

Sb Mahlangu v Minister of labour and others Case no: 79180/15. (2015)

In the High Court of South Africa (Gauteng North Division), the applicant Ms Sylvia Bongi Mahlangu (first applicant) and South African Domestic Service & Allied Workers Union (second applicant) brought an application against the Minister of Labour (first respondent), DG-Department of Labour (second respondent) and the Compensation Commissioner (third respondent) for a subsequent relief for domestic workers to claim compensation in terms of the Compensation for Injuries and Diseases Act 130 of 1993 (COIDA). Recent statistics reveal that in 2014, South Africa had about one million women employed as domestic workers. Their exclusion from other labour rights benefits prejudices them as a class of vulnerable employees who will not be able to afford litigation against their employers.

Section 1 of the COIDA expressly excludes domestic workers from the ambit of its protection and the applicants are calling for the exclusion of domestic workers as discriminatory and the section itself being unconstitutional.

Against this backdrop the CGE entered as amicus to support the inclusion of domestic workers in COIDA and will result in the following:

- Ensuring that in the event of death, the dependants of the deceased domestic worker are not left in destitute,
- Ensuring that the employer's house as a workplace complies with all requirements of a safe working environment,
- That there will be a legal duty upon the employer to register the domestic worker for compensation purposes and to pay regular contribution as required by the LRA and other related legislation,
- The employer will be obliged to prepare annual statements of earnings for the domestic worker,
- In terms of sec 14 of the Occupational Health and Safety Act, domestic workers will have a legal duty to look after their own personal health and safety, with a breach of this duty by domestic worker or their negligence

potentially impacting on the amount of compensation that they may receive.

- Notwithstanding all of the above, the employer may be liable for medical expenses including ambulance transport.

The matter is still pending.