**Memorandum from the Parliamentary Office**

**NATIONAL ASSEMBLY**

**FOR WRITTEN REPLY**

**QUESTION 1999**

**DATE OF PUBLICATION OF INTERNAL QUESTION PAPER: 30/06/2017**

**(INTERNAL QUESTION PAPER 24 OF 2017)**

**Mr A P van der Westhuizen (DA) to ask the Minister of Higher Education and Training:**

(1) With reference to the disciplinary action against three staff members following a strike of about 100 staff members of Maluti Technical Vocational Education and Training College in 2016, did the fact that the three staff members belonged to the South African Liberated Public Service Workers Union (SALIPSWU) play a role in the decision to discipline only the three of them; if not, why were only the three workers charged and disciplined, while no charges were brought against members of South African Democratic Teachers’ Union and National Health Education & Allied Workers Union, who also took part in the strike action;

(2) is it normal practice to deny workers union representation at disciplinary hearings of this nature when the sanction clearly showed that the charges were of a serious nature;

(3) (a) what information was available to him and (b) on what grounds did he base his decision to turn down the appeal against the dismissal of the three staff members;

(4) did the forensic report reveal information that could have given rise to strike action at Maluti Technical Vocational Education and Training College; if so, what were the circumstances that gave rise to the strike action?

**NW2214E**

**REPLY:**

1. 55 Staff members were alleged to have participated in an illegal strike and not 100. Of the 55 staff members:
   1. 5 Staff members were found not guilty as they proved not to have been on strike. The charges against them were withdrawn. These employees opted to represent themselves; hence, they are not associated with unions.
   2. 2 Staff members belonging to the South African Liberated Public Service Workers Union (SALIPSWU) also proved not to have participated in the strike and their charges were withdrawn.
   3. 11 Staff members belonging to the National Health Education and Allied Workers Union (NEHAWU) (one staff member holds dual membership with SALIPSWU) pleaded guilty and were given a warning. These employees stated that they were forced to leave the site by other colleagues, allegedly members of SALIPSWU who were on strike. NEHAWU indicated that it had warned its members not to participate, as it was an illegal strike.
   4. 13 Members of the Public Servants Association (PSA) (three staff members hold dual membership with SALIPSWU), were found guilty for participating in an illegal strike and suspended for 5 days without salary.
   5. 23 Members of SALIPSWU were found guilty for participating in an illegal strike and suspended for 5 days without salary.
   6. 2 Members of SALIPSWU were found guilty for participating in an illegal strike and barricading the entrance with their private cars. The sanction was suspension of salary for one month.
   7. 3 Members of SALIPSWU were found guilty and dismissed for participating in an illegal strike and committing various acts of misconduct:
      1. convening meetings in the staff room without permission;
      2. assaulting employees who were not on strike;
      3. contravening the conditions of their suspension;
      4. destroying material for teaching and learning; and
      5. chasing out a monitor from Umalusi.
2. The College respects the rights of employees to be represented by a Union irrespective of the nature of their sanction. This was stated in the notices of the hearing for all 55 employees who were subject to charges. The College did not deny any employee representation. Three employees opted not to attend the hearing since SALIPSWU was not allowed to represent them due to noncompliance with organisational rights, as outlined in Section 21 of the Labour Relations Act, as amended.
3. (a) Information was requested from the College and applicants. The applicants did not comply, however, Maluti Technical and Vocational Education and Training (TVET) College provided the following information:

* Biographical and service data of the employees;
* Findings and reasons for findings of the Chairperson (Presiding officer’s report);
* Aggravating and mitigating circumstances considered by the Chairperson;
* Letters conveying the findings and decision of the Chairperson to the employees;
* Notice of the disciplinary hearings and charge sheets;
* Record of the hearings proceeding;
* Appointment letters of the Chairperson and Initiator;
* Suspension, warning or transfer letters (if applicable);
* Description of the main evidence on which the employer relied; and
* Any additional evidence presented by the employees, which was not available at the time of the hearing.

1. The decision to turn down the appeal against the dismissal was based on the:
   * nature of transgression committed, which compromised teaching and learning;
   * employees not complying with the processes;
   * employees having not shown remorse for their deeds; and
   * employees choosing to exclude themselves from the processes.
2. Students informed the Management of Maluti TVET College on 8 March 2016 that lecturers planned to go on strike. The strike was based on the list of grievances in relation to “Staff work load to be reduced to 4 groups” against the 5 groups stipulated in the Policy document and the “lack of resources namely: text books, furniture, teaching resources, no library, etc.”.

Management engaged with lecturers, students, parents and later with unions to prevent such a strike. Other unions, i.e. the South African Democratic Teachers Union (SADTU) and National Health Education and Allied Workers Union (NEHAWU), understood that such a strike would be illegal and unprotected, and they discouraged their members from participating in such a strike. However, some lecturers continued with the strike action, which led to a disciplinary process being instituted against them.

COMPILER/CONTACT PERSONS:

EXT:

DIRECTOR – GENERAL

STATUS:

DATE:

QUESTION 1999 APPROVED/NOT APPROVED/AMENDED

Dr BE NZIMANDE, MP

MINISTER OF HIGHER EDUCATION AND TRAINING

STATUS:

DATE: