



**11 November 2020**

### **Zondo commission – Koko favoured by biased board, says Daniels**

While former Eskom CEO Tshediso Matona fought his suspension from the power utility in early 2015 through the courts, the board was preparing for his exit and to negotiate a settlement with him.

This was revealed by former head of legal at Eskom, Suzanne Daniels, before the commission of inquiry into state capture on Wednesday. The fate of Matona and three other executives who were suspended on 11 March by the newly appointed board was sealed, even before an inquiry was instituted to support the suspensions.

The other executives were financial director Tsholofelo Molefe, capital projects head Dan Marokane, and technology and commercial head Matshela Koko. Each had been called into a board meeting on the fateful day and told that the board was to establish an inquiry into Eskom's performance under their leadership. To ensure a smooth process, the four were being asked to step aside.

Matona immediately sought legal action, while Molefe and Marokane engaged their lawyers for advice.

Daniels said a board meeting on 23 April discussed the approach to be taken in parting ways with the four. She attended it in her new capacity as company secretary. A delegation was appointed from among the members present, and they were tasked with negotiating with each executive to accept a settlement offer from Eskom. Venete Klein, Zethembe Khoza and Romeo Kumalo made up the delegation.

The move was surprising, as the executives had been repeatedly writing to the board to enquire on progress of the inquiry, expressing a wish to give input, always with the intention of returning to their posts, Molefe, Marokane and Matona have testified. According to Daniels, it was clear that the board had other ideas.

Once all four agreed to meet with the negotiations team two months after their suspensions, separate settlement negotiations got underway. But Daniels noticed a difference in Koko's meeting, compared to those of the others.

Unlike the others, Koko was asked to present his case to the board members, and it was in this presentation that his now famously quoted words "Eskom is in my veins" were first uttered. According to Daniels, Koko also told them, when asked if he could work with the board again, given that it had just suspended him, that he had horror stories about then chairperson Zola Tsotsi.

Evidence leader Pule Seleka put to Daniels that Koko has disputed her account in his affidavit, saying this was not factually true. Daniels told the commission that she took notes of the discussions in each meeting, but did not share these with the interim board chairperson Ben Ngubane, who replaced Tsotsi while the latter was himself on suspension over his conduct in the period around the executives' suspensions.

Daniels re-iterated a previous point that of the four, it was only Koko who had expectations of returning. This she was first told in a meeting on 10 March with Gupta associate Salim Essa in Melrose Arch. Koko had tricked her into attending the meeting by calling her to meet him at a restaurant there, only for him to lead her to an office close by, where Essa joined them. While Koko sat across the room from them, Essa told Daniels of the impending suspensions and asked her for legal advice on the best way to execute them without any legal ramifications coming back to haunt Eskom. Essa had told her on her arrival that he was an advisor to then public enterprises minister Lynne Brown.

This too was disputed by Koko, who acknowledged that the meeting did happen in Melrose Arch, but that he had called her there to get advice on a threat communicated to him by Tsotsi that unless he reversed the suspension of a manager under his division, he would suspend him and Matona.

“At no stage on 10 March 2015 did Mr Koko ever mention the matter of Mr Matona in the context of a threat from Mr Tsotsi. The only conversation I had was in his presence when Mr Essa told me that Mr Matona would be one of the four executives suspended,” said Daniels.

Koko was indeed the only one allowed back to Eskom, while the other three settled. When he was once again suspended in 2017 on an unrelated charge, Daniels had what she described as a chance encounter with Essa, at a filling station near Eskom’s head office, and Essa offered her a bribe of R800-million if she could make Koko’s suspension go away.

This was just after a board meeting that had discussed Koko’s fate, where Daniels said she had suggested the board seek legal advice on a forensic report that had exonerated Koko on the charges that he faced. The advice indeed poked holes in the report, said Daniels.

“I felt that the report did not sufficiently interrogate the evidence that was collected. Both the legal firm and the auditing firm took statements from the various witnesses, but did not really interrogate them to the degree that one would have expected. My recommendation was that the board not just accept it at face value but actually get a counsel’s view on where the gaps were in the report.”

But she was startled when Essa was able to repeat to her what she had said in the meeting, and challenged her views on Koko.

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