.
30. The Applicant contends that prescription only commenced in October 2024 when he became aware of the Fund’s identity and the employer’s non-payment. He provides no explanation of how this knowledge was obtained. In terms of section 12(3) of the Prescription Act, a debt becomes due only when the creditor has knowledge of the identity of the debtor and of the

facts giving rise to the debt, but a creditor is deemed to have knowledge if it could have been acquired by exercising reasonable care. The employer is the primary “debtor” for unpaid contributions, and the Fund cannot be held liable for contributions it never received. For prescription purposes, the relevant “debt” is the employer’s unpaid contributions, and the Applicant, must have known (or reasonably ought to known) that the employer failed to pay them. The Applicant always knew the identity of the employer, and thus the “debtor”. On his own version, he determined the Fund’s identity and the alleged non-payment through his own inquiries in October 2024. However, these steps should reasonably have been taken at or shortly after the termination of his employment, or at least within the three-years prescriptive period. A failure by the employer or the Fund to provide information or benefit statements does not entitle a member to wait five or six years before lodging a complaint. The Adjudicator correctly held that these circumstances do not interrupt prescription and that the Applicant could have lodged a complaint earlier to resolve any uncertainty and to resolve these issues.

31. The Applicant alleges that his payslips reflected provident fund deductions leading him to believe that contributions were duly paid. The payslips submitted for 2013-2014 demonstrate otherwise: no deductions in 2013 and 2014, only two deductions in 2015, regular deductions in 2016, intermittent deductions in 2017, and none in 2018. These records materially contradict the Applicant’s claim that he became aware of non-payment only in October 2024. The Applicant had access to his payslips at all material time and could readily have established the presence or absence of deductions at a earlier stage. The Fund credits allocated to the Applicant also correspond precisely to the periods in which deductions were actually made (November 2015 to October 2016), information that was evident from his payslips.
32. The employer submitted that, upon receiving correspondence from the Applicant in 2018, it provided him with a claim form and a list of required documents. It also requested an authorised letter permitting his daughter to act on his behalf and a certified copy of his identity document to obtain a fund statement. These documents were only furnished at the end of November 2024. The employer also invited the Applicant to inspect his file, but there is no evidence that he pursued this opportunity.
33. In *Truter and Another v Deysel 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 runs from the date those material facts are known, or reasonably capable of being known, to the creditor.

34. The Tribunal is satisfied that the Applicant knew, or could with reasonable diligence and care have known, all material facts upon termination of his employment in 2018. He knew the identity of his employer, had possession of his payslips reflecting provident fund deductions or the absence thereof, was invited by the employer to inspect his file, and had engaged with the employer since 2018.
35. Despite this, the Applicant only lodged his complaint with the Adjudicator on 17 December 2024. Difficulties in obtaining documents or obtaining the identity of the Fund is not a valid excuse to interrupt prescription. A prudent claimant would have escalated matters timeously to the Adjudicator within the prescriptive period. The Applicant advances no credible reason for a delay of six years.
36. Once the Adjudicator concluded that the complaint regarding the outstanding contributions and interest prior to 30 September 2021 are time-barred (prescribed), it was precluded from investigating the matter further. Prescription is a jurisdictional bar that prevents the Adjudicator from considering the merits.
37. The Tribunal therefore finds no basis to interfere with the Adjudicator's conclusion that the complaint is time-barred under section 30I of the Act and that the Adjudicator is precluded from investigating any outstanding provident fund contributions prior to 30 September 2021. The Applicant's reconsideration application is accordingly dismissed.

ORDER

1. The Applicant's reconsideration application is dismissed.

SIGNED on this 1st day of DECEMBER 2025.

 Sgd Adv S M Maritz

For self and on behalf of:

LTC Harms