

NATIONAL ASSEMBLY
QUESTION FOR WRITTEN REPLY
QUESTION NUMBER: 3643 [NW4214E]
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3643. Ms L Mathys (EFF) to ask the Minister of Finance:

Why has the National Treasury not paid a certain person's special pension?

NW4214E

REPLY:

The Government Pensions Administration Agency ("GPAA") is the government component that is responsible for the administration of the Special Pensions Act, 1996 as proclaimed in Proclamation No. 231 of Government Gazette No: 33051 of 26 March 2010. Therefore, the duty to pay special pensions in terms of the Special Pensions Act falls within the domain of GPAA.

In 2011, Mr Phasha brought an application before the North Gauteng High Court, for an order that the National Treasury authorizes the Government Employees Pension Fund ("GEPF") to pay his special pension retrospectively. After receiving all the relevant information from GPAA, the National Treasury opposed the application on the basis that Mr Phasha's application for special pension had been dismissed by the Special Pensions Board ("the Board") which is established in terms of section 15 of the Special Pensions Act to assess and determine applications for special pensions. The reason for the dismissal was that Mr Phasha did not satisfy the requirements of section 1(1)(b) of the Special Pensions Act (as amended), in that he failed to prove that for at least five years prior to February 1990 he was engaged in full time service of a political organization. Upon lodging an appeal with the Special Pensions Appeal Board ("Appeal Board"), the latter upheld the decision of the Board, citing material contradictions in the submissions made by Mr Phasha regarding the alleged years of service in the Pan African Congress and failure to provide detailed account of when he left the country to exile.

However, without following due process in terms of the Uniform Rules of Court, Mr Phasha proceeded to set down the matter for hearing and obtained an order against the National Treasury in terms of his application. Subsequently, Mr Phasha instituted contempt proceedings against the National Treasury for failure to comply with the court order. This application was opposed and the National Treasury simultaneously brought an application to rescind the judgement on the basis that it was erroneously sought and granted. The National Treasury proceeded to serve and file its Heads of Argument in preparation to set down for hearing the contempt and rescission applications. However, on 23 October 2018, Mr Phasha, through his attorneys of record, served the National Treasury with a Notice to withdraw the motion proceedings (on contempt) and abandoning the court order against the National Treasury.

As indicated above, the duty to pay special pensions fall within the domain of GPAA. However, the latter cannot make payment until such time that the decision to dismiss Mr Phasha's application has been set aside by a court of law.