

Albinism in the South African Workplace: Reasonable Accommodation of a Black Person Living in a White Skin

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Abstract : Dangerous myths and stereotypes contribute to the fact that persons living with albinism are amongst the most vulnerable groups in society. The prevalence of albinism varies around the world and the World Health Organization estimates that around 1 in 5000 people in Sub-Saharan Africa are affected by this genetic disorder. Persons who are living with the condition usually experience a lack of melanin in their skin, eyes and hair that results in possible physical impairments such as poor eyesight and skin cancers. Being affected by such disorders and consequently classified as an albino, give way for unequal treatment which ultimately requires safeguarding these persons against unfair discrimination - not only on the basis of their race and color (or lack thereof), but also on the basis of their disability. The Constitution of the Republic of South Africa provides that everyone is equal before the law and prohibits unfair discrimination on the grounds of race, color and disability. This right is given effect to by the Employment Equity Act, which strives to eliminate unfair discrimination on similar grounds within any employment policy or practice. An essential non-discrimination measure that can be implemented in the labor market to achieve equality is the duty of reasonable accommodation that rests upon employers. However, reasonable accommodation is only introduced as an affirmative action measure in order to provide equal employment opportunities to the identified designated groups who include black people (defined to include Indians, Chinese and Colored), women and people with disabilities. Even though this duty exists, South African law does not elaborate on the scope of the duty, except for a Disability Code, which does not hold the force of law. Furthermore, in respect of applying affirmative action measures to people with disabilities, the law does not elaborate on the meaning of disability. Considering that persons living with albinism will find it difficult to show that they are black or disabled in order to be acknowledged as part of the designated groups, their access to reasonable accommodation will be limited to a great extent. This paper will aim to illustrate to which extent South African law currently fails to implement its international obligations as a State Party to the Conventions of the United Nations, and how these failures should be corrected in order to serve the needs of all South Africans, including albinos.

Keywords : albinism, disability, equality, South Africa, United Nations

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