

## **SOUTH AFRICAN AIRWAYS UNFAIRLY DISCRIMINATES ON THE BASIS OF RACE**

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The FW de Klerk Foundation notes that South African Airways (SAA) - in implementing its Cadet Pilot Development Programme (which provides an opportunity to young individuals to become airline pilots) - has made it clear that white males are not welcome.

According to Beeld newspaper, this was the airline's response to queries as to why all electronic applications by white males are rejected when they apply to the programme online. Beeld - as well as the FW de Klerk Foundation - tested the system by using 'applicants' from various racial groups.

No applications for whites are accepted by the application system.

The Cadet Programme aims to provide successful candidates with the prospect of obtaining a Commercial Pilot Licence with a Multi-Engine rating, funded by SAA. Upon completion, successful cadets will be required to seek employment in the aviation sector in order to gain further experience and obtain an Airline Transport Pilot Licence.

According to Kabelo Ledwaba - spokesperson for SAA - the Cadet Programme is advertised as an initiative to bring the demographics of SAA's pilots in line with the demographics of South Africa. He indicated that currently only 15% of SAA pilots are black - this includes Indians and coloured people - and the rest are white, and males. Ledwaba indicated that the airline would employ white male pilots when vacant posts occurred, and where no suitable coloured candidates could fill those positions.

This is not the first time that SAA's employment policies are unconstitutional because of discrimination. In the matter of Hoffmann v South African Airways, the constitutionality of SAA's practice of refusing to employ people who were living with Human Immunodeficiency Virus (HIV) as cabin attendants was challenged. In that case, Mr Hoffmann, the appellant, was living with HIV and was refused employment as a cabin attendant by SAA because of his HIV positive status. The Constitutional Court ruled that the decision by SAA not to employ Mr Hoffmann as a cabin attendant was unconstitutional, as it amounted to unfair discrimination as a result of his HIV positive status.

To exclude potential candidates for any programme on the basis of their race is prohibited and unconstitutional. This programme's application process blatantly discriminates unfairly on the basis of race by prohibiting white applicants - especially white males - from applying. The South African Constitution dictates that everyone is equal before the law and has the right to equal protection and benefit of the law, and that no person may unfairly discriminate directly or indirectly against anyone because of their race, gender, sex or colour.

The need to eliminate unfair discrimination does not only arise from Chapter 2 of our Constitution, but also from international obligation. South Africa has ratified a range of anti-discrimination Conventions, including the African Charter on Human and Peoples' Rights. In the preamble to the African Charter, Member States undertake, amongst other things, to dismantle all forms of discrimination. Article 2 prohibits discrimination of any kind. In terms of Article 1, Member States have an obligation to give effect to the rights and freedoms enshrined in the Charter.

In the context of employment, the International Labour Organisation's Convention 111, Discrimination (Employment and Occupation) Convention, 1958, proscribes discrimination that has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation. In terms of Article 2, Member States have an obligation to pursue national policies that are designed to promote equality of opportunity and treatment in the field of employment, with a view to eliminating any discrimination.

South Africa belongs to all who live in it, united in our diversity, regardless of our race or gender. If we truly want to call ourselves a constitutional democracy, subscribing to the values of non-racialism and non-sexism, how can a practice that takes us back to job reservation based on race, be justified?

The answer is simple: It cannot.

Practices such as this application procedure by SAA should be prohibited because of the discriminatory nature thereof. It continues to polarise South Africa as a nation according to race, and deeply negates not only the dignity of many South Africans, but also the achievement of equality, and the advancement of human rights.

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