

STATEMENT BY KHULISO NEMADZIVHANANI TO THE PORTFOLIO COMMITTEE ON HIGHER EDUCATION, SCIENCE AND TECHNOLOGY, ON ALLEGATIONS AGAINST PROFESSOR P A MBATI ON ISSUES THAT AROSE DURING HIS TENURE AS VICE-CHANCELLOR OF THE UNIVERSITY OF VENDA

1. Allegations that Professor Mbatl sexually harassed Prof Phendla.

I do not have personal knowledge of the developments that gave rise to this allegation, although the alleged harassment is supposed to have happened before I was unfairly dismissed by Professor Mbatl. However, I recall an incident that happened at the beginning of 2011, which, with the benefit of hindsight, suggested that something untoward was happening between Professor Mbatl and Professor Phendla.

I advised Professor Mbatl, towards the close of the registration period at the beginning of 2011, that we were short of our enrolment targets for some of the study programmes and that this would affect our expected total enrolment. He directed that we extend a further invitation to potential students, alerting them of study programmes that still had spaces. I put together an invitation to the media, and ran it by him, and got his approval to proceed. The invitation contained contact details of the relevant deans, which included Professor Phendla.

When students and parents started calling to express interest, Professor Phendla wrote an email to the Management email group, literally lashing out that the deans' contact details were given to the public, and that they were being exposed. I was taken aback by this development, and told Professor Mbatl that Prof Phendla's conduct was unacceptable and that she should be called to order, to which Professor Mbatl did not respond.

Later, Professor Mbatl informed me that Prof Phendla had diverted her calls to his number, and that his phone was ringing incessantly. I indeed confirmed this to be true. I then told Prof Mbatl that this is unacceptable and that she should be called to account and instructed to stop diverting her calls to him. He did not respond. I then suggested that we should call a meeting of all the deans and explain the rationale for inviting further applications. He said I should convene the meeting and that he and I would address the deans on the matter, which I did.

When we went to the meeting, Professor Mbatl asked me to address the deans, which I did. He did not say a word at the meeting, and neither did Professor Phendla. It was only while I was wrapping up the discussions that Professor Mbatl requested that a dean (without mentioning a name) who diverted their calls to his number should please redirect them. These developments only made sense after I heard about the alleged relationship between Professor Phendla and Prof Mbatl, and the allegations of harassment.

I could not find any rationale for Professor Phendla's dismissal from the University. The allegations of corruption levelled against her were extremely wanting. My opinion is that there was something else, and that the allegations of corruption were an exercise in smoke and mirrors.

2. **Professor Mbatl's alleged failure to properly manage infrastructure projects.**

These projects were undertaken after my dismissal, and I therefore have no information regarding them.

3. **Committing acts of financial misconduct and mismanagement.**

My knowledge germane to this allegation only extends to financial mismanagement, and only as this relates to baseless and costly disciplinary actions against staff and dismissals.

3.1. My own dismissal.

3.1.1. Professor Peter Mbatl was appointed Vice-Chancellor of Univen in 2008. I initially worked very well with him. In 2010 a forensic investigation was done by Deloitte, after Nehawu raised issues with the appointment of the Clean Shop, suggesting that there may have been corruption in the appointment of the company. After Prof Mbatl received the report, I was charged. I asked to see the report which formed the basis of the charges, but the request was denied by both Professor Mbatl and the attorneys that represented the University at the hearing. However, some of the witnesses against me at the hearing had seen the report. These included Dr Zaaiman, then Deputy Vice Chancellor, and the author of the report. Dr Zaaiman was not even employed by the University when those issues arose. I explained at the hearing that everything I did was with the knowledge, approval, authority and under the instruction of the Acting Vice Chancellor, Dr James Leatt. Dr Leatt came to the hearing from Cape Town as my witness and confirmed this. I was dismissed in December 2011. I lodged an internal appeal. The Chairperson of the Appeals Committee, Faith Muthambi, now honourable member of parliament, wrote a report re-instating me to my position. This did not sit well with Professor Mbatl. The report was disowned by the other two members at an Exco of Council meeting, and another report was written by the other two members, confirming the disciplinary hearing finding of dismissal.

3.1.2. Aggrieved by this turn of events, I approached the CCMA. After a hearing of 9 days, the CCMA found me not guilty and made an award of reinstatement and backpay in November 2013. Dr Leatt had again travelled at his own expense from Cape Town where he lives to the CCMA to give evidence as my witness and confirmed that he indeed made the decisions that I implemented. Prof Mbatl rejected this award and decided to review the award with the Labour Court. The Labour Court in 2017 dismissed the award of the CCMA.

3.1.3. I was unhappy with the Labour Court judgment and I successfully appealed it at the Labour Appeal Court in February 2020. By this time Professor Mbatl had left Univen.

- 3.1.4. With reference to 3.1.2 above, it must be pointed out that the Univen Council attempted to settle in 2015. The committee of three members appointed by Council to settle with me made a submission to Council, after we had had three meetings. The agreement arrived at was for some financial compensation and reinstatement to another position with retention of salary and benefits. I was told that Prof Mbatia rejected this and proposed that I be given a one (1) year salary. This was never formally communicated to me, although I would have rejected it anyway.
- 3.1.5. I can cite a few examples to show that the charges against me were trumped up. To avoid prolixity, I will cite a few instances to show that the charges were baseless and malicious. The full charge sheet can be made available if required.
- 3.1.5.1. I was charged with recommending the appointment of the Clean Shop to Council. The University could not produce any evidence to back up this charge. This never happened. The decision to appoint was made by Dr Leatt, then Acting Vice Chancellor.
- 3.1.5.2. It was alleged that the Legal Advisor advised me against appointing the cleaning company and that I ignored his advice. The Legal Advisor was never called to testify. He apparently told them that if they called him, he would testify that he never advised me. At this point the hearing was in Johannesburg at the Bowman offices. The then Legal advisor stayed in a hotel in Johannesburg for two nights at the University's expense and ended up not testifying. He was paid for travelling to Johannesburg and for subsistence.
- 3.1.5.3. I was charged with shortlisting the cleaning company when I had not done so. The person who shortlisted was a university witness against me and was never charged.
- 3.1.5.4. I was charged with signing a contract with the cleaning company in charge 5 when my signature was never on the contract. Other people had signed and witnessed but they were never charged.
- 3.1.5.5. I was charged for extending the contract with the travel agent, Travel with Flair, when the contract had in fact not expired and could therefore not have been extended. Again, there was no evidence to back this up.
- 3.1.5.6. I was charged for signing a contract with an upfront payment to a cleaning company against policy and I pointed out that Prof Mbatia had himself also signed a contract authorising an upfront payment. It was strange that he could charge me when he himself had done the same thing. The contract that I signed was prepared by the Legal Advisor on the instruction of the Acting Vice- Chancellor, and on whose instruction I signed it. The contract was witnessed by the Legal Advisor

without any indication that there was something wrong with it. The Legal Advisor was never charged.

It is my considered opinion that Professor Mbatlwa went to great lengths to get rid of me, and that public funds were not spared to ensure that this happens. The case ended in my favour at the Labour Appeal Court in February this year, 2020, after nine years. Nine years of my working life were wasted. The University initially indicated that they were considering to appeal to the Constitutional Court, but later indicated that they wanted to pay me. In effecting payment, they drastically reduced what is due to me and continue to refuse to pay what is due to me.

It is my reasonable suspicion that millions of rands were spent on pursuing baseless and malicious charges against staff and that an investigation of expenditure on disciplinary cases like mine would uncover huge fruitless expenditure.

3.2. Professor Phendla's dismissal.

My understanding is that Professor Phendla was dismissed for an unstated reason. What is officially peddled is that she was dismissed for her involvement in the appointment of a cleaning company called the Clean Shop. She could not have been involved because she played no role in the appointment. The decision to appoint the Clean Shop was made by Dr James Leatt, the then Acting Vice-Chancellor.

I saw a statement (media advisory) by the Minister of Higher Education, Science and Technology dated 24 August 2020, in which it is stated that 'the National Prosecuting Authority found that there were no prospects for a successful prosecution and decided not to proceed with the prosecution against Prof Phendla on the alleged charges relating to the tender irregularities'. This begs the question why the Minister finds it acceptable for Mbatlwa to have proceeded to discipline and dismiss Prof Phendla, when he apparently found it unacceptable that the Council of Univen should be held to have been delinquent in not taking action against Mbatlwa after he was allegedly cleared by the Labour Court.

4. For ease of reference, I attach, as annexures, relevant pages of the following documents:
 - 4.1. Ms Faith Muthambi's Univen Appeal Committee report marked KC1.
 - 4.2. The report of the other two members of the Univen Appeal Committee, marked KC2
 - 4.3. Extract from the CCMA award, marked KC3.
 - 4.4. Extract from Labour Court judgment, marked KC4.
 - 4.5. Extract from the Appeal Court judgment, marked KC5.

I will be happy to provide more information and answer any questions during the meeting as requested.

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