



EMPLOYMENT

Bullies beware: When workplace toxicity becomes a dismissible offence

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For many years, workplace bullying occupied an uncomfortable space in South African labour law. Employers recognised the damage it caused, employees experienced its effects, but disciplinary action often struggled to gain traction where misconduct did not fit neatly into traditional categories such as insubordination, harassment, or misconduct. A recent CCMA arbitration award in *National Education Health & Allied Workers Union obo Mosimane v University of the Witwatersrand* provides a timely reminder that workplace bullying is not merely a management issue – it can justify dismissal where the conduct is sufficiently serious and sustained.

The employee, a Senior Faculty Officer with more than 22 years' service at the University of the Witwatersrand, was dismissed following numerous complaints from junior colleagues who accused her of bullying, intimidation, victimisation, humiliation and

harassment. The allegations painted a troubling picture of a senior employee who repeatedly belittled subordinates, publicly criticised colleagues, withheld training, undermined staff members in front of students and co-workers, and used her position of authority to create a climate of fear.

The employee challenged both the procedural and substantive fairness of her dismissal at the CCMA, seeking reinstatement.

Central to the dispute was Wits University's bullying policy, which defines bullying as repeated unwanted conduct that humiliates, demeans, lowers self-esteem, creates a hostile environment, or results in an unacceptable working environment. The policy specifically recognises the abuse of power as a hallmark of bullying and acknowledges that such conduct may manifest through intimidation, harassment and interference with a colleague's ability to perform their work effectively. This is aligned to the Code of Good Practice on the Prevention and Elimination of Harassment in the Workplace, released in 2022.

The evidence presented by the University was extensive. Multiple witnesses testified that the employee routinely shouted at colleagues, publicly embarrassed them, threatened their job security, undermined their competence, and failed to provide adequate training while simultaneously criticising performance shortcomings that arose from that lack of training. Several witnesses described feeling humiliated, intimidated and emotionally distressed by the employee's conduct. One employee required counselling, while others became visibly emotional when recounting their experiences during the arbitration proceedings.

Significantly, the commissioner found that the evidence revealed a sustained pattern of misconduct rather than isolated incidents. The conduct was directed predominantly at junior employees and was enabled by the employee's seniority and authority within the faculty. The commissioner concluded that the behaviour caused demonstrable psychological harm, disrupted workplace harmony and created a toxic working environment.

Perhaps more damaging than the misconduct itself was the employee's response to the allegations. Rather than acknowledging any wrongdoing, she maintained that the complaints were fabricated and advanced a theory that multiple colleagues had conspired to remove her from the workplace. The commissioner rejected this explanation, finding it inherently improbable that several employees would independently manufacture complaints over an extended period.

The award contains particularly strong commentary regarding accountability. The commissioner observed that the employee's continued denial of the conduct, coupled with attempts to minimise or dismiss the experiences of the complainants, demonstrated a profound lack of insight. Her refusal to accept responsibility, apologise or show remorse was regarded as a significant aggravating factor. Indeed, the commissioner noted that progressive discipline presupposes some appreciation of wrongdoing and a willingness to correct behaviour. In the absence of such insight, corrective discipline serves little purpose.

The commissioner ultimately concluded that dismissal was both procedurally and substantively fair. In doing so, emphasis was placed on the employee's senior position, the repeated nature of the misconduct, the abuse of authority, the emotional harm suffered by multiple employees, and the complete breakdown of trust resulting from her continued denial and victim-blaming.

The decision sends a clear message to employers and employees alike. Modern workplaces are increasingly focused on psychological safety, dignity and respectful engagement. Bullying is no longer viewed as a personality clash or a management inconvenience. Where a senior employee engages in sustained conduct that humiliates, intimidates or victimises colleagues, particularly where power imbalances are exploited, dismissal may well be an appropriate sanction – even where the employee has lengthy service.

For employers, the case highlights the importance of having robust anti-bullying policies and taking complaints seriously. For employees, especially those in leadership positions, it serves as a stark warning that authority carries responsibility. Leadership by intimidation is not leadership at all – and where workplace toxicity becomes entrenched, the CCMA has shown little hesitation in endorsing dismissal as the appropriate remedy.



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