



THE FINANCIAL SERVICES TRIBUNAL

CASE NO. PFA13/2026

In a matter between:

NELLY NANA HLABANE

APPLICANT

and

DEPUTY PENSION FUND ADJUDICATOR

1ST RESPONDENT

PRIVATE SECURITY SECTOR PROVIDENT FUND

2ND RESPONDENT

**MPHOSHA CONSTRUCTION PROJECTS CC T/A
MPHOSA SECURITY SERVICES**

3RD RESPONDENT

TRIBUNAL PANEL: Judge M.F Legodi

Appearance for Applicant: Finalised on paper

Appearance for Respondent: Finalised on paper

Date of hearing: Decided without oral submissions

Date of Decision: 13 May 2026

Summary: Application for reconsideration in terms of section 230 of the Financial Sector Regulation Act 9 of 2017. At issue, the question is whether the Adjudicator erred in finding that the applicant's claim or complaint for the period March 2021 to January 2022 was time-barred as envisaged in section 30I of the Pensions Fund Act. The applicant found

not to have satisfied the proviso in section 12 (3) of the Prescription Act. The application was accordingly dismissed.

DECISION

Introduction

1. This is an application for reconsideration of the decision of the Pensions Fund Adjudicator handed down on 25 December 2025 in terms of which it was found that section 30I of the Pensions Fund Act 24 of 1956 (**the Act**) was applicable for the period March 2021 to February 2022. The application is brought in terms of section 230 of the Financial Sector Regulation Act 9 of 2017. The parties have agreed that the application be determined on the papers without oral submissions.
2. The main issue to be determined in these proceedings, identified by the applicant, **Ms Nelly Nana Hlabane**, is whether the Pensions Fund Adjudicator (the Adjudicator) erred in finding that the applicant's complaint is time-barred for the period March 2021 to January 2022.
3. The other two issues regarded as ancillaries to the issue identified in paragraph 2 above, are: firstly, whether the Adjudicator erred in concluding that the deductions by **Mphosa Security Services** (the employer), only commenced from February 2022; and secondly, whether the Adjudicator was correct in declining to determine whether the applicant had been timeously registered with the **Private Security Sector Provident Fund** (the Fund) on the basis that the relevant period is time-barred.

Background

4. The applicant was employed by Mphosa Security Services (the employer) from 15 March 2021 to 15 March 2025. According to the applicant, only three pay slips for the period May 2021, April 2024, and 15 March 2025 were provided to her.

5. The employer was a participant in the Fund. After the 15th of March 2025, the Fund paid the applicant an amount of **R7 614.24** as withdrawal benefits representing contributions received from the employer on behalf of the applicant for the period February 2022 to August 2023, October 2023 to March 2024; May 2024 to August 2024, which were short payments, and September 2024 to March 2025.
6. According to the Fund, as of March 2025, the employer owed **R6 085.24** in respect of the outstanding contributions calculated from July 2021 to January 2022; September 2023, April 2024, June 2024, and August 2024, together with late payment interest of R3665.04 calculated up to 10 October 2025.
7. On 27 June 2025, the applicant lodged a complaint with the Adjudicator. On 19 August 2025, the Fund filed its response to the complaint.
8. The Adjudicator, after having considered the response from the Fund and the employer having neglected, failed, or refused to offer any explanation regarding the complaint, made an order of relevance, as follows:

“6.1.1 The employer is ordered to pay the fund the amount of R1 964.00 in respect of the complaint’s outstanding contributions for September 2023 and April 2024 within one week of this determination.

6.1.2 The employer is ordered to pay the fund interest on the amount in paragraph 6.1.1 above, calculated at the rate prescribed in section 13A(7) of the Act from the dates set out in section 13A (7) until date of final payment.

6.1.3 The employer is ordered to submit all outstanding contributions schedules in respect of the complaint for the June 2024 (shortfall) and August 2024 (shortfall) to the fund to facilitate the compilation of her outstanding contributions within one week of this determination.

6.1.4 Should the employer fail to comply with paragraph 6.1.3, the fund is ordered to reconstruct the complaint’s contributions schedules based on the

information already in its possession, within one week of the employer's failure to submit the schedules.

6.1.5 *The fund is ordered to compute the arrear contributions due by the employer, together with the late payment interest owed by it in terms of section 13A(l) of the Act, within one week of receiving the contributions schedules in terms of either paragraph 6.1.3 or 6.1.4 (whichever is applicable).*

6.1.6 *The fund is ordered to transmit to the employer its compilation in paragraph 6.1.5 within three days of completing them;*

6.1.7 *The employer is ordered to pay to the fund the arrear contributions together with the late payment interest as computed per paragraph 6.1.5 above, within one week of receiving the compilation from the fund.*

6.1.8...

6.1.9 *The fund is ordered to pay the complainant a further withdrawal benefit within two weeks of receiving payment from the employer in terms of paragraphs 6.1.1, 6.1.2 and 6.1.7 above...*

6.1.10 *The fund is ordered to provide the complainant with the breakdown of her withdrawal benefit made in terms of paragraph 6.1.9".*

Did the Adjudicator err in finding that the applicant's claim is time-barred for the period March 2021 to February 2022?

9. The order made as indicated in paragraph 8 above was clearly intended to accommodate the applicant and, at the same time, to ensure that the employer was compliant with its obligations towards the applicant and the Fund, including compliance with applicable legislative framework or the rules of the Fund.

10. The order was premised on the fact that the applicant provided her earliest available payslip for May 2021. This payslip did not reflect provident fund deductions.

Therefore, from May 2021, the applicant knew or ought to have known that no deductions for provident funds were made from his salary.

11. The employer did not participate during the Adjudicator's collection of information upon receipt of the complaint from the applicant. This was despite several requests by the Adjudicator and the employer having been afforded an opportunity to be heard.
12. The applicant, on the other hand, could not provide any other payslips to show that the provident fund deductions were made from her salary for the period March 2021 to January 2022.
13. According to the Fund, the employer ought to have registered the applicant as a member in March 2021, and the employer was therefore obliged to remit full provident fund contributions on behalf of the applicant from July 2021. That is, within three months from March 2021.
14. In the absence of reliable evidence, the Adjudicator concluded that the deductions commenced from February 2022. The applicant is unsatisfied with this finding. Her contention is that she only became aware on 27 March 2025 that the employer did not register her with the Fund until February 2022.
15. This assertion must be seen in context. In paragraph 9.2 of her application for reconsideration, it is stated as follows:

"The applicant received a pay-slip dated 15 May 2021 from the employer, which reflected that no deductions were made in respect of the Private Security Sector Provident Fund (PSSPF) from her monthly remuneration. The applicant did not receive any further pay-slips until 15 April 2024".
16. The Adjudicator in paragraph 5.2 of his decision refers to section 30I of the Act. In terms of section 30I (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.

17. In the present case, “the act or omission” occurred in March 2021, including July 2021, when the employer failed to register the applicant with the Fund as its employee and, at the same time, when the employer failed to deduct the provident fund contributions payable to the Fund from the applicant’s monthly salaries.
18. Subsection (2) of section 30I of the Act provides that the Prescription Act 68 of 1969 relating to a debt applies in respect of the calculations of the three-year period referred to in subsection (1).
19. In terms of section 12(1) of the Prescription Act, prescription starts to run as soon as the debt is due. In the present case, the debt became due from 15 May 2021, entitling the applicant to approach the Adjudicator when she became aware or ought to have become aware that she was not registered for the provident fund contributions and that no pension fund contributions were deducted from her salary.
20. The applicant cannot rely on section 12 (3) of the Prescription Act. In terms of subsection (3), a debt shall not be deemed to be due until the creditor has knowledge of the identity of the debtor and of the facts from which the debt arises, provided that a creditor, shall be deemed to have such knowledge if he could have acquired it by exercising reasonable care. (Emphasis)
21. The applicant, as a creditor referred to in subsection (3), has failed to meet the proviso thereof. She was aware, at least from 15 May 2021, that no provident fund contribution deductions were made from her salary. She failed to show that she could not have known, on reasonable grounds, that provident fund contribution deductions were not made from her salary.
22. The fact that the applicant did not receive any other payslips until 15 April 2024 does not help her much. Look at it this way: It is common cause that the applicant’s membership with the Fund commenced on 1 February 2022. This was after the applicant had received the May 2021 payslip, which did not depict the provident fund contribution deductions.

23. The deemed knowledge of these facts, as envisaged in section 12(3) of the Prescription Act in the circumstances of the case, has not been averted. Accordingly, the Adjudicator cannot be faulted in his findings.
24. The other two issues identified in paragraph 3 above are closely related to the issue mentioned in paragraph 2 above and are disposed of as indicated in the preceding paragraphs. The suggestion that the Adjudicator erred in finding that the deduction for provident fund contributions commenced from February 2022 is not based on facts and must be rejected.
25. In paragraph 4 of the applicant's written heads dated 4 May 2026, reference is made to three payslips as the only payslips ever issued by the employer or received by the applicant. These payslips are dated 12 May 2021, 15 April 2024, and 15 March 2025, respectively.
26. The latter two payslips are irrelevant insofar as they do not relate to the time-barred. The time-barred is for the period, March 2021 to January 2022. The payslip dated 12 May 2021 did not reflect provident fund contribution deductions. This supports the conclusion reached by the Adjudicator. That is, the applicant failed to show that the only time she became aware that no deductions for provident contributions were made was during May 2025, as asserted in paragraph 5.4 of her application for reconsideration.
27. The other issue of contention is that the Adjudicator erred in declining to determine whether the applicant was timeously registered with the Fund on the basis that the relevant period is time-barred. This is a contention made in paragraph 2 of the applicant's written heads, dated 4 May 2026.
28. The point is, once the Adjudicator correctly found that the claim or complaint was time-barred for the period March 2021 to January 2022, as it was lodged only on 27 June 2025, it became academic and irrelevant to determine whether the applicant was timeously registered with the Fund.

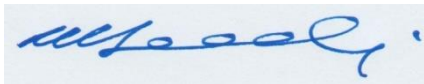
29. In any event, the order made by the Adjudicator in paragraphs 6.1.2, 6.1.5, and 6.1.6 quoted in paragraph 8 above, was meant to cure any prejudice the applicant might have suffered due to the late registration of the applicant as a member of the Fund. All three grounds or challenges raised by the applicant are destined to fail.

ORDER

30. Consequently, an order is hereby made as follows:

“The application for reconsideration is hereby dismissed”.

Dated and signed 13 May 2026

A handwritten signature in blue ink, appearing to read 'Legodi J', is displayed on a light blue rectangular background.

LEGODI J

(Deputy Chairperson)