IN THE HIGH COURT OF SOUTH AFRICA
(NORTH WEST HIGH COURT, MAFIKENG)

CASE NO.: 1471/08

In the matter between:-

MOKAIMANG DAVID SENATLE Applicant

and

THE CHIEF EXECUTIVE OFFICER OF THE SOUTH AFRICAN SOCIAL SECURITY AGENCY Respondent

JUDGMENT

PISTOR AJ:

[1] The Applicant in this matter is Mr **MOIKAIMANG DAVID SENATLE.** The Respondent is the **CHIEF EXECUTIVE OFFICER OF THE SOUTH AFRICAN SOCIAL SECURITY AGENCY** (**SASSA**).

[2] The Applicant filed the present application in terms of which the Applicant seeks the following relief:

1. **"That the non-compliance with the time frames in Section 7(1) of Act 3 of 2000 be condoned insofar as is needed.**

2. **That the non-compliance with the time frames in Section 3 of Act 40 of 2002 be condoned insofar as is needed.**

3. (a) The respondent, or the appropriate official of his Department, is hereby ordered:

(i) To consider and decide on the applicant's application for a social grant;

(ii) To advise the applicant's attorney in writing of his decision within 15 days of date of this order.

(b) In the event of the Respondent refusing the applicant's application for a social grant, the Respondent shall provide the Applicant's attorney with written reasons for the decision having been taken within 15 days of date of this order.

(c) In the event that the applicant's social grant is approved:

(i) **The Respondent is ordered to pay the Applicant the amounts which would have been paid to him as a social grant during the period 25 May 2007 or 25 August 2007 and the day of approval of this social grant as if his grant had been approved on 24 May 2007 or 25 August 2007;**

(ii) The Respondent is ordered to pay the Applicant interest at the rate of 15.5% per year calculated on the basis that such interest accrued monthly on the monthly amounts that should have been paid to the Applicant, starting on 24 May 2007 or 25 August 2007 to date of payment;

(iii) The Respondent is ordered to continue paying the social grant to the Applicant for as long as he legally qualifies for it.

(d) The Respondent is ordered to pay the costs of this application.

(e) Such further and/or alternative relief is granted to the Applicant as the Honourable Court deems fit."

[3] The Applicant's application is supported by his own affidavit as well as an affidavit by one **JACO VISSER** who acted herein on behalf of the Applicant and who is an attorney at Hartswater.

[4] In his founding affidavit the Applicant avers *inter alia*:

(a) That he suffers from permanent disability in that he has arthritis to such an extent that he is permanently medically and physically unable and unfit to take up fulltime or temporary employment.

(b) That he is entitled to an appropriate social assistance as envisaged in Section 27 (1) (c) of the Constitution of the Republic of South Africa, Act 108 of 1996 read with the provisions of the Social Assistance Act, Act 13 of 2004 and the relevant regulations.

(c) That on 24th May 2007 he applied for a disability grant in terms of the aforesaid legislation.

(d) That at the time of the signing of his founding affidavit (29th May 2008) he was still not aware of the outcome of his application.

[5] The Respondent opposed the application and relied on the affidavit of Mr **OBAKENG THOBEGANE** the Manager, Legal Services, in the employ of SASSA**.**

[6] The Respondent took 3 points *in limine*. They are:

(a) That there are no grounds for the relief sought.

(b) That the application was filed prematurely (that the Applicant should have exhausted the internal remedies before rushing to court); and

(c) That the attestation of the founding affidavit was defective in that the Deponent did not sign the affidavit but endorsed his fingerprint to the affidavit whilst the Commissioner of Oaths failed to state this fact in his certificate.

[7] Before me Mr Senatle, who appeared for the Respondent, raised a further point namely that page 2 of the founding affidavit was not made available to the Respondent whilst it was made available to the court and that, despite a request in this regard the said page was still not made available to the Respondent. However, he did not apply for an order that the said page be made available and for leave to file further affidavits once the page has been made available. The Respondent filed its answering affidavit and I therefore considered the matter on the contents of the papers as they stand.

[8] Before me it was common cause that the applicant's application for a grant had been refused. The applicant maintains that this information came to his knowledge by virtue of the contents of the answering affidavit in the present application. The respondent maintains that on 12th July 2007 the Applicant had been informed of the outcome of his application by means of a letter, a copy of which is attached to the answering affidavit as annexure "T1" and further, that the Applicant should therefore have appealed in terms of the relevant legislation and should not have approached the Honourable Court with the present application.

[9] A large number of applications, similar to the present one, have been considered by various judges in this division. Many judgments (still unreported) were written by Judges of this Division on issues in such applications. Some of the points raised in the present application have been

considered and ruled on by the said Judges. I do not intend to repeat what has already been stated in the said judgments. However, there are two main issues in this application which in my view need some clarification. They relate firstly to the duty of **SASSA** to inform an Applicant for a grant of the outcome of his/her application and secondly, to the time within which **SASSA** has to provide reasons for a refusal of an application for a grant. In the hope that it might be of assistance to practitioners in this field I deem it necessary to express a few remarks regarding certain aspects relating to these issues that manifested themselves in this application and, probably in applications of a similar nature which, so it seems, come before this court in large numbers on a fairly regular basis.

[10] **THE RELEVANT STATUTORY PROVISIONS**

[10.1] Section 27 (1) of the Constitution provides (in so far as it is applicable to this matter) as follows:

> **"27. Health care, food, water and social security.—(1) Everyone has the right to have access to—**
> **(a) ……;**
> **(b) ……; and**
> **(c) social security, including, if they are unable to support themselves and their dependants, appropriate social assistance.**
> **(2) The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of each of these rights..."**

[10.2] Subsequent to the Constitution and, I believe, in an attempt to give effect to the sentiments expressed in the aforesaid provisions of the Constitution, the Legislature promulgated the Social Assistance Act, 2004 (Act 13 of 2004 – herein after referred to as "**The Act"**) The act came into operation on 1 April, 2006.

[10.3] In terms of the South African Social Security Agency Act No. 9 of 2004 (The SASSA – Act) SASSA was established.

[10.4] In terms of section 3 of the SASSA–Act the objects of SASSA are to:

"(a) act, eventually, as the sole agent that will ensure the efficient and effective management, administration and payment of social assistance;

(b) serve as an agent for the prospective administration and payment of social security; and

(c) render services relating to such payments."

[10.5] In terms of Section 14 of the SASSA-Act, SASSA is, for purposes of the institution of legal proceedings deemed to be an organ of state and any legal proceedings against it must be instituted in accordance with the Institution of Legal Proceedings against Certain Organs of State Act, 2002 (Act No. 40 of 2002).

[10.6] In terms of section 2 of The Act, read with Section 1 thereof SASSA is responsible for the administration of social assistance.

[10.7] Prior to the coming into operation of the Act there was in force similar legislation to wit Act 59 of 1992 (the 1992 – Act) which came into operation on 1 March, 1996]. The latter Act was repealed by Section 33 of the Act as follows:

"33. Repeal of laws and transitional arrangements.—(1) The Social Assistance Act, 1992 (Act No. 59 of 1992), is hereby repealed insofar as it has not been assigned to another sphere of government.

(2) Any regulation or notice issued, any appointment made, any grant awarded, any moneys paid or anything else done by the national sphere of government under the Social Assistance Act, 1992, is deemed to have been issued, made, granted, paid or done under the corresponding provisions of this Act.

(3) Any regulation or notice issued, any appointment made, any grant awarded, any moneys paid, or anything else done by a provincial sphere of government under the Social Assistance Act, 1992, insofar as it has been assigned to that sphere of government, is deemed to have been issued, made, granted, paid or done under the corresponding provisions of this Act in the event that a provincial legislature repeals the Social Assistance Act, 1992, insofar as it has been assigned to that sphere of government, or amends the Act in such a way that it conflicts with this Act."

[10.8] As far as I could have established (and I am indebted to counsel for assistance in this regard), regulations were made under the 1992-Act and published by Government Notice R418 in Government Gazette 18771 of 31st March 1998. The said regulations were amended from time to time. I will refer to these regulations (as amended) as the "1998-Regulations."

[10.9] In terms of Section 32 of the Act the responsible Minister is authorised to make regulations for the practical implementation of the provisions of The Act. Such Regulations were promulgated on 22nd February 2005 in terms of Regulation Notice number R 162, published in Government Gazette 27316 of the said date. I refer to these regulations as the "***2005–Regulations". (***It will be remembered that the Act came into operation on 1 April, 2006.)

[10.10] There appears to have been some uncertainty as the whether the 2005–Regulations were published on 22 February 2005 as draft

regulations for public comment or whether they were published as regulations, since by Government Notice R1280 of 11December 2006 the relevant Minister published the following notice in Government Gazette No. 29471 of the latter date:

"1. On 22nd February 2005 I, in my capacity as the Minister for Social Development, published draft Regulations in terms of the Social Assistance Act, Act No. 13 of 2004 for public comment.

2. It has come to my attention that there is a perception that the above-mentioned draft Regulations are in force. For avoidance of doubt, I record that the draft Regulations aforesaid are not in force and I have not yet made Regulations in terms of the Social Assistance Act, Act No. 13 of 2004. The Regulations are currently being finalized and will be promulgated in due course."

[10.11] However, on 11 April 2008 and by virtue of Government Notice R411 of 11 April 2008 and in Government Gazette No. 30965 the clarification referred to above was withdrawn and it was declared that:

"The regulations made by the Minister of Social Development on 22 February 2005 in terms of the Social Assistance Act, 2004 (Act No. 13 of 2004) published as Government Notice R.162 in Government Gazette 27316 of 22 February 2005 are in force.

The clarification published as Government Notice R.1280 in Government Gazette 29471 of 11 December 2006 regarding the draft regulations in terms of the Social Assistance Act, 2004 (Act No. 13 of 2004) published for comment during February 2005, is hereby withdrawn".

[10.12] It is not necessary for present purposes to conclude whether the publication of the 2005-Regulations, the said clarification and the

subsequent withdrawal thereof were regular or not. I am prepared to accept for purposes of this judgment that the intention in 2008 was to state that the 2005 – Regulations came into force with effect from 11 April 2008.

[10.13] Consequently and until 11 April 2008 (when the 2005 Regulations came into force) the 1992–Regulations remained in force. **(ZANTSI AND OTHERS v ODENDAAL AND OTHERS; MTOBA AND OTHERS v SEBE AND OTHERS 1974 (4) SA 173 (E) at 179 H – 181)** read with and Section 33 of the Act (quoted above).

[10.14] On 22 August 2008 the Minister published a further set of Regulations (the 2008–Regulations) by Government Notice R898 in Government Gazette No. 31356 of the latter date.

[10.15] The 2008 Regulations repealed the relevant parts of the 2005 Regulations with effect from 22 August 2008.

[10.16] For the reasons that follow it is not necessary to make a firm finding regarding the date and time of the coming into operation of the respective Regulations referred to above since, as I will indicate later herein, the provisions of the respective regulations relating to the aspects that I have to deal with in this judgment are for all practical purposes the same.

[11] **HAS NOTICE BEEN GIVEN**

[11.1] The argument advanced on behalf of the Respondent is that a written notice stating the outcome of his application for a grant was given to the Applicant by ordinary post in the form of a document,

a copy of which was attached to the answering affidavit as Annexure “T1”. The argument was that the said notice complied with the relevant Regulations and that the Applicant should therefore have appealed to the Minister and should not have approached this Court. If this argument is correct, then the filing of this application was not necessary and constitutes an abuse of the process of this court. It is therefore necessary to determine whether the sending out of a notice by ordinary post constitutes proper notification as is required by the relevant Statutes and Regulations. I deal firstly with the 1998-Regulations.

[11.2.1] Regulation 25(2) of the 1998-Regulations provides as follows:

“2. The Director-General shall, if he or she refuses an application, <u>inform</u> the applicant in writing of his or her reasons for such refusal and of the applicant’s right of appeal in terms of Section 10 of the Act.” (My emphasis).

[11.2.2] In my view it is well settled in our law that when the term “inform” is used in any statutory provision, it implies that the person who has the duty to inform has to ensure that the person who has to be informed **<u>receives</u>** the relevant information. Until the required information has been received by the person who is supposed to receive same, that person has not been “informed” and the person who has the duty to inform, has not discharged such duty. I respectfully agree with the following articulation of the point by **Cloete J**:

“In my view, the reason lies in the subtle distinction that whereas to 'inform' necessarily implies that the information reaches the mind of the person informed, to 'notify' does not. As appears from the passages I have just quoted from The Oxford English Dictionary, 'inform' in the prevailing modern sense means 'to impart knowledge', which

necessarily connotes that the knowledge has passed; and one cannot 'tell' someone something without its coming to his attention. The same applies to 'acquaint' and 'apprise'. On the other hand, whilst 'notify' can mean 'to inform', it can also mean 'to give notice to'; and the giving of a notice does not necessarily mean that the contents of the notice were received or came to the attention of the person to whom the notice was addressed. I find a similar difference in nuance in Webster's Third New International Dictionary (1993) which has the following entry under 'inform':

'Informs implies the imparting of knowledge, esp of facts or events necessary to the understanding of a pertinent matter. . . . To notify is to send a notice or make a usu formal communication generally about something requiring or worthy of attention.' (MARQUES v UNIBANK LTD 2001 (1) SA 145 (W) at 156 J to 157 A)"

See also in this regard the approval (of the said articulation) by **CJ Claasen J** in **VAN NIEKERK AND ANOTHER v FAVEL AND ANOTHER 2006 (4) SA 548 (W) at 563 to 564.**

[11.2.3] Consequently, and in terms of the 1998 Regulations, SASSA had to ensure that the applicant has received the relevant information and the mere sending out of a notice per ordinary post would not have sufficed. I now turn to the 2005 Regulations.

[11.3] Regulation 12 of the 2005-Regulations is applicable to notification of an applicant of the outcome of an application for a grant, such as the one contemplated in the present application, and provides (in so far as it is relevant) as follows:

"12. Notification of outcome.—(1) The Agency must, on approval of a grant application, inform the applicant in writing in the language of preference of the applicant, of such approval and the date on which such approval was granted.

(2) The Agency must, upon refusal of a grant application, or within a reasonable period thereafter, inform the applicant of such refusal in writing and in the language of preference of the applicant, and give reasons for such refusal.

(3) The Agency must, when informing the applicant of the refusal of a grant application, also inform the applicant of his or her right to lodge an appeal in terms of section 18 of the Act.

(4) Whenever the Agency informs an applicant of the outcome of an application, the Agency must ensure that the applicant fully understands the decision of the Agency, the reasons thereof and the procedures to be followed thereafter." (My underlining).

[11.4] Mr Senatle argued that it is sufficient for the Respondent to state that a notice was given to the Applicant and that the Respondent need not do anything more than that. The argument goes further, namely that the risk of not receiving the notice is on the Applicant. He in this regard relies on a judgment given by my brother **Landman J** in an unreported judgment in Case Number 823/08, (**BOTLENG GRIET KOEN v SASSA**).

[11.5] In paragraph 2.13 of the said judgment **Landman J** is reported to have said:

"I am satisfied that the notice was sent to her. She may not have received it. The risk of not receiving it would be hers but then she would be entitled to ask for a copy."

[11.6] On my understanding of the quoted passage of the latter judgment, **Landman J** was of the view that the notice was indeed send to the Applicant in that case. On my reading of the judgment I got the impression that the learned judge placed emphasis on the fact that an applicant is entitled to receive the

notice and that in the event of the applicant not having received the notice, he/she would be entitled to a copy of the notice. With that approach I respectfully agree.

[11.7] However, I prefer to briefly comment further on the argument raised by the respondent in this regard. In my view it is clear, that the 2005-Regulations place a duty on SASSA to ensure that an Applicant for a grant receives the notice that SASSA is required to give to such Applicant.

[11.8] Section 14(3)(b) of the Act is also relevant and provides as follows:

"(b) If the applicant does not qualify for social assistance in terms of this Act, the Agency must in writing at the applicant's address or other point of contact stated in the application, inform the applicant—

(i) that he or she does not qualify for social assistance in terms of this Act;

(ii) the reasons why he or she does not qualify; and

(iii) of his or her right of appeal contemplated in section 18 and of the mechanism and procedure to invoke that right." (My underlining)

[11.9] Regulation 12 of the 2005–Regulations as well as Section 14(3)(b) of the Act both require that the applicant must be **informed**.

[11.10] The considerations that I referred to above in respect of the 1998-Regulations with regard to the term "inform" therefore apply *mutatis mutandis* to both the said regulation 12 and section 14(3)(b).

[11.11] Regulation 12 (4) of the 2005-Regulations clarifies SASSA's duty. It provides: "**whenever the Agency informs an Applicant of the outcome of an application, the Agency must ensure that the Applicant fully**

understands the decision of the Agency, the reasons thereof and the procedures to be followed thereafter."(my underlining)

[11.12] The latter Regulation requires of the Agency to do much more than to merely send a notice to the Applicant in which he / she is informed of the outcome of the application. The Agency **must ensure** that the Applicant understands:

(a) The decision of the Agency;
(b) The reasons thereof and
(c) The procedures to be followed thereafter.

[11.13] In my view, and as long as the 2005-Regulations were of force, the Agency was duty bound to implement an administrative procedure in terms of which it would be in a position to comply with the requirement of the latter Regulation. The mere sending of a notice stating the outcome of the application and the reasons would therefore not have enabled the Agency to ensure that the Applicant understands what the Applicant should understand in terms of the Regulation and such a notice, even if it reaches the applicant, would, therefore, not have sufficed. The mere sending of such a notice would, therefore, not constitute compliance with the said regulation.

[11.14] The Agency must therefore (in terms of the 2005-Regulations) satisfy itself (and in this case also the court) that the applicant has indeed received the notice. Otherwise the agency would not be in a position to comply with its duty, referred to in the previous paragraph. Mrs Zwiegelaar, who appeared for the Applicant before me invited my attention to the provisions of Section 7 of the interpretation Act 1957 (Act 33 of 1957) which provides as follows:

"Where any law authorizes or requires any document to be served by post, whether the expression "serve" or "give", or "send" or any other expression is used, then, unless the contrary intention appears, the service shall be deemed to be effected by properly addressing, prepaying, and posting a registered letter containing the document, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post."

[11.15] Mrs Zwiegelaar argued that the Respondent has to register the notice in order to be satisfied that the notice has been received by the Applicant.

[11.16] I agree with Mrs Zwiegelaar that Section 7 of the Interpretation Act creates a presumption that in the case of the notice being sent by registered post, it is presumed (deemed) that it was received. It however, goes no further than that. In view of what I have stated herein above relating to SASSA's duty to ensure that the Applicant understands what the Regulation provides for, it was in my view imperative (for the purposes of the 2005-Regulations) that the Agency should go further than being satisfied that the notice was received. Therefore, whilst sending the notice per registered post might have been helpful to prove that the notice was received, it does not relieve the Agency from its duty to ensure that the applicant understands what in terms of the regulation he/she should understand.

[11.17] Consequently, and in so far as the 2005-Regulations are concerned, I come to the conclusion that on the documents before me, I cannot find that the Respondent has complied with its statutory duty to inform the Applicant as is required by the relevant

Regulations and therefore the Applicant was entitled to require that it be so informed. I now turn to the 2008-Regulations.

[11.18] Regulation 13 of the 2008–Regulations provides as follows:

> **"13.1 The Agency must, within three months of the date of the application for a social grant notify the applicant of the approval or rejection of the application for the social grant.**
>
> **13.2 A notification contemplated in subregulation (1) must be delivered to the applicant by: -**
>
> **(a) hand, against signature by the applicant, or at the address furnished by the applicant at the time of the application; or**
>
> **(b) pre-paid registered post to the address furnished by the applicant at the time of the application."**

[11.19] The term "notify" that is used in Regulation 13(1) should be read in conjunction with the provisions of Regulations 13(2) and 13(4) of the 2008-Regulations with the result that one cannot conclude that an applicant was "notified" until such time as SASSA has complied with the requirements provided for in Regulations 13(2) and 13(4).

[11.20] Regulation 13(4) reads as follows:

> **"Upon refusal of a social grant application, the Agency must inform the applicant in writing of such refusal and of:**
>
> (a) **the reasons for such refusal; and**
>
> (b) **the applicant's right to appeal the decision and the mechanism and procedure to lodge an appeal."** (My underlining).

[11.21] On the evidence in the present case, SASSA has not complied with the requirements of the said Regulations.

[12] **TIME WITHIN WHICH REASONS HAVE TO BE GIVEN**

[12.1] In the letter of demand the representatives of the Applicant informed SASSA that it should inform the Applicant of the outcome of his application and the reasons therefore and that in the event of the Agency failing to do so they would instruct an attorney to proceed with an application to the High Court. They gave the Agency 30 days from the date of such letter of demand to react.

[12.2] Mr Senatle argued before me that SASSA was entitled to provide reasons within 90 days and that the period (30 days) contemplated in the letter of demand was not sufficient, therefore irregular and need not be complied with by SASSA. He maintained that the present application was instituted before the period of 90 days had lapsed. He further submitted that the application was therefore prematurely instituted and that it can therefore not succeed. In this regard he relied on the provisions of Section 5(2) of the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000 – herein referred to as PAJA).

[12.3] The latter Section provides that reasons ought to be given within 90 days after receipt of the request for reasons.

[12.4] Mrs Zwiegelaar argued that PAJA is not applicable to this application because it is applicable to review matters and this is not a review. I make no finding in that regard since, in my view the said 90-day period, provided for in PAJA, is not applicable to the present matter for a different reason, namely: PAJA is a statute of

general application whilst the Act, its predecessor and the relevant Regulations constitute legislation of specific application. Insofar as specific legislation provides for the time within which reasons have to be provided, the specific provisions should be given preference to any such provisions in **PAJA. (SIDUMO AND ANOTHER v RUSTENBURG PLATINUM MINES LTD AND OTHERS 2008 (2) SA 24 (CC) at Par. 90.)**

[12.5] Therefore, the question that needs to be considered, and answered, is whether the Act and/or the relevant regulations provide for a time within which reasons have to be given and if so, what are the provisions in this regard, or if not, can SASSA rely on the 90 days provided for in PAJA.

[12.6] I firstly deal with the 1992 Act and its regulations (the 1998-Regulations) and refer to Regulation 25(2) of the 1998-Regulations which I again quote for the sake of easy reference as follows:

"2. The Director-General shall, if he or she refuses an application, <u>inform</u> the applicant in writing of his or her reasons for such refusal and of the applicant's right of appeal in terms of Section 10 of the Act." (My emphasis).

[12.7] Section 10(1) of the 1992-Act provides:

"(1) If an applicant is aggrieved by a decision of the Director-General in the administration of this Act, such applicant may within 90 days after the date on which he or she was notified of the decision, appeal in writing against such decision to the Minister, who may confirm, vary or set aside that decision."

[12.8] In my view a proper interpretation of the said regulation 25(2) read with the said section 10(1) is that the reasons for the refusal of an

application have to be given at the time when the applicant is notified of the outcome of his application, otherwise the applicant will not be in a position to sensibly note an appeal to the Minister.

[12.9] In terms of the 2005-Regulations (Regulation number 12 thereof, referred to above) SASSA is duty bound to provide reasons **"upon refusal of a grant application, or within a reasonable period thereafter."** Therefore, and in so far as these regulations are applicable, as soon as the letter informing the Applicant of the outcome of his application is send out, or within a reasonable period thereafter, the reasons must be supplied. Where, as here, the letter of demand was received by the Agency approximately eight months after SASSA had sent the notification to the applicant, the Agency can not refuse to provide reasons on the basis that it has a further period of time (the 90 days provided for by PAJA) within which to do so. I now turn to the 2008-Regulations.

[12.10] The 2008-Regulations provide for a specific period of time within which an applicant must be notified of the outcome of his/her application. Regulation 13(1) of the 2008–Regulations provides in this regard as follows:

"13.1 The Agency must, within three months of the date of the application for a social grant notify the applicant of the approval or rejection of the application for the social grant." *(*My underlining)

[12.11] The **"date of the application"** contemplated in the latter Regulation is (by virtue of the provisions of Regulation 12(1)) the date on which the applicant has signed the application in the presence of a designated officer as is required by regulation 10(4).

[12.12] I have already stated herein above that the term "notify" that is used in Regulation 13(1) should be read in conjunction with the provisions of Regulations 13(2) and 13(4) of the 2008-Regulations.

[12.13] Regulation 13(4) provides:

"Upon refusal of a social grant application, the Agency must <u>inform</u> the applicant in writing of such refusal and of:

(c) **the reasons for such refusal; and**

(d) **the applicant's right to appeal the decision and the mechanism and procedure to lodge an appeal."** (My underlining).

[12.14] Consequently, and in terms of the 2008-Regulations an application for a grant must be finalised within three months from the date of the application. Should the application be refused, then, and upon refusal of the application the applicant must be **informed** of the reasons?

[12.15] I am satisfied that SASSA has not complied with these requirements in the present application and that accordingly, the Applicant was entitled to file this application.

[13] <u>WERE REASONS GIVEN</u>

[13.1] The medical report attached to the answering affidavit states the reasons for the disapproval of the applicant's application for a grant as being "no disability". Mrs Zwiegelaar conceded that the medical form attached to the answering affidavit at least contain some reasons on the strength of which the applicant can now react. I agree. However, it is unfortunate that the applicant had to

file a court application to establish this fact. Had the Agency complied with its statutory duty, referred to above, the wasted costs incurred by the filing of this application would probably not have been incurred.

[13.2] Consequently the applicant has now been informed of the outcome of his application for a grant as well as the reasons for the refusal of his application and it is not necessary to order the respondent to provide same. However, the respondent is in the circumstances liable for the costs of this application.

[14] **The Order**

In the result I make the following order.

"1. No orders are made in respect of paragraphs 1,2,3,4 and 5 of the notice of motion.

2. The Respondent is ordered to pay the costs of this application."

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J.H.F. PISTOR

ACTING JUDGE OF THE HIGH COURT

APPEARANCES

DATE OF HEARING	:	26 MARCH 2009
DATE OF JUDGMENT	:	30 APRIL 2009
COUNSEL FOR APPLICANT	:	ADV C. ZWIEGELAAR
COUNSEL FOR RESPONDENT	:	ADV S. SENATLE
ATTORNEYS FOR APPLICANT	:	NIENABER & WISSING
ATTORNEYS FOR RESPONDENT:		THE STATE ATTORNEY