

# **DID HUMILIATED IN LABOUR COURT**

## **AGREEMENT IN PLACE FOR NEGOTIATIONS BUT WORKERS MUST REMAIN ON HIGH ALERT**

On 9 and 10 March EPWP workers protested in Johannesburg and Pretoria outside offices of the Department of Infrastructure Development (DID). Outside of the DID's Corner House head office in Johannesburg workers refused to leave until they got clear answers from management.

The protests were sparked when the DID sent an SMS to all EPWP workers informing them that their contracts were ending. From 31 March they would be out on the streets. This was a deliberate provocation by the DID. There had been several attempts by workers to communicate with the department. This included the 12-13 February march and night-vigil at Union Buildings. Everything was arrogantly ignored (see *Bulletin No. 7*).

After being ignored for months the protests forced management to sit down with workers. **THIS IS AN IMPORTANT STEP FORWARD.** In these meetings management **ADMITTED** that they have mishandled the EPWP programme. They also **ADMITTED** that they had created an issue of "natural justice" – in other words, workers have been on the programme for so long (since 2013!) they have a legitimate expectation of a permanent job. **CORRECT!**

The DID seems to have no clear leadership. Several different managers took part in meetings with workers at different times. Nevertheless, management agreed to hold a formal meeting with EPWP workers' representative at 10h00 on Monday 16 March. At this meeting it was agreed that all the EPWP workers issues will be discussed. With this agreement workers agreed to suspend the protest action to allow this meeting to take place.

Workers must remain on high alert however. The behaviour of the DID management since the protest was suspended puts a massive question mark over their intentions. They continue to undermine any trust in their good faith...

### **Summoned to Court**

Hours **AFTER** the protest had **ENDED**, the Marxist Workers Party, along with the EPWP Workers Forum, Saftu and Nupsaw were served with court papers summoning us to the Johannesburg Labour Court the next day. Executive Mukwevo, EPWP Forum Provincial Co-ordinator and Executive Committee member of the MWP, alongside Joseph Mabaso, EPWP Forum Chairperson, were even named in the interdict.

Who was the applicant? **The DID!** The DID was seeking an interdict (a restraining order) against the EPWP workers' protest at Corner House. This is the same protest which no longer existed because we had reached an agreement with the DID management.

Unbelievably the DID was also seeking a cost award against the EPWP workers! In other words, the DID wanted the EPWP workers to pay the bill for the DID's lawyers. These are the same EPWP workers that the DID has treated like slaves for years, paid less than the national minimum wage, and now dismissed with an SMS. Where was the DID expecting workers to find the money? What sort of sadistic thrill were DID managers looking for by demanding that the EPWP workers pay the wages of lawyers trying to use the courts to suppress their right to protest?

**SHAME ON THE STATE ATTORNEY'S OFFICE FOR TAKING THE CASE!** Yet again, the ANC is using its control of the capitalist state to oppress the working class. This is one of the cruelest and most vindictive moves we have seen from an employer in a long time.

### **Ms. Masabata Mutlaneng**

The 'star witness' in the court application was Ms. Masabata Mutlaneng, the Deputy Director General for Corporate Services at the DID. She submitted a lengthy affidavit (sworn statement). Was it about the issues the workers face? No. Was it about her responsibilities in regards to those issues as a senior manager? No. Was it about how she intends to resolve the issues? **NO!** It was all about herself and how upset she was that workers had protested.

**Let us have a look at some of the things Masabata had to say in her affidavit:**

*"As the person in charge of the programme, I attempted to address the crowds who had gathered in front of our head office. It was during this time that I experienced insults from the crowd, which were directed at me and I was rudely manhandled. I feared for my life..."*

**She goes on:**

*"I was held hostage and told that I would not be allowed to leave for home, and that I would spend the 24-hour at the office while the beneficiaries were awaiting the response from the applicant [the DID]. This made me feel extremely helpless and vulnerable..."*

How did Masabata find time to write this self-pitying nonsense? **Are children running the DID?** She has time for this but could not find time in nearly one whole month to respond to the EPWP Forum's memorandum? Masabata reflects the entitled outlook of the fat cat managers around her and the arrogant attitude of the ANC politicians who hired her.

We know the 'incident' Masabata is talking about. Her life was never in any danger! Afterwards, she spent the rest of the day in meetings with the very same people. Please be careful, Masabata – lying and exaggerating to a court is a very serious offense.

But can Masabata be surprised that workers may have wanted to insult her given the way she and the DID have treated them?

Does she not appreciate that 5,000 workers and their families fear for **THEIR** lives because of her, the DID and the ANC-run Gauteng Province? If the EPWP contracts are terminated how will workers feed themselves and their families? How will they clothe them? How will they pay rent?

Masabata receives a salary of around R700,000 per year (as much as 30+ EPWP workers). We are sure that she lives in a very nice house because she was very upset and not being "allowed to leave for home". Does she not appreciate that she, the DID and the ANC-run Gauteng Province are taking the roof from over the heads of thousands of workers whilst they live in comfort?

Does Masabata not think that the decision by her, the DID and the ANC-run Gauteng Province to **IGNORE** all attempts at communication from the EPWP workers made the workers feel "helpless and vulnerable"?

**Wake up Masabata! You reap what you sow!  
Now start behaving like an adult.**

### **Our Day in Court**

To our astonishment the DID proceeded with its case in the Labour Court on 11 March. If the agreement reached with EPWP workers to end the protest was made in good faith they should have withdrawn the case. That they did not do this is a major warning to workers. However, the DID was soon made to regret going ahead.

The judge was **NOT** impressed with the DID's case. She was unhappy that the DID's lawyers had not followed the Labour Court's rules, which they should be well aware of. They were meant to give 48-hours' notice and properly identify the respondents (i.e. the workers) but they did not. The judge complained that she was being asked to interdict faceless individuals.

Just like us, the judge could not understand why the DID was seeking an interdict when an **AGREEMENT** for negotiations was now in place between the department and the workers and the protest had ended.

But it was over the status of EPWP workers where the DID nearly dug its own grave. At the very heart of this struggle is the issue of whether or not EPWP workers are **EMPLOYEES** of the department. The DID denies this and calls workers 'participants', pays them 'stipends' instead of salaries, exempts them from labour legislation etc.

But here were the DID's lawyers trying to use the Labour Court, which deals exclusively with relations **BETWEEN EMPLOYERS AND EMPLOYEES**, to take action against the EPWP workers they **REFUSE TO RECOGNISE** as employees. The DID looked like complete fools! The judge advised them that they were in the wrong court. If the DID wanted to go ahead with the case it would need to change its story about the status of the EPWP workers and recognise them as their employees.

Faced with this choice the humiliated DID **WITHDREW** its case. What a blunder! They nearly sleep-walked into admitting what is obvious to everyone else: EPWP workers are **EMPLOYEES** of the DID and therefore entitled to **PERMANENT JOBS**.

We had a victory in the Labour Court but mass mobilisation and militant action remains the key to winning permanent jobs and R12,500.

**Workers should take courage from another of Masabata's affidavit confessions. She pleaded that:**

*"Any shutdown to the Department will have catastrophic consequences to the running and provision of government services in the Province. This includes all the Government Departments in the Province."*

The EPWP workers have the power in the workplace! We already know they are willing to use it!

**All eyes are now on Monday's meeting with the department. If there is no resolution workers will take to the streets again...**