

IN THE HIGH COURT OF LESOTHO

HELD AT MASERU

CIV/APN/0300/2022

In the matter between

MOLIKUOA SEKHONYANA

1ST APPLICANT

MAKHAUTA MASITA

2ND APPLICANT

AND

**PRINCIPAL SECRETARY – MINISTRY OF
PUBLIC SERVICE**

1ST RESPONDENT

**PRINCIPAL SECRETARY – MINISTRY OF
EDUCATION & TRAINING**

2ND RESPONDENT

PRINCIPAL SECRETARY – MINISTRY OF TOURISM,

3RD RESPONDENT

ENVIRONMENT & CULTURE

THE PUBLIC SERVICE COMMISSION

4TH RESPONDENT

THE ATTORNEY GENERAL

5TH RESPONDENT

Neutral Citation: Molikuo Sekhonyana and Another v Principal Secretary – Public Service and 4 Others [2024] LSHC Civ229 (13 September 2024)

CORAM : BANYANE J
HEARD : 5 MARCH 2024
DELIVERED : 13 SEPTEMBER 2024

Summary

Administrative Law-review of administrative decision-on grounds of irrationality and discrimination- applicable principles restated- applicants failing to establish that the comparator is similarly circumstanced- application dismissed.

ANNOTATIONS

Statutes

1. The Public service Act 1 of 2005
2. The High Court Act 1978

Cited cases

1. Ps of communications v Moshoeshoe Molapo C of A(CIV) 2 of 2020
2. Lesotho Police Staff Association and 2 others v the commissioner of Police CC 14/2020
3. Leluma v Commissioner of Police CIV/APN/129/20

JUDGMENT

BANYANE J

Introduction

[1] The dispute before Court arises from job-grading for positions of managers and directors across the Civil service in 2013. At the time, the applicants held the position of Chief Information Officer, Grade H. They served in the Ministry of Education and the Ministry of Tourism respectively.

1.1 In 2013, the Government reviewed the grading for positions of managers and directors across the civil service through Circular No.7 of 2013. Pursuant to this circular, the applicants' position was regraded at I.

1.2 Dissatisfied with their regrading to I, the applicants approached this Court seeking orders in the following terms:

2. The refusal to upgrade **APPLICANTS** from **GRADE H** to **GRADE J** pursuant to a **MINISTRY OF THE PUBLIC SERVICE CIRCULAR NOTICE NO.7 OF 2013** is hereby reviewed and set aside.

3. **ALTERNATIVELY, TO PRAYER 2** above: It is declared that the **APPLICANTS** were and are eligible for an upgrade from **GRADE H** to **GRADE J** pursuant to a **MINISTRY OF THE PUBLIC SERVICE CIRCULAR NOTICE NO.7 OF 2013** as at the date of its publication and or implementation.

4. Pursuant to the grant of **PRAYER 3** and or **2** above, the **RESPONDENTS** are directed to upgrade **1st APPLICANT** accordingly with retrospective effect and to effect payment of arrear salaries, as the aforesaid **APPLICANT** would have earned had she been upgraded to **GRADE J** in **2013** within **30** days hereof.

5. Pursuant to the grant of **PRAYER 3** and or **2** above, the **RESPONDENTS** are directed to pay to the **2nd APPLICANT** the arrear salary that she would have earned but for the failure of the **RESPONDENTS** to upgrade her to **GRADE J** in **2013** until her retirement in the year **2021**.

6. That leave be granted by the **2nd APPLICANT** to motivate a claim for compensatory damages due to her on account of failure of the **RESPONDENTS** to upgrade her to a senior position.

7. Further and or alternative relief as the Honourable Court may deem fit.

1.3 On 13 September 2024 I issued an order dismissing the application. These are the reasons for this order.

[2] The essence of the applicants' case distillable from the founding affidavit deposed by the first applicant, to which the second applicant filed a supporting affidavit may be summed up as follows.

a) On 1st June 1999, the 1st applicant was appointed as Clerical Assistant, grade B. She progressed through the following ranks from 24 October 2012; Reporter, grade D, Senior Reporter grade F, and Broadcasting Officer in grade G. In 2012 she was promoted to Chief Information Officer in grade H. She was posted at the Ministry of Education and Training.

b) The 2nd applicant was appointed as Tutor Organizer and posted at the Ministry of Education and Training but later transferred to the Ministry of Tourism, Environment and Culture in 2007. She also later assumed the position of Chief Information Officer, grade H, and served until she retired on 28 November 2021.

c) At the material time, they were performing the same duties as Directors, they headed the public relations unit(s), supervised staff, and reported directly to the Deputy Principal Secretaries in their Ministries. Since they performed duties equivalent to directors, they qualified for elevation to grade J.

d) In addition, Chief legal officers, whose positions were not designated 'director' although they headed the legal department in various Ministries were treated as directors and upgraded to J. This was premised on a legal opinion penned by the Attorney

General in 2013 to the effect that designation of positions must not be the sole criterion to determine the appropriate grading, but that various factors must be considered including the nature of duties and responsibilities attached to an office.

f) They are no different from Chief legal officers, so they ought to be similarly treated and elevated to grade J. The disparity in treatment between them and these similarly circumstanced officers is discriminatory, unreasonable or without rational basis.

g) Lastly, the Ministry of Education and Training is “a very big Ministry” with vast public relations duties but is not headed by a director whereas ‘smaller’ Ministries such as the Cabinet are headed by a director. There is no rational basis as to why the public relations unit for the Ministry of Education and Training is not headed by a director.

h) For reasons set out above, they assert that the government’s failure to upgrade them to grade J was irregular, discriminatory, and irrational or unreasonable.

The respondents' case

[3] The Government opposes the application. In an affidavit deposed by the acting Principal Secretary (PS), Ministry of Public Service, Employment and Labour, a preliminary point of prescription was raised although it was abandoned during argument.

[4] On the merits of the matter, the PS asserts that:

- a) The purpose of Circular No.7 of 2013 was to normalize the inconsistency in the grading of managers and directors across the civil service. Managers were graded differently at H and I while directors were graded differently at I and J.
- b) The aim of the circular was not to elevate managers to directorship but to normalize or correct the inconsistency in their grading. Accordingly, all directors were regraded to J and managers to I.
- c) The applicants were neither directors nor performed directorial tasks. The position of Chief Information Officer was managerial and graded at H; so in 2013 when the circular came into effect, they were regraded at I. The fact that the applicants reported to the Deputy Principal Secretary and headed the public relations unit in their respective Ministries did not make them directors. This is because the nomenclature of a position, duties, responsibilities, and grading must be harmonious.

- d) The position of Chief Information Officer was not similar to Chief Legal Officer or Director of Legal Affairs/Services nor was it similarly graded. The Directors, Legal Affairs/services and Chief Legal officers were graded at I before 2013. After normalization, the directors were regraded to J. Because the applicants were managers, they could not be regraded from H to J. They could only be regraded to J if they were at I.
- e) On 24 November 2020, a new structure for the Public Relations cadre was prepared and approved by the relevant Ministry of Public Service. According to this new structure, the position of Chief Information Officer was redesignated to Public Relations Manager. The grading of the position (grade I) remained the same.
- f) The Ministry of Education does not have a directorial position in the public relations unit and only has the position of the Public Relations Manager as the head of the unit. (as evinced by the savigram of 17 June 2021- attached to the applicants' founding papers).
- g) To create the position of director in the public relations unit, prescribed procedures must be followed by all the Government departments. These are set out in the Civil Service Establishment, Management, and Restructuring Policy of 2020 and the 2017 Guidelines. The Ministries such as Cabinet and Communications followed the prescribed procedure to create positions of Director Information, Grade J.

Issue for determination

[5] The twin issues for determination are whether the applicants were eligible for an upgrade from H to J; and whether the decision to regrade the applicants to grade I and not J is discriminatory and irrational and therefore liable to be set aside.

Discussion

[6] The starting point of the inquiry is the Circular itself. It is useful to reproduce its contents. It reads as follows (annexure thereto excluded):

**MINISTRY OF THE PUBLIC SERVICE CIRCULAR
NOTICE NO.7 OF 2013**

**TO : ALL PRINCIPAL SECRETARIES
ALL HEADS OF DEPARTMENTS
ALL DISTRICT SECRETARIES**

**RE: NORMALISATION OF GRADING FOR POSITIONS
FROM MANAGER TO GOVERNMENT SECRETARY LEVELS**

RE: Normalization of grading for positions from Manager to Government Secretary Levels.

It is notified for general information and appropriate action that there is anomaly on the Civil Servants grading structure from **Grade H to J** whereby some director positions are at Grade I and J, while managers are at grades H and I. In order to rectify this, a revised salary grading (attached) for the affected positions has been developed. The effective date for implementation of this normalization is 1st April 2013.

The affected positions are those at Director and Manager levels which are currently at Grade I and H respectively. The change will only be effected whereby an incumbent is at head of department level or deputies head of department. Ministries are advised to note that some positions have been omitted due to the need to change their nomenclature. In such cases ministries are to prepare proposals accordingly for consideration by the Ministry of the Public Service.

Other positions affected by the normalization are the following:

Houseman (Interns): From Grade H to I

Senior Houseman: From Grade I to J

Registrar, Deputy Principal Secretary, Chief Executive Officers, Chief Education Officers: From Grade J to K

Principal Secretary, Director General, Specialist (Practicing Doctor in the public sector): From Grade K to L

Government Secretary, Political Advisor, Director General of Health Services and Consultants (Practicing Doctors in the public sector) : From Grade L to M

Chief Accounting Officers are advised to note this change and take appropriate action.

M. LEMPHANE-LETSIE
PRINCIPAL SECRETARY
MINISTRY OF THE PUBLIC SERVICE

[7] The reading of the circular shows that there was an anomaly in the grading of directors and managers across the civil service. Directors were graded differently at grades I and J; while managers were graded at H and I. To rectify this, the grading of these positions was revised.

[8] It seems to me that the purpose of the regularisation was to rectify this differential grading by ensuring that all directors and managers, regardless of their Ministry were similarly graded at J and I respectively.

[9] The revision affected directors graded at I and managers graded at H at the time, provided that the incumbent was a head of the department or deputized the head of department.

[10] According to the undisputed evidence in the affidavits, both applicants held the position of Chief Information officer (grade H) in 2013. The affidavits further reveal that the applicants headed their respective departments and thus met the criterion set out in the circular. It is common cause that they were regraded from H to I after the normalisation. The question to be answered is whether they should have been graded at J instead. I think not.

[11] Although the applicants headed the public relations unit in their respective Ministries when the normalisation circular was issued, the applicants held the managerial position of Chief Information Officer. This was not at directorial level. Even

after the position was redesignated to Public Relations Manager per public service circular dated 24 November 2020 embodying the new structure for the public relations cadre, it remained a managerial position at Grade I.

[12] As stated earlier, the purpose sought to be achieved by the 2013 circular was to rectify the anomaly in the grading of directors and managers across the civil service and to grade them similarly at J and I respectively. The normalization did not in any way seek to promote managers to directors positions nor grant them directorial grading.

[13] Based on this understanding, I turn next to the second prong of their complaint, i.e. that they ought to have been treated similarly to Chief Legal officers.

Discrimination?

[14] Another dimension of their complaint is that they were treated differently than other heads of departments, namely, Chief Legal Officers, who were regraded to J after the circular. They were therefore discriminated against.

[15] In **Ps of communications v Moshoshoe Molapo**,¹ the Court of Appeal cautioned that not every differentiation at the workplace amounts to discrimination. In a claim for discriminatory treatment, a reasonably close resemblance of the facts and circumstances of the plaintiff's and comparator's cases is required, rather than a showing that both cases are identical. In other words, the comparator must be similarly situated to the plaintiff in all material respects.²³

[16] In the instant matter, it is common cause that the legal cadre across the civil service was headed by either Chief Legal Officers or Director Legal Affairs/ Services. Both were graded at I. After normalization, the Directors of Legal affairs were elevated to J but Chief Legal officers remained at I because they were considered to be at managerial level.

16.1 A legal opinion of the attorney General was sought and obtained on 12 August 2013 regarding the differential grading of these two positions. In essence, the AG opined that the Chief Legal officers were similarly situated or circumstanced as the Directors of Legal affairs because both are lawyers holding the same qualifications, and performing similar functions thus, the differentiation in grading based on designation of these two positions was unjustified.

¹ Ps of Communications v Moshoshoe Molapo C of A(CIV) 2 of 2020

² Lesotho Police Staff Association and 2 others v the commissioner of Police, CC/14/2020, para 100

16.2 A legal suit was then filed by the Chief legal officers. An amicable settlement was reached, and the Chief legal officers were regraded to J.

[17] Besides the fact that the applicants in the present matter reported to the Deputy Principal Secretaries in their respective Ministries and that they headed the public relations cadre, they have not established that they were similarly situated as the Chief Legal Officers or Director Legal affairs in material respects.

17.1 To my mind, the legal opinion should not be construed as providing a one- size fits-all approach that all managers heading their respective departments are no different from directors. The focus of the legal opinion was the differentiation of grading between the Chief Legal Officers and Director Legal affairs. The legal opinion does not, in my view, advance the applicants' case. Resultantly no case for discrimination has been made out.

Irrationality?

[18] The third pillar of their case is founded on irrationality. They assert firstly that the disparity of treatment between them and the legal cadre is without rational basis. Secondly, given the size and vast public relations duties of the Ministry of Education, the public relations unit of the Ministry ought to be headed by a director, so they assert. In their opinion, there is

no rational basis why there is no position of ‘Director of Information’ in this Ministry whereas, other Ministries such as the Cabinet and Ministry of Communications have this position.

[19] The rule of law requires that the exercise of public power by the executive and other functionaries should not be arbitrary. Decisions must be rationally related to the purpose for which the power was given, otherwise, they are in effect arbitrary and inconsistent with this requirement.⁴

[20] In **Leluma v Commissioner of Police**⁵ Mokhesi J compressively captured the position of the Law on review based on unreasonableness. The decision in **Council of Civil Service Unions v Minister of the Civil Service** [1985]AC 374(GCHQ) was referred to in the Judgment. The latter case equated unreasonableness with irrationality. Lord Diplock stated three grounds on which administrative decision-making can be impugned, namely: a) illegality b) irrationality and c) procedural impropriety. By what is meant by irrationality, Lord Diplock said:

⁴ Pharmaceutical Manufacturing Association of SA & another – In Re *ex parte* President of the Republic of South Africa and another 2000(2)SA 674

⁵ CIV/APN/129/20

“By rationality I mean what can now be succinctly referred to as Wednesbury’s unreasonableness. It applies to a decision which is so outrageous in its defiance of logic or of accepted moral standards that no sensible person who had applied his mind to the question to be decided could have arrived at it.”

[21] With these principles in mind, I revert to the present matter. Section 10 (1) of the Public Service Act, 2005⁶ empowers the Minister of Public Service to do what in his opinion is necessary or expedient for giving effect to the objects of this Act. Section 10 (2) empowers the Minister to make provision for all or any of the matters there set out, including;

- a) Policy on the establishment or abolition of departments, sub-departments or offices, and transfer of functions and public officers from one Department to another.
- b) Employment Policy and any other policy that relates to human resources, including but not limited to promotions, training and development, Public Officers’ relations, retirements, control and organisation of Ministries and Departments.

[22] The parties have attached to their pleadings certain documentary evidence relevant to the determination of the issues. These are the guidelines for the establishment, management and restructuring of government ministries issued by the Ministry

⁶ No 1 of 2005

of Public Service in February 2017. These guidelines set out the procedure for the abolition of positions, redesignation, regrading, funding, and filling of vacant positions.

22.1 The second document is the Civil Service Establishment Management and Restructuring Policy of January 2020. It sets out the responsibilities of the Ministry of Public Service, chief among which are; the management and coordination of human resource functions within the government, and management of the establishment lists in the public service. In addition, the policy sets out the procedure for the creation of positions in the public service.

[23] The third document is a savingram relating to the organizational structure of public relations units across the civil service. It is helpful to reproduce its contents. It reads:

SAVINGRAM

FROM : **P. S PUBLIC SERVICE**
TO : **ALL PRINCIPAL SECRETARIES**
REF.NO : **MPS/ETM/29**
SIGNED :
(Full Signature)

NAME : **B. KUMALO (Adv)** **FILE NO.**
(Typed)

RECEIVING MIN/DEPT

DATE : 17TH JUNE 2021

RE- MINISTERIAL PUBLIC RELATIONS STRUCTURES

Reference is made to MPS/ETM/29 dated 24th January 2020 and CM/CL/STF/1 dated 05 November 2020 outlining how Ministerial and Agencies Public Relations departments and units will be structured.

Ministries and Agencies are notified that this is not creation of positions, but a list of positions that will be given to ministries and Agencies only when they have funds for creation of new public relations Positions. Creation of additional positions will be done on request by abolition of redundant positions for the purpose of managing the establishment list as per the Ministry of Public Service Establishment Management and Restructuring Policy of January 2020.

MINISTRY OF COMMUNICATIONS SCIENCE AND TECHNOLOGY

PUBLIC RELATIONS UNIT

<u>JOB TITLE</u>	<u>GRADE</u>	<u>NO OF POSITIONS</u>
Director Public Relations	J	1
Public Relations Manager	I	2
Senior Public Relations Officer	H	2
Public Relations Officer	G	2
Assistant Public Relations Officer	F	2
		9

MINISTRY OF HEALTH

<u>JOB TITLE</u>	<u>GRADE</u>	<u>NO OF POSITIONS</u>
Director Public Relations	J	1
Public Relations Manager	I	1
Senior Public Relations Officer	H	1

Public Relations Officer	G	1
Assistant Public Relations Officer	F	1
		5

MINISTRY OF FINANCE

<u>JOB TITLE</u>	<u>GRADE</u>	<u>NO OF POSITIONS</u>
Director Public Relations	J	1
Public Relations Manager	I	1
Senior Public Relations Officer	H	1
Assistant Public Relations Officer	F	1
		4

MINISTRY OF HOME AFFAIRS

<u>JOB TITLE</u>	<u>GRADE</u>	<u>NO OF POSITIONS</u>
Director Public Relations	J	1
Public Relations Manager	I	1
Senior Public Relations Officer	H	1
Public Relations Officer	G	1
Assistant Public Relations	F	1
		5

INDEPENDENT ELECTORAL COMMISSION

<u>JOB TITLE</u>	<u>GRADE</u>	<u>NO OF POSITIONS</u>
Public Relations Manager	I	1
Senior Public Relations Officer	H	1
Assistant Public Relations	F	1
		3

MINISTRY OF LABOUR AND EMPLOYMENT

<u>JOB TITLE</u>	<u>GRADE</u>	<u>NO OF POSITIONS</u>

Public Relations Manager	I	1
Senior Public Relations Officer	H	1
Public Relations Officer	G	1
Assistant Public Relations Officer	F	1
		4

MINISTRY OF DEFENCE AND NATIONAL SECURITY

<u>JOB TITLE</u>	<u>GRADE</u>	<u>NO OF POSITIONS</u>
Public Relations Officer	G	1
Assistant Public Relations Officer	F	1
		2

OFFICE OF THE AUDITOR GENERAL

<u>JOB TITLE</u>	<u>GRADE</u>	<u>NO OF POSITIONS</u>
Senior Public Relations Officer	H	1
Public Relations Officer	G	1
Assistant Public Relations Officer	F	1
		3

MINISTRY OF LAW AND JUSTICE

<u>JOB TITLE</u>	<u>GRADE</u>	<u>NO OF POSITIONS</u>
Senior Public Relations Officer	H	2
Public Relations Officer	G	2
Assistant Public Relations Officer	F	2
		6

MINISTRY OF MINING AND GEOLOGY

<u>JOB TITLE</u>	<u>GRADE</u>	<u>NO OF POSITIONS</u>
Senior Public Relations Officer	H	1
Assistant Public Relations Officer	F	1

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DIRECTORATE ON CORRUPTION AND ECONOMIC OFFENCES

<u>JOB TITLE</u>	<u>GRADE</u>	<u>NO OF POSITIONS</u>
Public Relations Manager	I	1
Senior Public Relations Officer	H	1
		2

MINISTRY OF POLICE & PUBLIC SAFETY

<u>JOB TITLE</u>	<u>GRADE</u>	<u>NO OF POSITIONS</u>
Public Relations Officer	G	1
Assistant Public Relations Officer	F	2
		3

SENATE

<u>JOB TITLE</u>	<u>GRADE</u>	<u>NO OF POSITIONS</u>
Public Relations Officer	G	1
Assistant Public Relations Officer	F	1
		2

MINISTRY OF PUBLIC WORKS

<u>JOB TITLE</u>	<u>GRADE</u>	<u>NO OF POSITIONS</u>
Public Relations Manager	I	1
Senior Public Relations Officer	H	1
Assistant Public Relations Officer	F	1
		3

MINISTRY OF EDUCATION AND TRAINING

<u>JOB TITLE</u>	<u>GRADE</u>	<u>NO OF POSITIONS</u>

Public Relations Manager	I	1
Senior Public Relations Officer	H	1
Public Relations Officer	G	3
Assistant Public Relations Officer	F	3
		8

MINISTRY OF FORESTRY, RANGE AND SOIL CONSERVATION

<u>JOB TITLE</u>	<u>GRADE</u>	<u>NO OF POSITIONS</u>
Public Relations Manager	I	1
Senior Public Relations Officer	H	1
Public Relations Officer	G	1
Assistant Public Relations Officer	F	3
		5

MINISTRY OF GENDER, YOUTH, SPORTS AND RECREATION

<u>JOB TITLE</u>	<u>GRADE</u>	<u>NO OF POSITIONS</u>
Public Relations Manager	I	1
Senior Public Relations Officer	H	1
Public Relations Officer	G	1
Assistant Public Relations Officer	F	1
		4

NATIONAL ASSEMBLY

<u>JOB TITLE</u>	<u>GRADE</u>	<u>NO OF POSITIONS</u>
Senior Public Relations Officer	H	1
Public Relations Officer	G	1
Assistant Public Relations Officer	F	7
		9

MINISTRY OF DEVELOPMENT PLANNING

<u>JOB TITLE</u>	<u>GRADE</u>	<u>NO OF POSITIONS</u>
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Senior Public Relations Officer	H	1
Public Relations Officer	G	2
Assistant Public Relations Officer	F	1
		4

MINISTRY OF LOCAL GOVERNMENT AND CHIEFTAINSHIP

<u>JOB TITLE</u>	<u>GRADE</u>	<u>NO OF POSITIONS</u>
Public Relations Manager	I	1
Senior Public Relations Officer	H	1
Public Relations Officer	G	1
Assistant Public Relations Officer	F	11
		14

MINISTRY OF TRANSPORT

<u>JOB TITLE</u>	<u>GRADE</u>	<u>NO OF POSITIONS</u>
Public Relations Manager	I	1
Senior Public Relations Officer	H	1
		2

MINISTRY OF AGRICULTURE AND FOOD SECURITY

<u>JOB TITLE</u>	<u>GRADE</u>	<u>NO OF POSITIONS</u>
Public Relations Manager	I	1
Senior Public Relations Officer	H	1
Public Relations Officer	G	1
Assistant Public Relations Officer	F	1
		4

MINISTRY OF TOURISM, ENVIRONMENT & CULTURE

<u>JOB TITLE</u>	<u>GRADE</u>	<u>NO OF POSITIONS</u>
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Director Public Relations	J	1
Public Relations Manager	I	1
Senior Public Relations Officer	H	1
Public Relations Officer	G	1
Assistant Public Relations Officer	F	1
		5

PRIME MINISTER'S OFFICE

<u>JOB TITLE</u>	<u>GRADE</u>	<u>NO OF POSITIONS</u>
Director Public Relations	J	1
Public Relations Manager	I	1
Senior Public Relations Officer	H	1
Public Relations Officer	G	1
Assistant Public Relations Officer	F	1
		5

MINISTRY OF WATER

<u>JOB TITLE</u>	<u>GRADE</u>	<u>NO OF POSITIONS</u>
Public Relations Officer	G	1
Assistant Public Relations Officer	F	1
		2

MINISTRY OF FOREIGN AFFAIRS AND INTERNATIONAL AFFAIRS

<u>JOB TITLE</u>	<u>GRADE</u>	<u>NO OF POSITIONS</u>
Senior Public Relations Officer	H	1
Public Relations Officer	G	1
Assistant Public Relations Officer	F	1
		3

MINISTRY OF PUBLIC SERVICE

<u>JOB TITLE</u>	<u>GRADE</u>	<u>NO OF POSITIONS</u>
Senior Public Relations Officer	H	1
Public Relations Officer	G	1
Assistant Public Relations Officer	F	1
		3

HIS MAJESTY'S OFFICE

<u>JOB TITLE</u>	<u>GRADE</u>	<u>NO OF POSITIONS</u>
Public Relations Officer	G	1
Assistant Public Relations Officer	F	1
		2

OMBUDSMAN

<u>JOB TITLE</u>	<u>GRADE</u>	<u>NO OF POSITIONS</u>
Senior Public Relations Officer	H	1
Assistant Public Relations Officer	F	1
		2

MINISTRY OF TRADE AND INDUSTRY

<u>JOB TITLE</u>	<u>GRADE</u>	<u>NO OF POSITIONS</u>
Senior Public Relations Officer	H	1
Public Relations Officer	G	1
Assistant Public Relations Officer	F	1
		3

MINISTRY OF SOCIAL DEVELOPMENT

<u>JOB TITLE</u>	<u>GRADE</u>	<u>NO OF POSITIONS</u>
Senior Public Relations Officer	H	1

Public Relations Officer	G	1
Assistant Public Relations Officer	F	1
		3

MINISTRY OF SMALL BUSINESS

<u>JOB TITLE</u>	<u>GRADE</u>	<u>NO OF POSITIONS</u>
Public Relations Officer	G	1
Assistant Public Relations Officer	F	1
		2

JUDICIARY

<u>JOB TITLE</u>	<u>GRADE</u>	<u>NO OF POSITIONS</u>
Senior Public Relations Officer	H	1
Assistant Public Relations Officer	F	1
		2

[24] I reproduced this structure in its entirety to show that in some Ministries, the public relations section is headed by a director whereas, in some it is headed by a Public Relations Manager while in some, it is headed by Public Relations Officer. In the ministries under which the applicants fall, namely, the Ministry of Education and Ministry of Tourism respectively, they are to be headed by a Public Relations Manager and Public Relations Director respectively.

[25] To my mind, the head of the Unit in each Ministry, agency or Department depends on its size and mandate. In addition, the Ministries or Departments permitted to have directorial position must meet certain preconditions. First, they must have

funds for creation of new public relations positions. Secondly, they must abolish redundant positions to fund the creation of additional positions.

[26] It seems to me that at the heart of these policies and structures is the effective management of the establishment list or human resource in the civil service because its expansion undoubtedly involves the expenditure of public funds. The decision that some redundant positions must first be abolished to pave the way for the creation of new positions, is logical and reasonable and therefore rational. For these reasons, no irrationality is discernible.

Order

[27] For reasons set out in this judgment, the applicants failed to make a case for the relief sought. As a result, the following order is made;

- a) The application is dismissed.
- b) Each party is to bear its costs.

P. BANYANE

JUDGE

For Applicant : Mr. P. J Lebakeng

For Respondents : Adv. Mohloki