

Dr Bismark Tyobeka vs. Mail & Guardian

Ruling by the Press Ombudsman

23 March 2015

This ruling is based on the written submissions of Dr Bismark Tyobeka and those of Lionel Faull, reporter at the M&G's Centre for Investigative Journalism.

Complaint

The CEO of the National Nuclear Regulator in South Africa (NNR), Dr Bismark Tyobeka, is complaining about an article in the Mail & Guardian newspaper of 6 March 2015, headlined *Jobs for pals at state nuclear firm*.

He complains that the article falsely claimed that:

- a new position had been created for his wife, Mrs Ngeniswa Tyobeka, at the SA Nuclear Energy Corporation (Necsa), a licensed entity regulated by the NNR – insinuating that he had used his influence to effect her appointment;
- her job title was that of human resources officer;
- the finalization of the recruitment process had been delayed because it had to wait for Mr Xolisa Mabhongo (the corporate services divisional executive of Necsa) to be on board;
- his wife's salary was R490 000 per annum;
- his family and that of Mabhongo were friends, speculating that Mabhongo had been involved in the creation of the position; and
- his wife's appointment constituted a conflict of interest.

He adds that the journalist made no serious effort to verify the facts, and ignored Necsa's and his explanations.

Tyobeka concludes that the article has:

- impugned his good name as an expert and senior executive in nuclear power and nuclear safety matters; and
- created an impression that his wife was a lazy and clueless person who was riding on the crest of his power and position.

The text

The article, written by Faull, said that Necsa had created a job for Tyobeka's wife. This reportedly came amid serious financial problems at Necsa. Faull added that the position was facilitated by Mr Xolisa Mabhongo, a former SA ambassador in Austria, ostensibly because he

was a good friend of the Tyobekas (the friendship between the families had started in Vienna). The article reported that the job in question had been an HR Officer position in the Corporate Services Division at Necsa and that it had carried a salary of R490 000 per annum. The report also claimed that the employment of Tyobeka's wife created a conflict of interest in that it placed him in a difficult situation if he had to make tough decisions against Necsa.

Analysis

False claims: A new position for Mrs Tyobeka

The article quotes an unnamed whistle-blower who reportedly said that Mrs Tyobeka's appointment was "just one example of a position that 'did not exist on the approved Necsa organizational structure'."

Tyobeka complains it is not true that:

- a specific position was created for his wife; and
- he used his position to have a job created for her, "as suggested by the report".

He says that his wife responded to an advertised position of Manager: HR Services and was interviewed on 14 November 2013. "[M]ost likely the position was advertised around September of 2013. It is important to note that at that time, I had not yet assumed my position at the NNR as CEO, I started there on 07th October 2013! It is also clear that this position of HR Manager existed before and the previous occupant vacated it, hence the vacancy."

Tyobeka says his wife had been interviewed for this position, but she was unsuccessful. She then applied for another position, namely that of Junior HR Business Partner at Necsa (advertised in December 2013, with a closing date of 17 January 2014).

Faull quotes his article as follows: "Ngeniswa Tyobeka's appointment is just one example of a position that 'did not exist on the approved Necsa organisational structure', a Necsa whistle-blower says. It was 'unbudgeted and unfunded, which translates into [an] irregular appointment and unauthorised expenditure'."

He says this claim was put to Necsa, and it was not refuted by them. Instead, the organisation said: "The Necsa Executive Committee started a process of aligning the organisational structure with the strategy approved by the Board. This has entailed the alignment of existing departmental structures, moving functions around as well as the creation of new positions including in support functions." The reporter adds the story quoted the whistle-blower's claim that Necsa's divisional executives (which includes Mabhongo) are "restructuring their divisions with the primary objective to create new posts, which are normally then filled by cronies".

Faull states: "Perhaps the article should have made it clearer that the Ngeniswa Tyobeka case is just one of at least five examples at Necsa that the whistleblower had brought to our attention of divisional executives creating new positions and then filling them with alleged cronies."

However, he says the M&G believed that the public interest threshold was highest in Tyobeka's case, given her husband's crucial position at the regulator.

Faull adds the statement that the position was created amid serious financial problems at Necsa was correct. "This claim was [also] put to Necsa and was [also] not refuted. Necsa subsequently admitted its financial travails in a Sunday Times article."

The reporter claims the information Tyobeka provided via the archive link (regarding the dates of the relevant vacancy advertisements) was not readily accessible. "However, the 2014-01-09 date in the URL suggests that the job was advertised on January 9, and not in December. But in any case, the story makes no claim that the position was not advertised – only that the whistle-blower claimed it was one of several that 'did not [previously] exist'."

He argues that proof that a job was advertised does not, on its own, refute the whistle blower's allegation that it did not previously exist.

Faull says it is irrelevant when Mrs Tyobeka first applied for another position at Necsa, or whether that job was an existing one. "We made no allegations relating to the earlier job. It is common cause from Dr Tyobeka and Necsa's responses that she did not get this position. The position that matters is the one she got, and (in contrast to the first position) Dr Tyobeka (twice now) and Necsa do not explicitly deny that this position was created and/or did not previously exist."

Regarding Tyobeka's complaint that the essence of the story was that he had used his position to have a job created for his wife, Faull states: "This is an incorrect interpretation/inference – the story does not claim, not even implicitly, that Dr Tyobeka exerted any influence on Necsa, or that Mrs Tyobeka's job was specially created at his insistence. The story clearly states that Necsa allegedly created the position specially. The essence of the story is therefore encapsulated in the first paragraph, which states the issue clearly – namely, that "Necsa has hired the wife of the chief executive of the National Nuclear regulator, which polices Necsa's compliance with stringent safety regulations". We submit that this potential conflict is (a) the heart of the story and (b) airing it was manifestly in the public interest."

He concludes that Tyobeka held positions of public trust, in an important public institution, that was supposed to be kept at a healthy arms-length distance. "Impartiality and independence in the eyes of the public are particularly vital attributes for the regulator to uphold. In light of this, and [his] failure to fully refute the whistleblower's claims, we submit that publication of this story was justified in the public interest."

Tyobeka responds that, to say that the URL link he provided was not readily accessible is lazy reporting, as this link was easily available from the internet.

He adds, "I stand by the fact that the essence of the story suggests that I used my position as CEO to have a job created for my wife, and I strongly dispute that."

He also says that the questions sent to him did not include a query about whether the position was created specifically for his wife. "Indeed there is no question that the position was created along with other positions during that time, but that it was created specifically for my wife is an untruth that cannot be proven."

Tyobeka concludes that Mabhongo's response that the company was implementing a structure approved by the Board and that, in this process, positions were created in alignment with the approved structure and new strategic direction of the organization, should be enough grounds to dispute the illegitimacy of the position as claimed by the M&G. "Also, I still do not understand why should it be my wife's problem whether the position was funded or approved or not, because all she saw was a job advert, which she duly responded to, like she did with previous adverts."

My considerations

Firstly, I need to determine whether or not the journalist was justified in reporting the whistleblower's claim that a position was created for Tyobeka's wife.

I take the following into account:

- The story did not state it as fact that a position was created for her, but it quoted a source to this effect;
- Tyobeka's argument that the position of Manager: HR Services was not new, but merely vacant, is irrelevant as his wife was not appointed in that position;
- I have no evidence that Necsa has refuted the claim which is in dispute here; and
- Necsa stated that it had created "new positions including in support functions".

I conclude that Faull was justified in publishing his source's opinion as an opinion. It would have been a different matter if he had stated it as fact.

Secondly, did the story say that Tyobeka used his position to create a job for his wife?

Certainly not. But was it suggested?

I have little doubt that the answer is again "no" – Tyobeka was the CEO of the National Nuclear Regulator, and his wife was hired by Necsa. In my opinion Tyobeka is reading too much into the text.

Lastly, it is true that Faull did not ask Tyobeka about the creation of a job for his wife. However, I do not blame Faull for that, as Tyobeka himself says he had nothing to do with her appointment.

I also note that he did ask Necsa this question – and that the latter chose not to respond to it.

False claims: Job title

Tyobeka complains that the story got his wife's job description wrong – she was appointed as Junior HR Business Partner at Necsa, and not as HR Officer, as reported. "Was it not for the laziness on the part of the reporter he could have picked up the correct information from the internet."

Faull says there is “no inaccuracy in our description (of Mrs Tyobeka’s job title), alternatively that the discrepancy is immaterial”. He nevertheless says the newspaper is prepared to publish a clarification that denotes her full job title.

My considerations

When Faull asked Tyobeka for comment, he said he understood that his wife was appointed as “a human resources officer”.

I note that:

- this is exactly what the story said;
- Tyobeka had a chance to give his wife’s correct title to Faull, but for some reason he did not do so; and
- the job description is a generic one, and therefore not incorrect.

I therefore see no reason to find against the M&G on this issue.

False claims: Waiting for Mabhongo to come on board

The report stated the timing (after she had applied for a position and then was appointed) suggested that “her eventual appointment was confirmed only after Mabhongo’s arrival”.

Tyobeka complains that this is untrue, as Mabhongo had not started at Necsa as Group Executive at that time – he only began in March 2014. He also says the article falsely suggested that the finalization of the recruitment process had been delayed because it had to wait for Mabhongo to come on board.

He continues: “The information is available from the internet and simple research effort could have helped the M&G reporter. My wife applied for this position on the 11th January 2014, and received acknowledgement of her application on 13th January 2014... On the 21st February, she received an email which invited her for an interview which took place on 24th February. Mr Mabhongo had not started at NECSA at that time and was not part of the interview panel. She received an offer in May 2014 and started the job at the beginning of June 2014. To speculate that Mr Mabhongo was involved in the creation of the position cannot be true. Neither can it be true that the finalization of the recruitment process was delayed because it had to wait for Mr Mabhongo to be on board.”

Faull replies that he gave Tyobeka (and Necsa and Mabhongo) the opportunity before publication to refute the claim that his wife’s position was created, and to provide dates and details.

He argues: “What Dr Tyobeka, Mr Mabhongo and Necsa’s responses appear to indicate...is that Mr Mabhongo could not have created the specific position Mrs Tyobeka applied for, because it was advertised before he started working at Necsa. However, we submit that the article reflects this point

by including Necsa's explanation that Mrs Tyobeka 'applied for positions at Necsa long before the arrival of Mabhongo ... By the time he joined Necsa, her appointment was already at a very advanced stage with interviews and panel discussions concluded'."

Faull says he specifically asked Necsa to provide him with Mrs Tyobeka's appointment dates, which they did. "The article sets out the dates clearly."

Secondly, Faull says Tyobeka has no basis for the categorical statement that the finalization of the recruitment process was delayed because it had to wait for Mabhongo to be on board.

"[W]e did not suggest that the recruitment process was 'delayed' so that Mr Mabhongo could participate in it. What we did, however, was to raise the possibility that [he] had a role in the final appointment after his arrival. This was never explicitly denied."

The reporter says it is common cause (from their responses before publication) that Mrs Tyobeka applied for the position she ultimately got before Mabhongo was appointed – but she was appointed after Mabhongo's arrival (as stated in the article). He says Tyobeka confirmed the veracity of this assertion in his complaint when he disclosed that his wife received a job offer in May 2014. This happened during Mabhongo's second month at Necsa.

He also notes that Mrs Tyobeka was appointed in the Human Resources Department, which fell under Mabhongo's Corporate Services Division.

In response to the complaint that the newspaper ignored the explanations that Mrs Tyobeka applied for her position before Mabhongo arrived, Faull points out that the explanations were fully aired in the story "to the extent that we even published Necsa's response in full at their request online, with a clear 'redirect' link to this in the newspaper".

Faull argues: "In the story, the questions raised by their prior relationship in Vienna and the timing of the appointment were appropriately balanced by the reflection of the contrary indication – the fact that the process was already far advanced by the time he arrived. Given the circumstances and the public interest in the matter it was reasonable to raise these questions."

He adds it should also be noted that Tyobeka's wife eventually got the job after he became NNR CEO in October 2013.

In his response to the above, Tyobeka maintains that the M&G created the perception that his wife's position seems to have been in some way or another facilitated by Mabhongo – the fact that it took Necsa three months to appoint her after interviews were done, should not be used against her. "Necsa responded rightly so, that there is nothing unusual for recruitment to take this long. Everyone, with no sinister motive in writing the story should understand that."

He adds: "Despite NECSA denying that Mabhongo was never in the interview panel for the position, this nexus is still being created that he could easily overturn the decision of the interview panel to appoint a candidate of his choice. That is how I read the article and many people would agree with me."

Tyobeka also insists it is relevant to state that his wife was interviewed for other jobs at Necsa

before the one she occupies. “The relevance of this is that it illustrate the fact that (1) she was qualified enough to be shortlisted, and therefore did not need assistance to get her on board at NECSA, (2) it illustrates that all these processes kick-started before Mr Mabhongo joined NECSA. Creating that nexus is misleading. That is why history of my wife’s application is important to state. I, and I am sure Mr Mabhongo's position is the same, that yes, a position was created, but it was NOT created for my wife as suggested by the publication. That is the crux of the dispute.”

My considerations

From the arguments by both parties it seems to be undisputed that Mrs Tyobeka had applied for jobs before Mabhongo started to work there, and that she was appointed after his arrival.

There is nothing in the story suggesting that the finalization of the recruitment process had been delayed because it had to wait for Mabhongo to come on board. Again, he reads too much into the story.

False claims: Salary of R490 000

The article stated that Mrs Tyobeka drew an annual salary of R490 000.

Tyobeka complains that this figure is inaccurate – the offer she received was R319 000.

Faull says that this information was put to both Necsa and the Tyobekas, and neither disputed and/or clarified it. He adds: “However, in the interests of accuracy, we would be prepared to publish a correction...that denotes Mrs Tyobeka’s correct salary at Necsa.”

Tyobeka replies this misrepresentation points out clearly that the M&G may not have been truthful in its claim that it had verified its information. “The question becomes how many more untruths in the story has the whistle-blower told to the M&G journalist?”

My considerations

Faull asked Necsa to confirm that Mrs Tyobeka’s salary was R490 000 – a question to which it (again) did not respond. Given this situation, it would be unfair to find against the M&G, as every reporter in the world would have done exactly what Faull did.

False claims: Family friends

The report said the whistle-blower claimed that the Tyobekas and Mabhongo were “very close friends” in Vienna and that her eventual appointment was confirmed only after the latter’s arrival at Necsa.

Tyobeka says this statement seems to have originated from the fact that their stay in Vienna overlapped with Mabhongo's tenure as ambassador to Austria.

He argues: "It is very unreasonable to simply base that friendship on that circumstantial evidence. I have never known Mr Mabhongo before his tenure as Ambassador in Austria. As Ambassador, I interacted with [him] during South African events such as the celebration of the South African National Day...every year. Our families were never family friends. I also interacted with [him] in his capacity as South Africa's representative in the IAEA Board of Governors, because I also worked for the...International Atomic Energy Agency.

"I find it unfair and unreasonable to simply assume that on the basis of these possible interaction platforms, Mr Mabhongo is a family friend to the Tyobekas. It is true that my wife worked for the South African Embassy in Vienna as a locally recruited staff. That at the very least defines [his] relationship to my wife at that time as purely professional, and no assumptions can be made to say we are friends, for if that were to be regarded as true, then it would mean that I, as CEO of the National Nuclear Regulator am family friends with all the 143 staff members of the NNR, which obviously can never be true."

Faull says the article set out the connections between Mabhongo's Corporate Services Division and the HR Department where Mrs Tyobeka worked. It then explained the historic connections between Mabhongo and the Tyobekas in Vienna, including that the former had hired Mrs Tyobeka before (a fact Mabhongo confirmed in his response), and the whistle-blower's claim that the three of them were "very close friends".

The reporter adds it is noteworthy that neither Mabhongo nor Tyobeka denied the friendship allegation when it was put to them before publication – Mabhongo said nothing about it in his response; Tyobeka only replied that "drawing parallels between her current and past positions, as well as mine and Mr Mabhongo's past, is simply an unfortunate fishing expedition which I am not prepared to entertain any further".

Faull: "Given the small pool of South African expatriates in Vienna, and the even smaller pool of diplomats and nuclear engineers, it is reasonable to infer that they would have interacted socially – as Dr Tyobeka indeed [confirmed]..."

He adds that the friendship allegation is further suggested by the fact that Mrs Tyobeka was Facebook friends with Mabhongo's wife.

The journalist argues: "We submit that, based on the facts of their entwined histories in Vienna, and their failure to deny such before publication, that it was reasonable to publish the whistle-blower's claim that the Tyobekas and the Mabhongs were 'close friends'."

Faull also notes that the friendship claim was specifically couched as an allegation in the story, not as fact.

He concludes: "The facts of their entwined histories in Vienna are entirely relevant to the whistleblower's claim that divisional executives give jobs to 'cronies' because, on the facts, it has not been refuted by either Mr Mabhongo or Dr Tyobeka that Mr Mabhongo has now twice been in a position to appoint Mrs Tyobeka to jobs under his command."

Tyobeka replies that he never admitted that he was friends with Mabhongo. “What was sent to me was a question that the employment of my wife might create the impression of a job for a friend, or something to that effect. It would seem...that the journalist was quite certain about the friendship between myself and Mr Mabhongo, that he did not actually ask me this question in explicit terms. I did not bother to respond to that fact directly because it was not something that I was specifically asked. Had it have been posed to me directly, I would have easily responded to the question.”

He argues that to conclude that the families were friends because they interacted socially was “patently misplaced and not true”.

“I maintain that being on the same line of jobs with someone, and finding yourselves in a foreign country together at overlapping periods cannot be a strong basis to conclude that you are friends.

“To further suggest that this matter is backed by the fact that my wife is Mrs Mabhongo’s Facebook friend is a very lousy piece of evidence if at all. I am a frequent Facebook user, and I am ‘friends’ with hundreds of people, some of who I have never met in my life. It cannot be that because we are friends in Facebook, then we are friends in real life... So, I maintain that I am not friends with Mabhongo, nor is my wife a friend of his wife.”

My considerations

The issue for me is not whether or not the Mabhongos and the Tyobekas are or were friends – I am only interested in the question of whether the M&G was justified in its reportage on this matter.

Of crucial importance is the fact that Faull did not state the alleged friendship as fact – he merely reported this allegation by the whistle-blower as an allegation.

Also, Faull did ask both Tyobeka and Necsca the following question, with reference to the stay in Vienna of the Tyobekas and the Mabhongos: “This entwined history strengthens the perception that Mrs Tyobeka’s HR job in Mr Mabhongo’s division at Necsca is a job for a friend. Please comment.”

Clearly, this leaves nothing to the imagination. I cannot agree with Tyobeka that Faull did not ask him this question in explicit terms.

I also note that Tyobeka did not respond to Faull’s first request for comment on the issue of the alleged friendship. He then repeated his request, to which Tyobeka responded as follows: “[Y]ou are better off contacting the NECSA HR department for more information regarding this matter. Drawing parallels between her current and past positions, as well as mine and Mr Mabhongo’s past, is simply an unfortunate fishing expedition which I am not prepared to entertain any further.”

False claims: Conflict of interest

The article said that the appointment of Tyobeka's wife at Necsa placed him in a difficult position, as it could cloud his judgment when he makes tough decisions against Necsa as a licensed entity of the NNR.

Tyobeka denies that he was conflicted as NNR CEO by his wife's position with Necsa, as it was her democratic right to choose where she wanted to work. He says the reporter clearly did not familiarize himself with the way the NNR carries out its mandate of nuclear safety regulation.

“So, the scenario painted by the reporter to illustrate the conflict of interest is in fact a very simplistic and lazy one, which was not based on any factual provision, least of all, the understanding of the way the NNR goes about carrying out its compliance assurance and enforcement duties.

“The assertion of the M&G reporter seems to be saying that I cannot have any staff member at the NNR whose spouse or family works for any of the entities we regulate because they would be conflicted.

“[I] have staff at the NNR whose spouse works for Eskom Nuclear cluster, another of the entities we regulate. Would I say the staff member is conflicted right away? Obviously not. I first must satisfy myself about the role of both spouses and how they interface in the regulatory decision making. This is something that the M&G reporter completely ignored or discounted several times, namely, that my wife's position in HR does not any anyway interface with nuclear safety or regulatory decision making.”

He adds that his brother, Dr Themba Tyobeka, has worked for Necsa since 1992, in a senior position. “He is known to the majority of the NECSA employees, so, the whistleblower surely would have known about this. Why was this not raised as a conflict of interest when I took over as CEO of NNR? Why my wife?”

Faull says the appointment of Tyobeka's wife at Necsa did place him in a difficult position (as it could cloud his judgment when he makes tough decisions against Necsa as a licensed entity of the NNR).

He argues Tyobeka's response confirms that, at the critical appeal stage in the NNR's enforcement process, he does become directly involved in taking decisions that could conceivably have a bearing on, *inter alia*, Necsa. “We do not claim in the story that the CEO possesses unlimited powers, but rather that ‘Ngeniswa's appointment as a human resources officer at Necsa places her husband, Bismark Tyobeka, the nuclear regulator's chief executive, in a difficult position. It could cloud his judgment when he makes decisions regarding Necsa'...”

Faull says that Tyobeka challenged him to show how he was conflicted. “When we replied, explaining why there might be a conflict, he declined to interact with us any further.”

The reporter states: “Perhaps most pertinently, Dr Tyobeka himself admitted in his response that he had acknowledged and considered the possibility of a conflict of interest arising: ‘When she expressed her interest in a position that was advertised at Necsa...I first had to satisfy myself that this would not create a conflict along the working lines... Upon coming to a conclusion that the nature of the role would not constitute any conflict, I gave her my blessings’.”

Faull submits that it was not for Tyobeka to declare whether or not he or his wife might have been conflicted, given that he was an interested party in the outcome. It follows that his own judgment could have been clouded by his conflicted loyalties to his position at the NNR and to his wife.

He adds that Tyobeka’s position is no ordinary line function – he is the CEO of the regulator. Notwithstanding the undesirability of the revolving door syndrome that is so prevalent across South Africa’s various nuclear entities, there is a higher standard to which the CEO of the regulator must be held, and it is for this reason that the story was in the public interest.

The reporter concludes that the custodian of SA’s nuclear safety has a potential conflict of interest in that Tyobeka’s wife works for an entity over which he is supposed to hold impartial sway. “[The article] makes no claim that his wife is incompetent, or that he had a hand in her appointment.”

Tyobeka replies that the M&G deliberately created the conflict of interest story – the CEO plays a small part in the interface with Necsa and that small part has adequate checks and balances (in that if he was to overturn an inspector’s decision against Necsa, the inspector would still have three more avenues to plead his case, namely the NNR Board of Directors, the Minister of Energy and the High Court).

“Based on this, I repeat that the involvement of the CEO cannot be a show-stopper to an adverse decision taken against NECSA. So, conflict of interest does not immediately exist in the case of my wife working as an HR Business Partner at NECSA. I still maintain that I exercised due diligence in this matter by ensuring that it would not create a conflict of interest, and as an expert in the field of nuclear regulation, I am fully qualified to make that judgement.”

My considerations

I note that Faull asked Tyobeka specifically about the issue of a conflict of interest. On the latter’s request, the reporter clarified his question as follows: “That Dr and Mrs Tyobeka’s respective roles may not interact directly is not the issue; to our minds, the potential for a conflict of interest arises because Dr Tyobeka finds himself in a position, as CEO of the NNR, where his judgment may be clouded whenever he is called to make a decision affecting Necsa, to which his wife owes loyalty and from which she derives material benefit. We need not remind Dr Tyobeka of the fact that he is responsible for regulating and overseeing Necsa.”

Tyobeka then declined to comment any further on this issue.

My question is not whether Tyobeka might be clouded in his judgment, but rather whether the M&G was justified in stating that his wife’s appointment placed him in a “difficult position”. I have little doubt that it indeed may place him in a difficult position – which is not to say that he

would succumb to the pressure if it arises.

No verification, ignoring explanations

Tyobeka complains that Faull made no serious effort to verify the facts, that he ignored Necsca's and his explanations, and that the story seems to rely merely on a "whistle-blower".

He adds that his wife declined to comment because he and Necsca had already responded to the same questions the M&G asked her.

Faull replies that he did attempt to verify the facts, including asking the whistle-blower follow-up questions and approaching the Tyobekas and Mabhongo. When Tyobeka and Mabhongo responded (the latter replied on behalf of both himself and Necsca), he sent them follow-up questions – and the responses were reflected in the story.

He also submits that Necsca and Tyobeka did not succeed in refuting the claims, nor did Tyobeka do so in his complaint to me – despite having been given the opportunity to do so.

"[W]e (therefore) believed that there was sufficient public interest in the story to warrant publication, provided that we reflected Necsca, Mr Mabhongo and Dr Tyobeka's responses to each allegation, which we did."

Faull adds that both Necsca and Tyobeka refused to confirm that they had forwarded the questions to Mrs Tyobeka (both sets of questions specifically requested that they do so) and that she had been given an opportunity to respond. "As a result, and in furtherance of our obligations to the Press Code, we contacted Mrs Tyobeka directly through the Necsca switchboard and she declined to comment."

My considerations

I am satisfied that Faull did do enough to get comment, and that he did not omit any matter of substantial importance gained from the responses he received.

Conclusions

Tyobeka concludes that, firstly, the article impugned his good name "as an expert and senior executive in nuclear power and nuclear safety matters", and that, secondly, it created the impression that his wife was a lazy and clueless person who was riding on the crest of his power and position.

"Having been involved in the nuclear business for more than 15 years, I have invested a lot of effort in creating a reputation around my name. I have been to many countries all over the world preaching nuclear safety, regulatory independence and all this has been severely tarnished and undermined by this reckless report. I spent years overseas studying to the extent of receiving a Doctoral degree in Nuclear Engineering with the intention of making a name for myself, my

country and my family. All this has been shattered by this article, which effectively paints me as a corrupt individual who is involved in a job-for-pals scheme.”

Secondly, he says that the article created an impression that his wife was a lazy and clueless person who was riding on the crest of his power and position. “This despite the fact she is a qualified HR professional, with a master’s degree in Training and Human Resources from the University of Leicester (UK) and a postgraduate diploma in International Business from the University of Ulster, also in the UK. Surely, with these qualifications she does not need her husband putting in a word for her to get a job. I find the article grossly damaging and undermining her integrity.”

In response to the newspaper’s reply to his complaint, Tyobeka maintains that the story painted a dim view of his wife as a professional. “It truly smacks of chauvinism, that because she is a woman and a wife of a seemingly powerful man, she cannot do things by herself but rather she needs her husband to do things for her.”

He adds that, splashing her face and her name in national newspapers – based on falsehoods – may have diminished her chances of getting jobs in other places (because of the perception created that, despite her qualifications, she needs a man to put in a word for her to get a job).

My considerations

Given all of my considerations above, it follows that I cannot concur with Tyobeka’s conclusions.

Finding

The complaint is **dismissed**.

Appeal

Our Complaints Procedures lay down that within seven working days of receipt of this decision, either party may apply for leave to appeal to the Chairperson of the SA Press Appeals Panel, Judge Bernard Ngoepe, fully setting out the grounds of appeal. He can be contacted at Khanyim@ombudsman.org.za.

Johan Retief
Press Ombudsman