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CALL CASE REPORT



Database Ref : 9920220831115225
 Call Ref No : 9920220831115225
 Call Date & Time : 31/08/2022 11:52
 Classification : Confidential
 Priority : Medium
 Perpetrator/s : Unnamed
 Allegation : Appointment irregularities
 Allegation Other :
 Department Type :
 Department Province : National
 Department Name : South African Police Service
 Department Other :
 All Province : Pretoria
 City/Town : Pretoria
 Allegation Date & Time : 8/30/2022 10:59:00 AM

Allegation Report Details

On Tuesday 30 August 2022, an email was received from _____ can be contacted on _____

_____ is requesting that all senior management appointments to National SAPS be independently investigated due to lack of proven competence in the field of crime intelligence/lack of proof of academic qualifications by those appointed and others have no matric certificates.

_____ is also requesting an investigation into allegations of financial irregularities levelled against Lt-General Dimpane. _____ is fearing that due to Lt-General's Dimpane's acting appointment to head Support Services she will be involved in the signing of contracts.

A copy of the email is attached for ease of reference.

Evidence? : No
 Evidence Description :
 Evidence Forwarding :
 First Name :



Companion of Good Governments

CALL CASE REPORT



Surname

Telephone

Cellphone

Address

Suburb

Town

Postal Code

9920220831 1152-25

To : The SA Public Service Commission Attention Mr Mbuso
Per email to MbusoN @ opsc.gov.za

Good Day,

~~RE: ALLEGED GROSSLY IRREGULAR ACTING APPOINTMENTS TO NATIONAL SAPS~~
 MANAGEMENT

1. I have been referred to you by your colleague Ms H Sethole regarding alleged grossly irregular acting appointments made recently to national SAPS management, details of which follow.

2. Lt-General Dimpane, currently the Deputy National Commissioner, SAPS for Financial Services, has been appointed Acting Deputy National Commissioner, Support Services, in the place of Lt-General Vuma, who has been suspended.

1. Dimpane had formerly served in a financial management position in the Free State, and was appointed to her national position in 2018. There are fears that her acting appointment to head Support Services will facilitate the signing of the contracts

which, it is alleged, with benefit, among others, the Minister of Police. It is also highly irregular that Lt-General Dimpane could perform two highly demanding posts simultaneously, while there are other extremely competent managers to perform the functions of Lt-General Vuma. This is a clear indication that the concerns of are valid and Dimpane has only been appointed to sign irregular contracts.

3. General Mosikili has been appointed to act as Head of SAPS Visible Policing. She too was formerly in Visible Policing in the Free State, which has been very badly managed. Her promotions were extra-ordinarily fast tracked by the former National Commissioner Phahlane, who is currently facing serious

criminal charges, and whose assets have recently been seized by the Assets Forfeiture Unit. She was promoted from a Colonel to a Maj-General in a space of less than three years and it's not because she had the special skills or competence.

4. Major-General Lushaba has been appointed to the crucial Crime Intelligence component. He has apparently never worked in Crime Intelligence, having previously worked in Finance in the Free State. His career took off there, as a Colonel in the Finance Department. He does not have any basic policing experience, let alone any that would give him the type of skills to head Crime Intelligence nationally. He is the son of the former Provincial Commissioner of the Free State. It is abundantly clear from the events in KZN in July 2021, which spread to Gauteng, and the findings of the Zondo Commission, that any appointment to this key position must be made on the basis of proven competence in the field of Crime Intelligence as well as proven integrity, and failure to ensure this will threaten the stability of South Africa. He is also recently implicated in taking a prostitute to his house, who spiked his drink and robbed him of his personal belongings including his state telephone as well as the state laptop with crucial, sensitive information which could compromise the safety of the entire country. He then committed perjury by opening a false charge of house robbery. On arrival at the scene the investigator found contradicting evidence and opened a charge of defeating the ends of justice against Lushaba. The IO was removed from the case and charged with perjury. He did, however, obtain a statement from the suspect. This is the link to a story about him which appeared in the Sunday Independent on 29 August 2022 : <https://www.iol.co.za/sundayindependent/news/sex-worker-drugs-and-robs-senior-police-officer-43bcdd06-e3ad-434a-9ca7-04f0b88cb651>

5. The two other appointments are of a Lt General Fani as Divisional Commissioner Supply Chain Management, who replaces Major General Hankins, and Maj General Huma, who has been appointed as Executive Manager at the Office of the National Commissioner. I have no further background information about them, apart from Fani apparently having been at some stage in the Treasury.

6. The type of serious problems with police appointments and promotions referred to in the report of the Zondo Commission continue, and pose a risk to the stability of South Africa. The salaries and benefits attached to these

positions are also a drain on the SAPS budget at the expense of a greatly increased number of police members serving at junior levels, who are the foot soldiers in the fight against crime. It is thus absolutely crucial that all senior management appointments be independently investigated, as the recent example of Sibongiseni Thotsejane makes glaringly obvious. She was appointed to the position of Divisional Representative : Technology Management Services, as a Lt-General, having claimed to, among other things, have a doctorate, and to have been a professor. She then disappeared with a police BMW, having had some sort of advance payment, after failing to produce proof of her qualifications. Cases were opened, but there has been no update about whether any action taken.

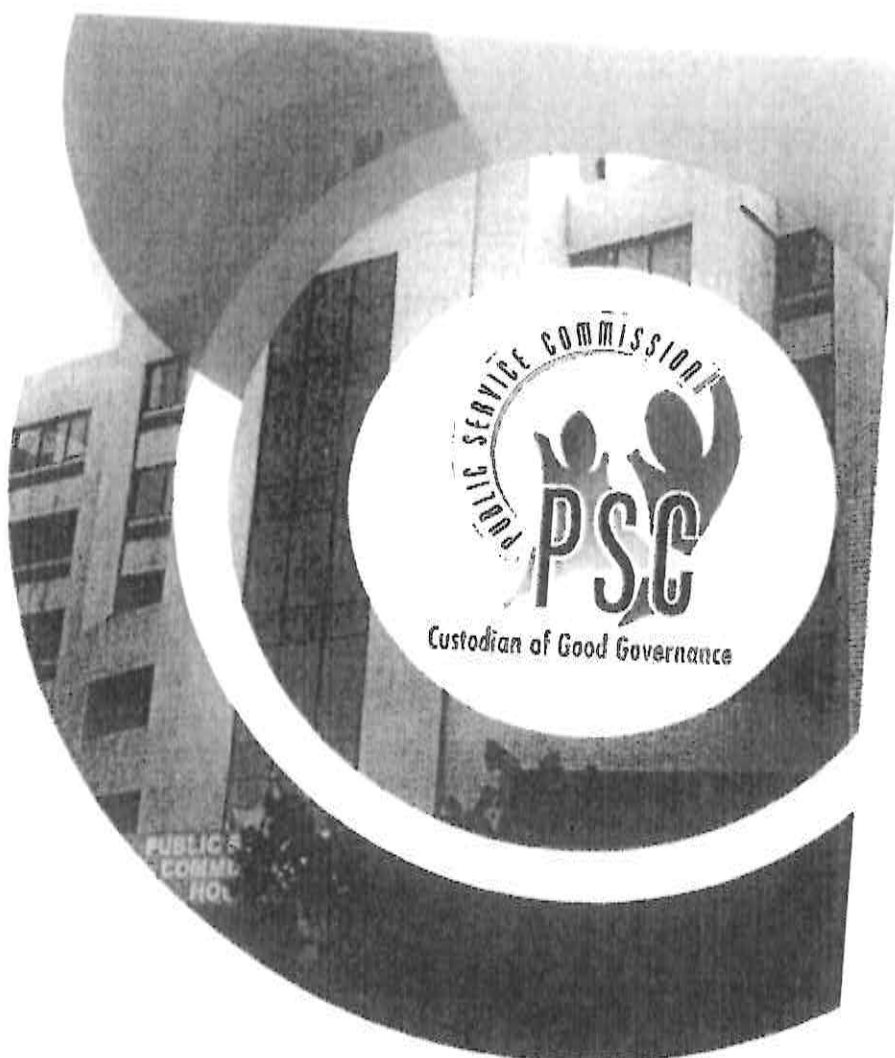
6.1. The matter of the alleged irregular appointment and unverified

qualifications of one of the most senior members of national management , Lt-General Ntshiea, was drawn to the attention of the Public Service Commission but, since this is an old matter, it is apparently outside of the scope of the PSC to investigate. It is, however, extremely serious because, apart from most of the post graduate qualifications listed in her staff file not having been verified, there is no record at all of her having a matric certificate, which should be on record. According to a source at the school, she is alleged to have committed fraud while working in an administrative capacity at a school in Welkom in the 1990s. As often happens, the alleged criminal record no longer exists. (this is a long-standing problem which I have personally encountered, including in respect of police members). She is alleged to be a Sotho national, and there is a need for her identity to be confirmed with the Department of Home Affairs. However, the investigator who received confirmation that there was no file for her at Home Affairs, was removed from the investigation and instructed never to contact Home Affairs again regarding Ntshiea's identity, and to hand over all the information she had gathered. Ntshiea is another very senior management member, who stands accused of corruption and perjury, whose rapid promotion was during the tenures of the current minister at National Commissioner, the politically-appointed Phiyega, and the criminally-charged Phahlane.

6.1. Since the PSC is unable to investigate the matter of Ntshiea, please advise who can be approached to take this investigation, especially relating to her identity and qualifications, further.

7. While the appointments detailed under 2, 3, 4 and 5 above were reported to me in July as Acting management positions, I am unsure about their current status. I wish to stress that those of Dimpane, Lushabe and Mosikili are directly related to the policing politics of the Free State which were firmly controlled by the former Premier, Ace Magashula, and the criminalisation of the governance, including police, in the province. That they have been promoted to national level, especially given the role of the RET political faction in the orchestrated violence and looting of July 2021, which the police failed, conspicuously, to deal with, which I, as an experienced researcher on violence and its link with policing in South Africa, believe poses a serious threat to the safety of all of us. If we are to avoid similar disruptions it is essential that we build a competent and apolitical police service.

8. I sincerely hope these investigations will be prioritised, and that the information I have provided will be of assistance to your office.



**FINAL REPORT OF THE PUBLIC SERVICE COMMISSION IN TERMS OF
SECTION 196 (4) OF THE CONSTITUTION OF THE REPUBLIC OF SOUTH
AFRICA, 1996**

***Final Investigation Report: Allegations of appointment irregularities at the
South African Police Service***

April 2024

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GLOSSARY OF TERMS

Abbreviations	Definition of term
AO	Accounting Officer
CV	Curriculum Vitae
DPSA	Department of Public Service and Administration
EA	Executive Authority
Gen	General
HRD	Human Resource Development
HRM	Human Resource Management
KPA	Key Performance Areas
Lt	Lieutenant
NQF	National Qualification Framework
PFMA	Public Finance Management Act, 1999
SAPS	South African Police Service
SCM	Supply Chain Management
SMS	Senior Management Service
PSA	Public Service Act, 1994
PSC	Public Service Commission
PSR	Public Service Regulations

1. INTRODUCTION

- 1.1 This is an investigation report of the Public Service Commission (PSC), issued in terms of section 196 (4)(f) of the Constitution of the Republic of South Africa, 1996 (the Constitution).
- 1.2 The report relates to an investigation conducted by the PSC into allegations of irregular appointments at the South African Police Service (SAPS).
- 1.3 In accordance with Rule 12 (1) (e) of the *Public Service Commission Rules on Conducting Investigations*¹, this report is submitted to the Minister of Police (Minister) for noting and implementation. The complainant was informed of the outcome of the investigation.

2. THE COMPLAINT

- 2.1 A complaint was lodged with the PSC regarding alleged appointment irregularities at the SAPS (Annexure A). The complainant alleges that -
 - 2.1.1 Lieutenant-General (Lt-Gen) Dimpene, currently the Deputy National Commissioner: Financial Services, has been appointed to act as Deputy National Commissioner: Support Services;
 - 2.1.2 there are fears that the acting appointment of Lt-Gen Dimpene to head the Support Services will facilitate the signing of fraudulent contracts;
 - 2.1.3 it is highly irregular for Lt-Gen Dimpene to perform the functions of two highly demanding posts simultaneously while there are other competent managers to perform the functions of the post;
 - 2.1.4 Lt-Gen Mosikili was irregularly appointed to act as Head of Visible Policing since she was formerly employed in Visible Policing: Free State which has been very badly managed;
 - 2.1.5 Major-Gen Lushaba has been appointed to the Crime Intelligence Component without relevant working experience since she has never worked in the Unit; and
 - 2.1.6 Lt-Gen Fani, Divisional Commissioner: Supply Chain Management (SCM), and Major-Gen Huma, Executive Manager: Office of the National Commissioner, were irregularly appointed to their respective positions.

3. POWERS AND JURISDICTION OF THE PSC TO INVESTIGATE

- 3.1 The PSC's powers and jurisdiction to conduct investigations is provided for in the Constitution, which provides as follows:
 - 3.1.1 Section 196 (2), *inter alia*, determines that the PSC must exercise its powers and functions in the interest of the maintenance of effective and efficient administration and a high standard of professional ethics in the Public Service.

¹ Published by Government Notice 2 of 2017 (Government Gazette No. 40552, dated 20 January 2017, available on the PSC's website at www.PSC.gov.za).

- 3.1.2 Section 196 (3) determines that other organs of state, through legislative and other measures, must assist and protect the PSC to ensure the independence, impartiality, dignity and effectiveness of the PSC. No person or organ of State may interfere with the functioning of the PSC.
- 3.1.3 In terms of section 196 (4) (f), the powers and functions of the PSC are, among others, –
"either of its own accord or on receipt of any complaint –
 (i) *to investigate and evaluate the application of personnel and public administration practices, and to report to the relevant executive authority and legislature;*
 (ii) *to investigate grievances of employees in the public service concerning official acts or omission, and recommend appropriate remedies;*
 (iii) *to monitor and investigate adherence to applicable procedures in the public service; and*
 (iv) *to advise national and provincial organs of state regarding personnel practices in the public service, including those relating to the recruitment, appointment, transfer, discharge and other aspects of the careers of employees in the public service".*
- 3.2 In terms of section 9 of the PSC Act, 1997, the PSC may inspect departments and other organizational components in the Public Service, and has access to, or may obtain such official documents and information as may be necessary for the performance of the functions of the PSC. Furthermore, section 10 (1) of the Act determines that *"The PSC may conduct an inquiry into any matter in respect of which it is authorized by the Constitution or the Public Service Act to perform any function".*
- 3.3 According to the provisions of section 7 of the Public Service Act, 1994 (PSA), the Public Service comprises of, amongst others, National Departments listed in Schedule 1 of the PSA. The SAPS is one of the National Departments listed in Schedule 1 of the Act, thereby falling within the ambit of the Constitutional mandate of the PSC.
4. **INVESTIGATION**
- 4.1 **INVESTIGATION METHODOLOGY AND PROCESS**
- 4.1.1 The Minister of Police (hereafter referred to as the Minister) was in a letter dated 18 October 2022, informed of the complaint and the investigation of the allegations (**Annexure B**).
- 4.1.2 In addition, the Minister was also requested to facilitate the availing of documents pertaining to the acting appointment of Lt-Gen Dimphe and Mosikili, and Major-Gen Lushaba as well as to the appointments of Lt-Gen Fani and Major-Gen Huma (**Annexures B1**).

4.1.3 The National Commissioner of the SAPS availed some of the requested supporting documents to the PSC. Documents received were analysed and further information was requested and some of the information provided by the SAPS.

4.1.4 During the analysis of the above-mentioned documents, the PSC determined that Lt-Gen Mosikili was not appointed to act as Head of Visible Policing as alleged (Annexure A1). Therefore, the matter was not investigated.

4.2 The investigation methodology followed by the PSC included allowing the complainant, an opportunity to provide comments on the SAPS's response pertaining to the allegations. However, at the time the Report was drafted the complainant indicated to the PSC that he is inundated with other tasks and as a result no response was provided.

5. ISSUES FOR DETERMINATION

5.1 The issues for determination by the PSC were whether –

5.1.1 Lt-Gen Dimpane was irregularly appointed to act as Deputy National Commissioner: Support Services;

5.1.2 Major-Gen Lushaba was irregularly appointed in the Division: Crime Intelligence;

5.1.3 Lt-Gen Fani was irregularly appointed to the post of Divisional Commissioner: SCM; and

5.1.4 Major-Gen Huma was irregularly appointed to the post of Executive Manager: Office of the National Commissioner².

6. REGULATORY FRAMEWORK AND ANALYSIS

6.1 APPLICABLE LEGAL PRESCRIPTS

6.1.1 Prescripts regulating appointments in the Public Service are contained in, amongst others, the PSA and the Public Service Regulations (PSR), 2016. These prescripts are supplemented by the SAPS Act and Employment Regulations, 2018, as well as the SAPS National Instruction, 2017, and the SAPS Delegations of Powers.

6.1.2 The above prescripts are reflected upon in the sections of the report dealing with the analysis of the information obtained.

6.2 ANALYSIS OF EVIDENCE: THE REGULARITY OF THE APPOINTMENT OF LT-GEN DIMPANE AS ACTING DEPUTY NATIONAL COMMISSIONER: SUPPORT SERVICES

6.2.1 The post of Deputy National Commissioner: Support Services became vacant in July 2022 due to the suspension of Lt-Gen FN Vuma (Annexure C).

² During the investigation it was determined that Major-Gen Huma was appointed to the post of Head: Executive Support and International Relations in the Office of the National Commissioner.

- 6.2.2 In this regard, the National Commissioner of the SAPS, Gen F Masemola, was in accordance with Regulation 44 (1) of the SAPS (alluded to in table 1 above), requested to approve the appointment of Lt-Gen Dimphe, Deputy National Commissioner: Finance Services, as the acting Deputy National Commissioner: Support Services until further notice (Annexure C1).
- 6.2.3 In terms of Regulation 63(1) of the PSR and the SAPS Regulation 44(3), an employee directed to perform other functions shall perform the functions so directed for a period not exceeding 12 consecutive calendar months.
- 6.2.4 The PSC noted during the investigation that the request by the SAPS to appoint Lt-Gen Dimphe as acting Deputy National Commissioner: Support Services until further notice was vague since a time frame (i.e. date) was not specified (Annexure C1).
- 6.2.5 Furthermore, Regulation 63 (2) of the PSR, stipulates that an employee directed to act in another post should have the necessary competency. In this regard, perusal of Lt-Gen Dimphe's CV indicated that she is in possession of an Honours Degree in Business Administration and a Bachelor of Commerce Degree and has more than ten years' work experience in the finance environment, internal audit included (Annexure C2).
- 6.2.6 In order to determine whether Lt-Gen Dimphe had the necessary competency to act as the Deputy National Commissioner: Support Service, the Key Performance Areas (KPA's) of the post of Deputy National Commissioner: Support Services was compared against the KPA's for the post occupied by her (i.e. Deputy National Commissioner: Financial Services). The outcome of this comparison is reflected below:

Table 1: Comparison of the KPA's for the post of Deputy National Commissioner: Support Services against the KPA's for the post of Deputy National Commissioner: Financial Services

KPA's for the post of Deputy National Commissioner: Support Services		
KPA's for the post of Deputy National Commissioner: Financial Services		
1.	Human Resource Management (HRM)	Management of Budgetary and expenditure processes of the Department
2.	Human Resource Development (HRD)	Management of financial compensation services in the Department
3.	Technology Management Services	Management of the internal control function in terms of the relevant prescripts
4.	Corporate Support Component	Serving on the following designated board or committee: • Board of trustees • Audit and Risk Committee • Investment Committee • Bid Adjudication Committee
5.	Ensure the achievement of strategic priorities as defined within the Annual Operational Plans (AOP) of relevant Divisions/Components	

	RPA for the post of Deputy National Commissioner: Support Services (Annexure C3)	RPA for the post of Deputy National Commissioner: Financial Services (Annexure C4)
6	Oversee the work of the following functional areas that report to the National Commissioner: • Division: Financial Services • Division: Inspectorate • Division: SCM • Component: Internal Audit • Component: Crime Register	

6.2.7 Based on the above, the PSC noted that –

- the post of Deputy National Commissioner: Support Services requires an official with vast experience in HRM, HRD, Technology Management and Corporate Support as well as overseeing, amongst others, the Divisions, Financial Services, Internal Audit and Supply Chain Management (Annexure C3);
- Lt-Gen Dimpane has vast experience in Finance and Internal Audit (Annexures C2 and C4); and
- given her qualifications, years' of experience and seniority of the post occupied by her, Lt-Gen Dimpane has in all probability the necessary competency for the post in which she was appointed to act.

6.2.8 The National Commissioner of the SAPS approved the above acting appointment on 13 July 2022, with the concurrence of the Minister (Annexure C1).

6.2.9 On 13 July 2022, Lt-Gen Dimpane was informed of her acting appointment (Annexure C5).

6.2.10 During the investigation by the PSC, the National Commissioner indicated that (Annexure A1) -

- the appointment of Lt-Gen Dimpane was effected in accordance with the regulatory prescripts;
- the mere fact that Lt-Gen Dimpane is performing the duties of two highly demanding posts does not constitute an irregularity; and
- there is a clear demarcation of functions and any fear that she will sign fraudulent contracts is unfounded.

6.3 ANALYSIS OF EVIDENCE: THE REGULARITY OF THE APPOINTMENT OF MAJOR-GEN LUSHABA AS ACTING DIVISIONAL COMMISSIONER: CRIME INTELLIGENCE

6.3.1 The post of Divisional Commissioner: Crime Intelligence became vacant on 01 October 2021 due to the resignation of the previous incumbent of the post on 30 September 2021 (Annexure D).

- 6.3.2 On 14 July 2022, the National Commissioner in accordance with Regulation 44 (1) of the SAPS Regulations, appointed the Head of the Secret Service Account in the Division Crime Intelligence, Major-Gen NP Lushaba, as the acting Divisional Commissioner: Crime Intelligence until further notice (Annexure D1).
- 6.3.3 The PSC noted during the investigation that the acting appointment of Major-Gen Lushaba until further notice was vague since no time frame (i.e. a date) was provided (Annexure D1).
- 6.3.4 Furthermore, Regulation 63 (2) of the PSR stipulates that an employee directed to act in another post should have the necessary competency. In this regard, perusal of Major-Gen's Curriculum Vitae (CV) indicated that he is in possession of a Masters Degree in Management, Post Graduate Diploma in Risk Management, Bachelor Degree of Business Administration and Bachelor of Commerce Degree and has more than 10 years' experience in the Finance and Internal Audit environments (Annexure D2).
- 6.3.5 The KPAs for the post of Divisional Commissioner: Crime Intelligence (Annexure D3) were to oversee the -
- a. efficient functioning of Intelligence Collection services;
 - b. Intelligence Analysis and Coordination services;
 - c. Operational Intelligence Support;
 - d. Secret Services Account;
 - e. Counter and Security Intelligence;
 - f. Intelligence Plan and Monitoring;
 - g. Support Service; and
 - h. Internal Audit.
- 6.3.6 During the investigation, the National Commissioner indicated to the PSC that (Annexure A1) -
- a. the Division: Crime Intelligence consists of several components, including the Secret Services Account, headed by Major-Gen Lushaba;
 - b. Major-Gen Lushaba possess the required skills, qualifications and experience to be appointed as Head of Secret Service Account;
 - c. it is common practice to appoint any section Head within any Division to act as Divisional Commissioner from time to time; and
 - d. the appointment of Major-Gen Lushaba was done in terms of relevant prescripts
- 6.3.7 Based on the above, the PSC noted that -
- a. the post of Divisional Commissioner: Crime Intelligence includes, amongst others, the overseeing of the Divisions, Internal Audit, Secret Service Account, Support Services, Operational Intelligence Support, etc; (Annexure D3);
 - b. Major-Gen Lushaba has vast experience in Finance and Internal Audit (Annexures D2); and

- c. given his qualifications, years' of experience and seniority of the post occupied by him, Major-Gen Lushaba has in all probability the necessary competency for the post in which he was appointed to act.

6.3.8 Major-General Lushaba was on 14 July 2022, informed of his acting appointment to the post of Divisional Commissioner: Crime Intelligence (Annexure D4).

6.4 ANALYSIS OF EVIDENCE: THE REGULARITY OF THE APPOINTMENT OF LT-GEN FANI TO THE POST OF DIVISIONAL COMMISSIONER: SUPPLY CHAIN MANAGEMENT

6.4.1 On 29 March 2022, the former National Commissioner, Gen KJ Sitole, approved that the funded and vacant post of Divisional Commissioner: SCM, be advertised internally and externally (Annexure E).

6.4.2 In accordance with the SAPS Regulation 46(3), specifying that vacant posts in the SMS must be advertised nationally, as a minimum, inside the Service, but may also be advertised (simultaneously) outside the Service, the post of Divisional Commissioner: SCM was advertised with a closing date of 28 April 2022. The inherent requirements of the post were reflected as follows (Annexure E1):

- a. Bachelor's Degree or Diploma on NQF level 6 or higher in Policing, Procurement Management, Financial Management, SCM, Business Management, Public Administration or related fields of study.
- b. An applicable training and development in an Executive Development Programme and/or Programme in Project Management will be an added advantage.
- c. Must have a minimum period of three years' appropriate managerial experience in the field of the post.
- d. Must be fluent in at least two of the official languages of which one must be English.
- e. Must have a valid motor vehicle driver's licence.

6.4.3 A total of 72 applications were received, including that of Mr Fani (Annexure E2).

6.4.4 On 17 May 2022, the following Selection Committee was duly constituted and appointed by the National Commissioner (with the concurrence of the Minister) in accordance with SAPS Regulations and SAPS Delegation (Annexure E3).

Table 2: Selection Committee for the post of Divisional Commissioner: SCM

Name	Position	Role
General SF Masemola	National Commissioner	Chairperson
Lt General FN Vuma	Deputy National Commissioner	Panel member
Lt General PP Dimpane	Deputy National Commissioner	Panel member
Lt General A Khan	Divisional Commissioner	Panel member
Mr S Mngomezulu	Deputy Director-General ³	Panel member

³ Representative from the National Treasury

- 6.4.5 Shortlisting was conducted on 13 June 2022 by the above Selection Committee members. Prior to shortlisting, Mr Mngomezulu declared that one of the applicants, Mr Fani was his colleague. The Panel indicated that the relationship is on a professional level and there is no conflict of interest (Annexure E4).
- 6.4.6 During shortlisting, the Panel agreed to use the criteria as per the advert (paragraph 6.4.2 above refers) and added the following criteria (Annexure E4):
- a. Wrong application used – A specific application form was developed for use when applying for posts during the April 2022 advertisement. The Panel decided to consider applicants who used the wrong forms.
 - b. Copy of drivers' licence not attached – "The Panel decided to consider applicants who did not attach a valid drivers' license due to the following reasons:
 - i. restrictions imposed during the Covid-19 pandemic, there was a grace period for motorist whose drivers license expired between 26 March 2020 to 31 August 2021 and had until 15 March 2022 to renew their license.
 - ii. There was a backlog due to the migration of the License Department.
 - c. Applicants to be requested to produce their driver's license, should they be shortlisted.
 - d. Copy of Identity document not attached – applications to be rejected.
 - e. Applicants on level 14 (Chief Directors) to be considered first, followed by applicants on level 13 (Directors).
- 6.4.7 As a result, five candidates were shortlisted, including Mr Fani (Annexure E4).
- 6.4.8 Perusal of Mr Fani's CV indicates that he is in possession of a Matric Certificate, a Master's Degree in Business Management, B-Tech Degree in Management, Honours Degree in Administration and a Diploma in Chemical Engineering as well as more than three years' relevant experience at the level of a Chief Director (Annexure E5).
- 6.4.9 The table below depicts the qualification and experience of Mr Fani against the advertised requirements and shortlisting criteria:

Table 3: Extent to which Mr Fani met the requirements of the post of Divisional Commissioner:
SCM

Advertised appointment requirements and shortlisting criteria (Annexures E1 and E4)	Qualification and experience (Annexure E5)	Requirement met (Y/N)
Bachelor's degree or Diploma on NQF level 6 or higher in Policing, Procurement Management, Financial Management, SCM, Business Management, Public Administration or related fields of study.	• Matric • Master's in Business Management • BTech in Management • Honours in Administration • Diploma in Chemical Engineering	Yes
Three years' appropriate managerial experience in the field of the post -	Three years' relevant experience at the level of a Chief Director	Yes

Appointment requirements and shortlisting criteria (Annexures E1 and E4)	Qualification and experience (Annexure E5)	Requirement met (Y/N)
Applicants on level 14, Chief Directors considered first.		
A valid motor vehicle driver's licence.	Yes	Yes
Must be fluent in at least two of the official languages of which one must be English.	Fluent in English, Sesotho and Afrikaans	Yes
Copy of Identity document attached.	Copy attached	Yes

- 6.4.10 On 24 June 2022, the Selection Committee conducted interviews with the shortlisted candidates and Mr Fani was recommended as the best suitable candidate for the post (Annexure E6).
- 6.4.11 On 30 June 2022, the National Commissioner, with concurrence from the Minister, approved the appointment of Mr Fani to the post of Divisional Commissioner: SCM (Annexure E7).
- 6.4.12 Lt-Gen Fani was in a letter dated 11 July 2022 informed of his appointment to the post of Divisional Commissioner: SCM (Annexure E8) and he subsequently accepted his appointment on 12 July 2022 (Annexure E9).
- 6.4.13 The PSC noted during the investigation that during the filling of the post, the National Commissioner -
- appointed himself as the Chairperson of the panel (Annexure E3);
 - shortlisted, interviewed and recommended the appointment of the successful candidate (Annexures E4 and E6); and
 - approved the appointment of the successful candidate (Annexure E7).
- 6.4.14 Upon raising the issue with the National Commissioner he indicated that (Annexure A2) -
- "SAPS Employment Regulations, 2018, further prescribes that the Chairperson of the relevant selection committee must be approved in consultation with the Minister of Police and from the documents provided to your good Office, it is clear that this condition was complied with, and that the Minister concurred accordingly with the appointment of the selection panel and the Chairperson of such a panel;
 - appointment of Lt Gen Fani was also approved in consultation with the Minister as required by the SAPS Employment Regulations, 2018. It is evident that the relevant legislative and regulatory requirements were met;
 - SAPS Employment Regulations, 2018, prescribes that the National Commissioner may, in consultation with the Minister of Police, approve such appointment/promotion; and
 - National Commissioner, in terms of section 207(2) of the Constitution of South Africa, 1996 is responsible to manage and control the Police service in accordance to the directions of the Minister of Police".

6.4.15 Having considered the above response from the National Commissioner, the PSC is of the view that –

- a) Separation of duties is a critical requirement for effective internal control because it reduces the risk of both erroneous and inappropriate actions⁴. All units in an institution should attempt to separate functional responsibilities to ensure that errors, intentional or unintentional, cannot be made without being discovered by another person;
- b) the action of the National Commissioner goes against the logic of segregation of duties⁵ and made it impossible for any oversight to be exercised over the recruitment process, as there was no segregation of duties; and
- c) the National Commissioner should not have approved the appointment of the successful candidate since he formed part of the Panel that shortlisted, interviewed and recommended the appointment of the successful candidate (Annexures E3 and E7).

6.5 ANALYSIS OF EVIDENCE: THE REGULARITY OF THE APPOINTMENT OF MAJOR-GEN HUMA TO THE POST OF HEAD: EXECUTIVE SUPPORT AND INTERNATIONAL RELATIONS

6.5.1 During the investigation, the PSC determined that Major-Gen Huma⁶ was appointed to the post of Head: Executive Support and International Relations in terms of Regulation 47(1)(n) of the SAPS Employment Regulations (Annexure A1) stipulating the following:

- a. The National Commissioner may, upon written motivation and in consultation with the Minister, promote an employee into a post without advertising the post, and without following the selection process, if –
 - i. the National Commissioner is satisfied that the employee qualifies in all respects for the post;
 - ii. there are exceptional circumstances that warrant the deviation and such deviation is in the interest of the Service;
 - iii. such promotion has been recommended by the Minister for outstanding performance; and
 - iv. the National Commissioner has recorded the reasons for the deviation in writing.

⁴ <https://www.fsu.edu/directives/separation-of-duties-overview/>

⁵ According to Wikipedia, "separation of duties, also known as segregation of duties is the concept of having more than one person required to complete a task. It is an administrative control used by organisations to prevent fraud, sabotage, theft, misuse of information, and other security compromises".

⁶ Note was taken thereof that Major-Gen Huma's surname changed to Sebola. However, the PSC opted to use the surname Huma as it was the surname used during the filling of the post.

- 6.5.2 Major-Gen Huma was in a letter dated 29 June 2022 Informed of her appointment (in accordance with the above-mentioned provisions) to the post of Head: Executive Support and International Relations, and subsequently accepted her appointment on 05 July 2022 (Annexure F).
- 6.5.3 In order to determine whether Major-Gen Huma met the requirements of the post, the PSC compared the Job Description (JD) for the post of Head: Executive Support and International Relations (Annexures F1) against the qualifications and experience of Major-Gen Huma as per her Curriculum Vitae (CV) - Annexures F2).
- 6.5.4 Perusal of Major-Gen Huma's CV indicates that she (Annexure F2) –
- a) has a Matric Certificate, Post graduate Diploma: Compliance⁷, National Diploma: Internal Auditing and Diploma: Municipal Governance⁸;
 - b) attended, amongst others, training in Public Management, Executive Development Learning Programme, Project Management, Conflict Management etc.; and
 - c) has more than 10 years' managerial experience (i.e. nine 9 years' experience in internal Audit and Inspections).
- 6.5.5 According to the JD for the post, the appointment requirements for the post are as follows (Annexures F1):
- a) Grade 12.
 - b) An appropriate National Diploma (NQF Level 6) or equivalent.
 - c) Prescribed managerial experience at relevant level.
 - d) A valid motor vehicle driver's license.
- 6.5.6 In comparing Major-Gen Huma's qualifications above with the appointment requirements of the post as per the JD, the PSC found the relevancy of Major-Gen Huma's qualifications in relation to the post to be questionable.
- 6.5.7 Upon raising the relevancy of the qualifications with the National Commissioner, he indicated that (Annexures A1 and A2) –
- a. "Major-Gen Huma was appointed in terms of the provisions of Regulation 47(1)(n) of the SAPS Regulation;
 - b. the relevant prescripts were complied with during the appointment;
 - c. the post of Head: Executive Support and International Relations is a newly created post (i.e. it had no previous incumbent). The job content consists inter alia, administrative, secretarial and general support (including financial and supply chain) functions. Major-General Sebola (Huma) is in possession of a Diploma in Municipal Administration, a National Diploma in Internal Auditing

⁷ According to South African Qualifications Authority (SAQA) the qualification is registered as a Post Graduate Diploma: Legal Principles Compliance.

⁸ According to SAQA the qualification in Municipal Governance is not registered in the National Qualifications Framework (NQF) and therefore does not hold an NQF Level.

and Post Graduate Diploma in Compliance (inclusive of interpretation of statutes). The Officer also underwent training/development in, amongst other, the following:

- (i) SAPS Lateral Entry Programme
 - (ii) Public Management Training
 - (iii) Executive Development Learning Programme (EDLP)
 - (iv) Conflict Management
 - (v) Project Management
 - (vi) Effective Report writing
 - (vii) Executive Leadership
 - (viii) Teammate, Team Asset
 - (ix) Supervising Internal Audit Projects
- d. The Officer's qualifications and training are regarded as relevant to the post she has been appointed to, which functions include but limited to, advising the National Commissioner on governance related issues".

6.5.8 Having considered the above response from the National Commissioner, the PSC is of the view that as –

- a) Major-Gen Huma was subjected to a number of trainings that will enable her to perform the functions of the post effectively; and
- b) the JD for the post is not specific in terms of qualification, the SAPS should revise the JD to include specific and appropriate qualifications (e.g. Diploma in Public Administration) because when JDs are vague, it poses the risk of –
 - (i) advertising posts with qualifications that are inappropriate and appointing inexperienced as well as non-qualifying candidates; and
 - (ii) adverts being customised to suit specific candidates qualifications.

6.5.9 The National Commissioner did not provide the PSC with the following documents pertaining to the appointment of Major-Gen Huma, which are required when an official is appointed in terms of Regulation 47(1)(n) of the SAPS Employment Regulation:

- a) Approval of the motivation for the appointment of Major-Gen Huma to the post of Executive Support and Administration.
- b) Recommendation by the Minister for outstanding performance.
- c) Proof of reasons for the deviation, recorded by the National Commissioner in writing.

6.5.10 Failure to comply with the afore-stated requirements renders the appointment to be irregular. The view is based on the fact that the SAPS deviated from the normal recruitment and selection process when Major-Gen Huma was promoted to the post whilst, in terms of Regulation 47(1)(n) of the SAPS Employment Regulation, the appointment should be supported by the above mentioned documents which the SAPS failed to provide to the PSC.

6.5.11 Given the absence of the above mentioned documents, and in view of the fact that one of the criteria to appoint Major-Gen Huma was based on a recommendation for outstanding performance by the Minister, the PSC analysed Major-Gen Huma's performance assessment for the financial years 2019/2020 (Annexure F3) and 2020/2021 (Annexure F4). The PSC noted that for the financial year –

- a) 2019/2020, Major-Gen Huma was awarded a score of 4, which translated "above satisfactory performance" (Annexure F3); and
- b) 2020/2021, Major-Gen Huma was awarded a score of 3, which translated "meets satisfactory performance" (Annexure F4).

6.5.12 Analysis of the above performance assessment scores of Major-Gen Huma shows a decline in her performance from a score of 4 in the 2019/2020 financial year to a score of 3 in 2020/2021 (Annexures F3 and F4). Based on Major-Gen Huma's scores, her performance cannot be considered to be outstanding, in view of the fact that according to the SAPS SMS Rating scales (Annexure F5) –

- a) a score of 5 is considered to be of exceptional performance; and
- b) an exceptional performance is achieved when the expected standards related to achievement of the stated target were exceeded in all instances.

6.5.13 The National Commissioner nevertheless indicated to the PSC that Major-Gen Huma has a wealth of experience as an Internal Auditor in the Private Sector as well as the Public Service, and prior to her promotion she served as the Provincial Head: Inspectorate, Limpopo on a Senior Management level, in which post she gained extensive appropriate managerial experience (Annexure A2).

6.5.14 In view of the above, the PSC finds the appointment of Major-Gen Huma to be irregular, based thereon that –

- a) no proof exists that Major-Gen Huma was appointed in terms of the provisions of Regulation 47(1)(n) of the SAPS Employment Regulations; and
- b) the performance of Major-Gen Huma did not meet the requirements for outstanding performance in terms of the SAPS SMS Rating Scale.

6.5.15 In view of the above, the appointment of Major-Gen Huma was not in compliance with the following Constitutional Values and Principles enshrined in section 195 (1) of the Constitution:

- a) Promotion and maintenance of a high standard of professional ethics.
- b) Cultivation of good human-resource management.

7. FINDINGS

7.1 The PSC found the following:

- 7.1.1 The appointment of Lt-Gen Dimpane as the acting Deputy National Commissioner: Support Services was effected in accordance with the regulatory framework and the allegation that she was irregularly appointed to act is **unsubstantiated**.
- 7.1.2 The appointment of Major-Gen Lushaba as the acting Divisional Commissioner: Crime was effected in accordance with the regulatory framework and the allegation that he was irregularly appointed to act is **unsubstantiated**.
- 7.1.3 The appointment of Lt-Gen as the Divisional Commissioner: SCM was effected in accordance with the regulatory framework and the allegation that he was irregularly appointed is **unsubstantiated**.
- 7.1.4 The alleged irregular appointment of Major-Gen Huma was found to be **substantiated** based thereon that –
 - a) no proof exists that Major-Gen Huma was appointed in terms of the provisions of Regulation 47(1)(n) of the SAPS Employment Regulations; and
 - b) the performance of Major-Gen Huma did not meet the requirements for outstanding performance in terms of the SAPS SMS Rating Scale.

8. RECOMMENDATIONS

8.1 The PSC recommends that the Minister facilitates that -

- 8.1.1 **corrective action be taken** in terms of the Disciplinary Code and Procedures for members of the SMS against the officials involved in the appointment of Major-Gen Huma for incorrectly appointing her to the post of Head: Executive Support and International Relations although–
 - a) no proof exists that Major-Gen Huma was appointed in terms of the provisions of Regulation 47(1)(n) of the SAPS Employment Regulation; and
 - b) the performance of Major-Gen Huma did not meet the requirements for outstanding performance in terms of the SAPS SMS Rating Scale.
- 8.1.2 the irregular appointment of Major-Gen Huma to the post of Head: Executive Support and International Relations be rectified by complying with section 5(7)(a) of the *Public Service Act, 1994*, stipulating that "A functionary shall correct any action or omission purportedly made in terms of this Act by that functionary, if the action or omission was based on an error of fact or law or fraud and it is in the public interest to correct the action or omission". In giving effect to the direction, attention is drawn to *Khumalo and Another v Member of the Executive Council for Education: KwaZulu Natal* [2013] ZACC 49; 2014 (3) BCLR 333 (CC); (2014) 35 ILJ 613 (CC) (18 December 2013), where the Court in relation to section 5(7)(a) of the *Public Service Act, 1994*, viewed functionaries as being not only entitled but duty bound to seek the redress of an irregularity in a court of law without delay; and

8.1.3 corrective action be taken in terms of the Disciplinary Code and Procedures for members of the SMS against the SAPS officials responsible for record keeping for failing to adhere to section 11 of the Archive act, section 38 of the PFMA and PSR 70 since there is no documentary proof that Major-Gen Huma's appointment to the post of Head: Executive Support and International Relations in the Office of the National Commissioner was made in terms of Regulation 47(1)(n) of the SAPS Employment Regulations.

8.2 The Minister should report to the PSC in accordance with section 5(8)(b) of the PSA within 60 days on progress with the implementation of the recommendation made by the PSC.

9. ADVICE

9.1 The PSC noted during the investigation that the –

9.1.1 acting appointment of Lt-Gen Dimpane and Major-Gen Lushaba was vague since no time frame was provided (it was merely indicated that the appointments were "until further notice"); and

9.1.2 JDs for the following posts was not specific in terms of qualification and work experience:

- a. Deputy National Commissioner: Support Services.
- b. Deputy National Commissioner: Financial Services.
- c. Head: Executive Staff Support and International Relations.
- d. Divisional Commissioner: Crime Intelligence.

9.2 In this regard, the PSC advises in terms of section 196 (4) (f) (iv) of the Constitution that -

9.2.1 when officials are appointed to act in posts, a specified time frame be provided (for example, three months) in order to adhere to the SAPS Regulation 44; and

9.2.2 the JDs for posts in paragraph (9.1.2 above) be revised to include an appropriate and specific qualification (for example a Bachelor Degree in Law (NQF7) and work experience to reflect the appropriate experience (for example five years' work experience at the level of Brigadier in the Finance environment).

10. MONITORING

10.1 The Minister is requested to report to the PSC within 60 days of receipt of the final report on progress with the implementation of the recommendations made by the PSC in the Final Report.

10.2 In the event that no feedback is received, the matter will be reported to the National Assembly in accordance with section 196(6)(a) of the *Constitution of the Republic of South Africa, 1996*.

11. SIGNATURE

Signed on behalf of the PSC by

	Date	Signature
PROF M MAKHANYA COMMISSIONER		03/04/2024

12. LIST OF ANNEXURES

Tag No	Description
A	National Anti-Corruption Hotline Call Case No: 9920220831115225
A1	Response from the South African Police Services: Complaint Lodged with the Public Service Commission: National Anti-Corruption Hotline, reference number: 99920220831115225
A2	Letter from the National Commissioner of the South African Police Service, General F Masemola: Request for comments on the Public Service Commission finding pertaining to an investigation into the alleged appointment irregularities at the Department of Public Service and Administration: National Anti-Corruption Hotline reference number: 9920220831115225
B	Letter dated 10 October 2022, addressed to the Minister of Police
B1	Request for documentation: Investigation by the Public Service Commission into alleged appointment irregularities
C	Email dated 03 February 2023: Request for information: Response from the South African Police Service
C1	Appointment to act in the post of Deputy National Commissioner: Support Services: 2160999-3 Lieutenant General PP Dimpane
C2	Curriculum Vitae of Lieutenant-General PP Dimpane
C3	Performance agreement of Lt-Gen FN Vuma: Deputy National Commissioner: Support Services and Job Description for the post of Deputy National Commissioner: Support Services
C4	Performance agreement of Lt-Gen PP Dimpane : Deputy National Commissioner: Support Services
C5	Acting appointment letter addressed to Lieutenant-General Dimpane, acting Deputy National Commissioner: Support Services
D	Email dated 03 February 2023: Request for information: Response from the South African Police Service
D1	Certificate of acting appointment by the Office of the National Commissioner, addressed to Major-Gen NP Lushaba, acting Divisional Commissioner: Crime Intelligence and Certificate of Acceptance
D2	Curriculum Vitae of Major-General Lushaba
D3	Job Description for the post of Divisional Commissioner: Crime Intelligence
E	Request for the advertisement of posts in Senior Management Services: South African Police Service: April 2022

File No	Description
E1	Advertisement for the post of Divisional Commissioner: Supply Chain Management
E2	Master list: Post: 22/04/3313: Divisional Commissioner SCM
E3	Approval of selection panel: Senior Management Service: South African Police Service: Divisional Commissioner: Supply Chain Management
E4	Recordings of shortlist for post number:22/04/3313: Divisional Commissioner: Supply Chain Management, held on 13 June 2022
E5	South African Police Service application form: Mr MI Fani
E6	Recordings of assessment for post number:22/04/3313: Divisional Commissioner: Supply Chain Management, at the level of Lieutenant-General
E7	Filling of the post of Divisional Commissioner: Supply Chain Management, July 2022
E8	Letter addressed to the successful candidate: Mr Fani
E9	Acceptance of offer letters for Mr Masikane
F	Appointment letter addressed to Brigadier FM Huma: Promotion to the rank of Major-General
F1	Job description for the post of Head: Executive Staff Support and Administration
F2	Curriculum Vitae of Major-Gen Huma
F3	Performance Assessments for Major-Gen Huma for 2019/2020 Financial year
F4	Performance Assessments for Major-Gen Huma for 2020/2021 Financial year
F5	South African Police Services Senior Management Services Rating scales