

SUPREME COURT OF APPEAL

OF SOUTH AFRICA

MEDIA STATEMENT – *JOINT MUNICIPAL PENSION FUND*

AND ANTOHER v LJ GROBLER AND OTHERS

FROM: The Registrar, Supreme Court of Appeal

Date: 30 March 2007

Status: Immediate

Little over a year before retrenchment of its Financial Manager, Mr LJ Grobler, JMPF (Joint Municipal Pension Fund) asked Munpen Retirement Fund, which all its employees belonged to, for an amendment of Munpen's rules. The request was implemented. The rules provided for a retrenchment benefit. They also barred an amendment reducing the value of an 'established benefit'. Crucial to the calculation of the value of Grobler's retrenchment benefit was the definition in the rules of 'pensionable service'. Before amendment the definition would have allowed inclusion of all Grobler's 22 years in municipal service before he joined JMPF. The amendment's effect was to limit his pensionable service for the purposes of calculating his benefit to the just more than 6 years of his time with JMPF. As a result his retrenchment benefit was vastly reduced.

Grobler successfully applied to the High Court at Pretoria for an order setting aside the rule amendment as invalid because it reduced the

established accumulated value of his benefit. JMPF and Munpen appealed to the SCA, arguing that Grobler had no established benefit when the rules were amended.

The SCA confirmed that the amendment was invalid. It held that although at the time of the amendment Grobler did not yet have the right to claim the benefit, the rules did not speak of reducing an established right but an established benefit.

According to the calculation formula contained in the rules he clearly had an accumulated and calculable benefit when the amendment was made. That benefit was invalidly reduced. Its effect was felt when he was retrenched. The SCA emphasised that when pension fund members plan their financial futures they take account of the benefits that have accumulated up to the time they do their planning. If the rules had to be interpreted so that on the eve of retirement accumulated benefits could be removed or reduced the result would be an intolerable injustice.