



THE FINANCIAL SERVICES TRIBUNAL

CASE NO.: PFA14/2026

In the matter between:

SAMUEL MAHLANGU

APPLICANT

and

**MUNICIPAL EMPLOYEES PENSION FUND
STEVE TSHWETE LOCAL MUNICIPALITY
THE PENSION FUNDS ADJUDICATOR**

**FIRST RESPONDENT
SECOND RESPONDENT
THIRD RESPONDENT**

Decision on Papers

Date of Decision: 1 June 2026

Summary: Application for reconsideration in terms of section 230 of the Financial Sector Regulation Act, 9 of 2017 against the determination of the Pension Funds Adjudicator dated 10 July 2025 dismissing the Applicant's complaint regarding the quantum of his withdrawal benefit paid by the Municipal Employees Pension Fund upon his resignation from Steve Tshwete Local Municipality. The application for reconsideration is dismissed.

DECISION

A. INTRODUCTION

1. The Applicant, Mr Samuel Mahlangu ("the Applicant"), applies in terms of section 230 of the Financial Sector Regulation Act, 9 of 2017 ("the FSR Act") for the reconsideration of the determination made by the Third Respondent, the Pension Funds Adjudicator ("the Adjudicator"), dated 10 July 2025 ("the determination"). In the determination, the Adjudicator dismissed the Applicant's complaint regarding the quantum of the withdrawal benefit paid to him by the Municipal Employees Pension Fund upon his resignation from the Steve Tshwete Local Municipality.
2. The First Respondent is the **MUNICIPAL EMPLOYEES PENSION FUND** ("the Fund" or "MEPF").
3. The Second Respondent is the **STEVE TSHWETE LOCAL MUNICIPALITY** ("the Employer").
4. The Third Respondent is the **PENSION FUNDS ADJUDICATOR** ("the Adjudicator").
5. The parties waived their rights to a formal hearing, and the matter is decided on the papers before the Tribunal.

B. CONDONATION

6. The Applicant seeks condonation for the late filing of his application for reconsideration. The Adjudicator's determination is dated 10 July 2025. No request for reasons was made in terms of section 229 of the FSR Act.

Accordingly, the application ought to have been filed within 60 ordinary days of the Applicant being notified of the determination, that is, by no later than 8 September 2025.

7. The Applicant dated his application 3 January 2026, and it was received by the Tribunal on 5 February 2026. The application was therefore filed approximately 3 months and 26 days late, calculated from the deadline of 8 September 2025 to the date of the application, and approximately 4 months and 28 days late measured to the date of receipt by the Tribunal.
8. The Applicant's explanation for the delay is that: (a) the documentation needed more time to read and understand; (b) he does not have a legal representative to interpret the Pension Funds Act; (c) the documentation required the attention of a lawyer or attorney, which he cannot afford; and (d) he experienced psychological stress upon receiving a determination that was not favourable to his expectations.
9. The Tribunal has considered the Applicant's explanation in light of the relevant factors, including: the extent of the delay; the explanation offered; the prospects of success on the merits; and whether any prejudice would be suffered by the respondents if condonation were granted. In this regard, the Tribunal notes that the Applicant is unrepresented, is a lay person who would not readily understand the legal processes or timelines, and that the filing was substantially delayed. However, his explanation is *bona fide*, there is no indication of deliberate non-compliance, and no respondent has opposed the application or suggested prejudice. Having regard to all of these considerations, and in the interests of fairness to an unrepresented litigant, the Tribunal is satisfied that sufficient cause for condonation has been shown. Condonation is accordingly granted.

C. FACTUAL BACKGROUND

10. The Applicant commenced employment with the Steve Tshwete Local Municipality on 1 August 2011, serving as a Library Assistant Grade 1. He was

registered as a member of the Fund with effect from the same date, under the Defined Benefit category applicable to members who joined after 30 June 1998.

11. The Applicant resigned from the Municipality on 30 June 2024, having served approximately 12 years and 11 months. His last annual remuneration was R262 065.00 per annum, as confirmed in the Certificate of Service issued by the Municipality on 6 February 2025.
12. The Fund was notified of the Applicant's resignation. On 23 July 2024 it addressed a letter to the Applicant confirming that his gross resignation/withdrawal benefit had been calculated as R366 990.57. After deducting tax of R61 108.30 and a tax directive fee of R200.00, the net benefit of R305 682.27 was electronically paid into his TymeBank account on 23 August 2024.
13. The Applicant's benefit statements as submitted by him reflect the following figures:
 - (a) 28 February 2022: Net Withdrawal Benefit R209 946.14; Minimum Individual Benefit R303 788.20;
 - (b) 28 February 2023: Net Withdrawal Benefit R246 356.03; Minimum Individual Benefit R315 978.40; and
 - (c) 29 February 2024: Net Withdrawal Benefit R286 427.52; Minimum Individual Benefit R352 059.68.

D. THE COMPLAINT

14. The Applicant lodged a complaint with the Adjudicator on or about 19 February 2025, received on 28 February 2025. The complaint was acknowledged on 5 March 2025 and the respondents were called upon to respond.
15. The Applicant's complaint was, in essence, that the net benefit of R305 682.27 was inadequate given that: (a) he had contributed to the Fund without default throughout his employment; (b) his and the Employer's combined monthly

contributions were approximately R6 442.44, amounting to approximately R77 309.28 per annum; (c) he observed no discernible growth in his pension fund values; and (d) the amount paid to him did not, in his view, reflect the contributions actually paid to the Fund.

16. The Applicant requested the Adjudicator to investigate whether there were any outstanding employer contributions, whether any unlawful deductions had been made, and whether the Fund had properly accounted for his contributions. On 2 July 2025 the Applicant further submitted telephonically that his complaint was directed solely against the Fund, which he believed had "*robbed*" him of the contributions paid to it.

E. RESPONSES

The Fund

17. The Fund responded on 20 March 2025. It confirmed that the Applicant was a member of the Fund under the Defined Benefit category from 1 August 2011 until his resignation on 30 June 2024. It explained that, as a defined benefit fund, benefits are defined in terms of the Fund's rules and are not directly dependent on the level of individual or employer contributions or on investment performance.
18. The Fund explained that the Applicant's withdrawal benefit was calculated in terms of rule 37(1)(b) of the Fund's rules, applicable to members who joined after 30 June 1998, as follows:

Contributions:	R143 702.85
Plus interest:	R 57 138.94
Total:	R200 841.79
Total × 1.5 (Withdrawal Benefit):	R301 262.69

19. The minimum individual benefit, calculated by the Fund's actuary in terms of section 14B of the Pension Funds Act using the formula (member's average

annual salary × pensionable service × actuarial factor), was computed as follows:

Average annual salary over 3 years:	R213 162.20
Full years of service:	12
Age:	46.67
Actuarial factor:	0.1435
Minimum Individual Benefit:	R366 990.57

20. Since the minimum individual benefit of R366 990.57 exceeded the withdrawal benefit of R301 262.69, the Fund correctly paid the minimum individual benefit as the gross benefit. After tax of R61 108.30 and a tax directive fee of R200.00, the net benefit was R305 682.27.
21. The Fund submitted that it paid the correct benefit in accordance with its rules, holds no further benefit in respect of the Applicant, and that the Applicant's assertion of no fund growth was incorrect — as evidenced by the benefit statements the Applicant himself provided.

The Employer

22. The Employer was afforded an opportunity to respond to the complaint in terms of section 30F of the Pension Funds Act. Despite follow-up letters dated 5 March 2025 and 8 April 2025, and a final opportunity to respond by 22 April 2025, the Employer failed to file any response. The Adjudicator accordingly determined the matter on the available submissions.

The Adjudicator's Determination

23. Having considered the written submissions of the parties, the Adjudicator issued the determination on 10 July 2025. The Adjudicator found that the issue for determination was whether the Applicant had received his full benefit from the Fund.

24. The Adjudicator found that the Applicant belongs to the defined benefit structure of the Fund and that his benefit was therefore calculated in accordance with the defined formula in rule 37(1)(b) and section 14B of the Pension Funds Act, and not by reference to the actual contributions paid. The Adjudicator further found that the minimum individual benefit of R366 990.57 exceeded the withdrawal benefit of R301 262.69, and that the Fund had correctly paid the Applicant the minimum individual benefit as his gross resignation benefit. The Adjudicator determined that the Applicant's assertion that there was no growth in his benefits was incorrect, as the benefit statements he himself provided demonstrated consistent growth over the relevant period. Accordingly, the Adjudicator found that the Applicant failed to establish that he was entitled to the relief sought (see *Pillay v Krishna* 1946 AD 946 at 951, paragraph 17) and dismissed the complaint.
25. The Applicant was aggrieved by the determination and, being of the view that the Adjudicator erred in dismissing his complaint, filed the present application for reconsideration. His grounds of reconsideration are dealt with below.

F. THE APPLICANT'S REASONS FOR RECONSIDERATION

26. The Applicant's reasons for reconsideration, as set out in his application dated 3 January 2026 and his augmented grounds dated 24 March 2026, are the following:
- 26.1 The determination of the Adjudicator is biased and favours the Fund.
- 26.2 The Applicant is still confused as to why he was paid so little, as he is unable to understand how the calculation was arrived at.
- 26.3 The Fund (MEPF) is still not well trusted by employees of municipalities.
- 26.4 Workers, including himself, are aggrieved with their annual benefit statements as they show no growth.
- 26.5 The MEPF payouts are questionable and should be investigated, and the Fund should repay what is due to the Applicant.
- 26.6 The MEPF uses the Pension Funds Act to "*sabotage*" members' monies, and a strong investigation should take place.

- 26.7 The Pension Funds Act favoured the Fund's ruling and sabotaged the Applicant.
- 26.8 The MEPF pensioners are still grieving about their annual statements showing no growth, while MGF contributors are happy.

G. LEGAL PRINCIPLES

27. Section 230 of the FSR Act empowers the Tribunal to reconsider a decision of the Adjudicator. The Tribunal has the power to conduct a complete re-hearing and fresh determination of the matter that served before the Adjudicator. It is not bound by the reasoning of the Adjudicator but must satisfy itself whether the determination was correct in law and on the facts.
28. The rules of a pension fund constitute its governing document, equivalent to a constitution. A fund must act strictly within the powers conferred by its rules, and any act beyond those rules is *ultra vires* and accordingly *null and void*. This principle was confirmed by the Supreme Court of Appeal in *Municipal Employees Pension Fund v Mongwaketse* (969/2019) [2020] ZASCA 181 (23 December 2020) at paragraphs [42]–[44] per Wallis JA, and affirmed by the Constitutional Court in *Municipal Employees Pension Fund and Another v Mongwaketse* (CCT34/21) [2022] ZACC 9 at paragraph [39], which confirmed that the application of the *ultra vires* doctrine to pension funds is consistent with the constitutional principle of legality.
29. In a defined benefit fund, a member's benefit is determined by the fund's rules and a prescribed formula, and is not directly dependent on the amount of contributions received. Section 14B of the Pension Funds Act prescribes the minimum individual benefit ("MIB") to ensure that members receive a minimum level of protection. Where the MIB exceeds the contributions-based withdrawal benefit, the fund is obliged to pay the higher amount.
30. The burden of proof in complaints before the Adjudicator rests on the complainant. A complainant must establish, on a balance of probabilities, that he or she is entitled to the relief sought: see *Pillay v Krishna* 1946 AD 946 at

951 paragraph 17. Mere dissatisfaction with the quantum of a benefit, without establishing non-compliance with the fund's rules or applicable legislation, is insufficient to sustain a complaint.

31. This Tribunal has consistently held that where a fund demonstrates that it calculated and paid a withdrawal benefit strictly in accordance with its rules, and where the minimum individual benefit has been correctly applied in the member's favour, the complaint must fail in the absence of credible evidence of a departure from the rules or applicable law.

H. APPLICATION TO THE FACTS

32. The Tribunal has carefully considered the grounds of reconsideration. They amount, at their highest, to expressions of dissatisfaction and distrust of the Fund and its processes. The Applicant does not identify any specific provision of the Fund's rules that was not complied with, nor does he challenge the accuracy of the actuarial calculations upon which his benefit was based. He has adduced no expert, actuarial or other evidence to contradict the Fund's calculations.
33. The Fund has demonstrated, to the satisfaction of the Tribunal, that:
 - 33.1 The Applicant was a member of the Fund under the Defined Benefit category applicable to post-30 June 1998 members.
 - 33.2 His withdrawal benefit was correctly calculated in terms of rule 37(1)(b) of the Fund's rules — contributions of R143 702.85 plus interest of R57 138.94, totalling R200 841.79, multiplied by 1.5, yielding a withdrawal benefit of R301 262.69.
 - 33.3 The minimum individual benefit, calculated by the Fund's actuary in terms of section 14B of the Pension Funds Act (average salary R213 162.20 × 12 full years of service × actuarial factor 0.1435), amounted to R366 990.57.
 - 33.4 Since the minimum individual benefit exceeded the withdrawal benefit, the Fund correctly paid the minimum individual benefit of R366 990.57 as the

gross benefit — which was, in fact, more beneficial to the Applicant than the direct contributions-based figure.

- 33.5 After the deduction of tax of R61 108.30 and a tax directive fee of R200.00, the net benefit of R305 682.27 was correctly paid on 23 August 2024.
34. The Applicant's contention that there was no growth in his pension is not borne out by the evidence. The benefit statements he himself provided demonstrate consistent increases in both the withdrawal benefit and the minimum individual benefit over the period 2022 to 2024. The Applicant received a benefit that was greater than his contributions-based entitlement, precisely because the MIB — designed to protect members — exceeded his contributions-based withdrawal benefit.
35. The Applicant's assertion that the Adjudicator was biased, and that the Fund "*sabotaged*" his monies, is wholly unsubstantiated. No facts have been placed before the Tribunal to support these serious allegations. They are accordingly rejected.
36. The Applicant has failed to establish, on a balance of probabilities, that the Fund did not comply with its rules or with the applicable provisions of the Pension Funds Act, or that any further benefit is owing to him. In terms of *Pillay v Krishna* (supra), this is fatal to his complaint.
37. In these circumstances, the Tribunal is satisfied that the Adjudicator's determination was correct in both law and fact. There is no basis upon which to interfere with it. The application for reconsideration must accordingly be dismissed.

I. ORDER

1. Condonation for the late filing of the application for reconsideration is granted.
2. The application for reconsideration is dismissed.

SIGNED ON BEHALF of the TRIBUNAL on this 1st DAY of JUNE 2026.

__Sgd Adv SM Maritz__

ADV SM MARITZ

For self and on behalf of **LTC HARMS**