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Zondo commission - Daniels: Koko was Gupta enabler at Eskom

It was through Matshela Koko that former Eskom company secretary and later head of legal Suzanne Daniels first met Gupta associate Salim Essa in 2015. She had several encounters with him, at one of which she met Ajay Gupta, while at another she was offered a bribe of R800-million. Daniels testified before the commission of inquiry into state capture on Tuesday.

At their first encounter in March 2015, Essa allegedly told Daniels of the imminent suspensions of four executives at the power utility, including then CEO Tshediso Matona and Koko, and asked her how this could be executed.

Koko was the acting head of technology and commercial at the time and, according to Daniels, her *de facto* boss. Daniels received a call from Koko to meet her at a Melrose Arch, Johannesburg, restaurant and when Koko arrived, he and Daniels walked together across the road to an office building. Once they were in one of the offices, Essa walked in.

He introduced himself to Daniels as the advisor to then public enterprises minister Lynne Brown, while a relaxed-looking Koko sat close by. Essa asked Daniels for advice on how the suspensions of the four – Matona, Koko, head of capital projects Dan Marokane, financial director Tsholofelo Molefe – could be carried out in a way that would not have ramifications.

“At this point I look at Matshela Koko because he’s sitting in the room, but he’s acting unfazed by this revelation,” Daniels said of her reaction. Koko would later “act shocked” at the board’s decision to suspend him, but Daniels believes he was in on the act so as to help create a smoke screen.

“I said to him this is not possible, there would have to be reasons for suspending people. You can’t just suspend them without reason.” Essa then revealed to Daniels that there would be an inquiry into Eskom’s affairs and those earmarked for suspension would not return. When he realised that she was not be useful for the purpose he was seeking – that of legal advice – Essa ended the meeting. Koko walked Daniels out and then went back in.

Unconvinced, commission chairperson Deputy Chief Justice Raymond Zondo questioned Daniels on why she would go meet Koko at Melrose Arch if she did not know what would transpire.

He put a proposition to her that it was highly likely that the two men trusted her enough to invite her to such a meeting, or that she was complicit in the events being discussed. “Why did they call you and no-one else?”

“That issue has always been in my mind. I’ve been privy to some of these discussions and my testimony later will tell you. It just appears that they did not really think that people would speak out about what had happened,” Daniels replied.

“I cannot give you a reason for why they would trust me. I sometimes felt like a useful functionary, just part of the background.”

Evidence leader Advocate Pule Seleka took it further to quote Koko’s version, provided through an affidavit to the commission, in which he denies that the meeting with Essa took place, and only acknowledges that he and Daniels met at Melrose Arch and parted ways at the restaurant. “With respect Mr Chair, Matshela Koko is lying,” said Daniels.

But despite Daniels’s assertion, Zondo struggled with her revelation of further conversations with Essa. Daniels testified that in July 2017, two years after the Melrose Arch meeting, she received a call from Essa, who invited her for coffee at the African Pride Hotel near Melrose Arch. At this point Koko was under suspension pending an investigation into a tender irregularity, and Matona’s successor Brian Molefe had just been dismissed in June.

Once Daniels arrived, the two of them walked to an apartment complex nearby, instead of sitting for coffee.

According to Daniels, she only realised upon entering the premises that it was a home and not an office as in the previous encounter. At the apartment were Ajay Gupta, Duduzane Zuma and then deputy public enterprises minister Ben Martins, said Daniels. Essa wanted Daniels to relay advice to those present on how the matter of Brian Molefe’s pension fund could be resolved. At the time of the meeting, Molefe had taken the Eskom to court in order to have his dismissal declared unlawful. His dismissal had happened soon after re-appointment to the post, from which he had first resigned in late 2016 after former public protector Thuli Madonsela’s probe into state of capture.

At stake was an amount of about R30-million, which Molefe was entitled to, he argued at the time. Daniels clarified her response when Essa gestured for her to explain Eskom’s stance on the Molefe matter. “I said we are going to the deputy judge president's office next month, and we would be discussing the management of the case. Mr Gupta then responded to the people in the room, saying we would need to find someone in the deputy judge president’s office to move this case out.

“He said this matter would be easy to deal with when Nkosazana Dlamini-Zuma comes into power, and I realised at that moment that whatever scepticism I had about the Guptas' influence, I did not need any more evidence.” Dlamini-Zuma was at the time one of the front runners – along with President Cyril Ramaphosa – for the top ANC post. The party’s elective conference was to take place in Nasrec in December of that year.

Daniels is of the view that the 2015 suspensions, which were effected on Matona and Koko, were to make way for Molefe and Anoj Singh. Both came from Transnet, where the latter had held the CFO position, which he retained at Eskom. Further evidence of this, she added, was that the other two – Dan Marokane and Tsholofelo Molefe - were not given room by the board to negotiate a return to their positions, while Koko was treated differently, and was even asked by board member Venete Klein if he trusted the board enough to return to Eskom.

Koko was acting CEO after Molefe’s first departure, when the former was suspended for a second time. It was during this time that Daniels said she had a chance encounter with Essa at a filling station. He asked her what could be done to help Koko get his job back, and when Daniels said nothing, Essa offered her R800-million if she could make it happen, she said.

Daniels held several positions at the power utility before her dismissal in 2017, when she was the head of legal services. She is expected to return at a later date to give evidence on other Eskom matters that were not covered on Tuesday.

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