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BALANCING ACT: NAVIGATING CONSTITUTIONAL RIGHTS AND DISCIPLINARY HEARINGS IN THE FACE OF CRIMINAL CHARGES



DOES THE TIMING OF EMPLOYER-LAID CRIMINAL CHARGES MATTER?

Welcome to the latest edition of our newsletter, your trusted source for insightful analyses of significant legal cases and judgments. In this edition, we delve into a noteworthy legal matter that explores the delicate balance between an employee's constitutional rights and an employer's disciplinary processes. In a recent legal case, an employee's rights were put to the test as the court examined the intersection of criminal charges and disciplinary proceedings. The case sheds light on the complexities of safeguarding an individual's rights while ensuring a fair and just legal process.

CITATION: RAMTHLAGWE V MODIMOLLE-MOOKGOPONG LOCAL MUNICIPALITY AND ANOTHER (JS562/23) [2023] ZALCJHB 190 (15 JUNE 2023)



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Facts:

The case revolves around Salthiel Khomotso Ramthlakgwe, an employee holding the position of Manager in the Project Management Unit of the Modimolle-Mookgopong Local Municipality. Ramthlakgwe faced allegations of misconduct in relation to payments made to service providers. As the impending disciplinary hearing loomed, the municipality amended the charge sheet to include additional charges. These new charges prompted concerns of self-incrimination and potential prejudice, especially in light of criminal charges laid by the municipality.

Key Legal Points:

The central question before the court was whether an employer can be barred from initiating or proceeding with a disciplinary hearing when criminal charges are in play.



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KEY LEGAL POINTS



The court delved into the intricate interplay between an employee's right to a fair disciplinary process and the right against self-incrimination. The court emphasized that the employee's choice on which right to exercise and prioritize is a deeply personal decision. The court underscored that an employee's potential self-incriminatory evidence presented during a disciplinary hearing does not automatically translate to admissible evidence in subsequent criminal proceedings. The State's duty to independently prove guilt beyond reasonable doubt remains intact. The court clarified that an employee's right to remain silent during criminal proceedings is unaffected by concurrent civil proceedings.



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KEY LEGAL POINTS



The court highlighted the separation between law enforcement's duty to investigate and prosecute and the employer's right to enforce discipline through a fair disciplinary process. It concluded that an employer's legitimate disciplinary process can proceed despite the existence of potential or pending criminal charges related to the same conduct.

Conclusion:

In a comprehensive ruling, the court maintained that an employer's right to conduct a fair disciplinary hearing is not automatically hindered by the presence of potential or pending criminal charges.



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CONCLUSION



The judgment emphasizes the individual's freedom to make choices regarding their rights while preserving the integrity of both civil and criminal proceedings. It reinforces the distinction between the two legal realms and the measures in place to prevent self-incrimination.

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