

22 May 2025

Enquiries : Ms. Nkhensani Mabunda-Raphiri
Tel : 012 663 7446
Fax : 012 643 1601
Email : NkhensaniM@elrc.org.za

To : PSA obo Majoro (Applicant)
martin.mashaba@psa.co.za

To : Department of Higher Education & Training
(Tshwane North TVET College)
Chamane.S@dhet.gov.za

Dear Sir / Madam,

ARBITRATION AWARD:

**CASE NAME: PSA obo MAJORO vs DEPARTMENT OF HIGHER
EDUCATION & TRAINING (TSHWANE NORTH TVET COLLEGE)**
CASE NUMBER: ELRC1020-24/25GP

I transmit herewith a copy of the award for the above-mentioned matter for your attention and information.

For any further queries related to this dispute/matter, please contact NkhensaniM@elrc.org.za.

We thank you for your co-operation in this regard.

Kind Regards,



General Secretary
Education Labour Relations Council

22/5/25

pp



**OFFICE OF THE GENERAL
SECRETARY**

All correspondence should be addressed to:

The General Secretary
ELRC
Private Bag X126
Centurion
0046
Gauteng
RSA

Enquiries:

Dr N.O Foca (LLD)

Tel: 012 663 7446

Fax: 012 643 1601

E-mail: cindyfoca@elrc.org.za

Website: www.elrc.org.za

Physical Address:

ELRC Building
261 West Avenue
Centurion
0046
Gauteng
RSA



IN THE ELRC ARBITRATION

BETWEEN:

PSA obo Majoro, Thabiso

Applicant

and

Department of Higher Education & Training

(Tshwane North TVET College)

Respondent

ARBITRATION AWARD

CASE NUMBER: ELRC1020-24/25GP

ARBITRATION DATE: 13 March 2025, 17 and 22 April 2025

DATE OF AWARD: 22 May 2025

Pitsi Maitsha

ELRC Arbitrator

Education Labour Relations Council

ELRC Building

261 West Avenue

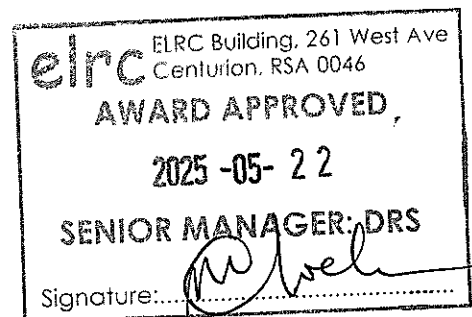
Centurion

Tel: 012 663 0452

Fax: 012 643 1601

E-mail: gen.sec@elrc.co.za

Website: www.elrc.org.za



DETAILS OF HEARING AND REPRESENTATION

1. The arbitration hearing was held virtually on Microsoft Teams on 13 March 2025, 17 and 22 April 2025. This arbitration was held under the auspices of the ELRC in terms of section 191(5)(a)(iv) of the Labour Relations Act, 66 of 1995, as amended, "The Act". The award is issued in terms of section 138(7) of "The LRA".
2. The applicant, Thabiso Majoro, was in attendance and represented by Martin Lesiba Mashaba, the union official from PSA. Ms Regina Mogami Habedi, the Assistant Director, Labour Relations, represented the respondent, Tshwane North TVET College.
3. The parties gave the evidence under oath. The proceedings were held on Microsoft Teams by agreement between the parties. The proceedings were digitally recorded.

ISSUE TO BE DECIDED

4. I am required to determine whether the applicant was dismissed or not. In the event I find that the existence of a dismissal has been established, I must determine whether the dismissal was effected for a fair reason and in accordance with a fair procedure. If not, I must determine the appropriate relief.

BACKGROUND DETAILS

5. The parties held a pre-arbitration meeting and agreed on the following in terms of the signed Pre-Arbitration Minutes:
6. In terms of common cause facts:
 - 6.1 The applicant was employed first temporarily on a contract from 9 July 2019. The contract was extended in 2020. It was further extended in 2021, and it was extended again on 1 October 2022 until 31 December 2023, and again from January 2024 to March 2024, and from April to December 2024.
 - 6.2 The applicant was informed that his contract would not be renewed on 31 December 2024.
 - 6.3 He was never awarded bonuses by the respondent.
7. In terms of the disputed facts:
 - 7.1 The respondent failed to absorb the applicant as promised.
 - 7.2 The respondent disputed that it had promised the applicant to absorb him.
8. The applicant is seeking to be absorbed retrospectively, whilst the respondent is seeking the matter to be dismissed.

9. Issues that the arbitrator is required to determine
 - 9.1. Whether the respondent committed unfair labour practice and breached the legitimate expectation.
10. The relief sought
 - 10.1 The applicant is seeking to be absorbed retrospectively, whilst the respondent is seeking the matter to be dismissed.

THE EVIDENCE OF THE APPLICANT

11. He testified that he started to work for the respondent on 9 July 2019 as a Finance, Economics, and Accounting Lecturer. He was teaching NCV (National Certificate Vocational) for levels 2, 3, and 4.
12. He testified that his contract was supposed to have expired in December 2019, and it was renewable depending on other circumstances. Clause 3 of the contract stipulates that the assumption date is from 9 July 2019 to 31 December 2019.
13. He testified that later the respondent called him to come to sign a new contract, which was signed on 5 February 2020. The contract started from February 2020 until December 2020.
14. He testified that the contract states: "The above appointment is subject to the provisions of the LRA and BCEA."
15. He further testified that this matter was treated like the first contract. The human resources would contact him if the College met the enrollment number. In 2021, he was called to sign the contract. The contract started sometime in January or February 2021 until December 2021.
16. He also testified that he was called again in 2022 to sign the contract extension, which expired on 30 September 2022.
17. He testified that on 28 September 2022, he signed the contract appointment post of Finance, Economics and Accounting Lecturer, which was effective from 1 October 2022 until 31 December 2023.
18. He testified that the contract states: "Note this post is due to over-enrollment and should not raise any permanent employment expectation."
19. He testified that he was given a short contract from 1 January 2024 until the end of March 2024 after 31 December 2023. He then signed another contract on 1 April 2024 to 31 December 2024. The nature of the appointment is a fixed-term contract. He testified that the contract was renewed seven times.
20. He testified that he lodged a grievance dated 15 October 2024 about absorption after he became aware of the email on 26 September 2024. The grievance was not

resolved. When the respondent was renewing his contract, what was going through his mind was a legitimate expectation. In the grievance, under the details of the grievance, he wrote the following: "My grievance is based on the deviation from absorption to DHET as per communication by the principal, augmented by the PPN processes." Under the solution, he proposed the following: "I expected to be absorbed and be migrated to DHET (PERSAL) permanently."

21. He testified that his understanding of the outcome of the grievance signed by Matsobane Lebeso dated 13 November 2024 was that since the respondent publicly announced people who were employed in 2019 would be identified and would be permanently appointed, it raised expectations.
22. He testified that the Principal of Tshwane North College circulated an email to the Campus Managers, of which paragraph 1 reads as follows: "Attached hereto are the final draft of the structure and an establishment which were due for submission on 31 March 2023. We are in January 2024. I plead for cooperation for us to submit next week. You are humbly requested to make time to verify the information of your respective divisions/campuses by comparing and aligning the information in the spreadsheet with the structure, especially the number of allocated posts. Of note is that I made comments in the spreadsheets. Please focus on the highlighted areas that need your validation and/or insertion of missing information. Further, I removed all college-paid contract positions as they do not form part of the PPN process. Only the PERSAL-migrated posts to permanent or contract posts are reflected in the spreadsheet. Campus Managers are humbly requested to confirm if the green, highlighted/ shaded migrated posts are recommended for permanency to enable us to compile and motivate for permanent absorption if the migrated officials meet all the requirements, since there was a formal recruitment process. I only managed to speak to Ms Masemola yesterday, who confirmed that the officials who were migrated to her campus should be considered for permanency, provided they possess the requisite qualifications. Please note that the structure was tailor-made to ensure that we place most of the officials in line with the operational requirements. We only have three officials who were unmatched from finance, namely: Mrs. Kekana, Mrs. Nene, and Ms Tshwane."
23. He testified that the purpose of the email was to make sure that the people who were captured indeed were eligible for migration, which the respondent did not comply with or adhere to. His name did not appear in the list of the "unmatched" because he was identified as the person to be absorbed. He was appointed to replace Ms Nkogatse. The other names were not highlighted because they would be absorbed by the respondent. Absorption did not happen.

24. He testified that the respondent decided to advertise the position, which was not abolished. The respondent should have followed the prescripts as it was aware of them.
25. He testified that in an email dated 2 January 2024, she said that she had removed all the contracts as they were not part of the migration.
26. Paragraph 6.2.1.8 "No employee shall lose his or her employment, be disadvantaged or unfairly prejudiced in any way as a result of implementing the PPN Model."
27. Paragraph 6.2.1.2 states: "Only employees who offer and/or support Ministerial programmes will be identified for migration from the College Council payroll for PERSAL in line with the PPN allocation for each college. 6.2.1.5 Employees of the college are treated fairly during the PPN implementation process. 6.2.1.6 Relevant legislations are adhered to during the process of implementing the PPN Model and standardized college structure."
28. He testified that His understanding was that the position that he occupied was not abolished, but the respondent decided to advertise that position. The respondent should have followed the prescripts as they were aware of them. The respondent did not complain about his performance.
29. He testified that the respondent's conduct was totally unfair because of the legitimate expectation it raised and the failure to absorb him as promised. He also testified that he did not get his bonus on his birthday. He wanted the service bonus accordingly. The contract under "SERVICE BONUS" provides: "You will receive an annual service bonus amounting to 100% of your basic monthly salary, which is payable in the month of your birthday. If you have less than a year of service, you will receive a pro-rata service bonus. The bonus is taxable but not pensionable. Kindly note that provisions exist for your service bonus to be taxed monthly, instead of a lump sum in your bonus month. Should you elect to have your service bonus taxed monthly, the appropriate application form must be obtained from the sub-directorate staffing services."
30. He testified under cross-examination that his contract was renewable in 2019, as at the time of appointment, his position was viewed as important, and it was permanent. The respondent still needed his services. The respondent renewed his fixed-term contract several times. He testified that the contract extension states: "THE NATURE OF CONTRACT: Fixed-term contract. The above-mentioned appointment is subject to the provisions of the LRA, BCEA, the EEA, and any applicable law. Note: This post is due to over-enrollment and should not raise any permanent expectation. Despite all the precautions taken, it is still possible that errors may occur in the above information. Possible errors detected will be corrected, and overpayment, if

any, will be recovered. This appointment may be cancelled if discovered that it was effected on incorrect information. We trust that you will be happy and successful in your new position. Kind regards, Ms. TE Tsibogo.” It is dated 26 September 2022. He accepted the post.

31. He testified that the contract is a fixed-term contract, and it has a starting date and an end date. He testified that he was aware from the beginning that he would be permanent.
32. He testified that since his arrival at the college, there had been over-enrolment. He was aware that his contract was due to over-enrolment. He testified that he was never asked to submit the final structure. He testified that the memorandum from the principal was addressed to all staff members., He personally never heard Mam Masemola say that he would be permanently employed. He did not remember Mam Masemola in the morning briefings making a promise or giving something in writing stating that he would be permanently employed.
33. He further testified that the email was sent to the Campus Managers. He was not part of management or labour. He also testified that he had applied for the position of lecturer, but he was not appointed. When it was put to him that the person appointed was also eligible, he testified that by advertising the post, the respondent wanted to get rid of some of them. What about first in, last out? He testified that he did not know that there was no absorption. The communication from Mam Masemola said that the staff employed in 2019 are absorbed. He testified that he was not sure that he received 37%.

THE APPLICANT’S CLOSING ARGUMENTS

34. Mr. Lesiba Martin Mashaba submitted that the applicant had a legitimate expectation that lecturers who were migrated to PERSAL would be permanently employed based on assurances communicated by the Campus Manager during morning briefings, which were further reinforced by the principal's email to all Campus Managers across Tshwane North College and the spread sheet listing the officials identified for absorption. He argued that the consistent renewals of the contract year after year indicated the substantive and ongoing nature of the position. He indicated that the applicant was migrated to the Department of Higher Education and Training (DHET) PERSAL system during his tenure as a contract lecturer. He referred to *University of Pretoria v CCMA and Fry's Metals*, where the courts held that de facto occupation must be recognized for the purposes of fairness and legitimate expectation. He argued that the applicant's continued appointment and the

circumstances surrounding the absorption process triggered a legitimate expectation of permanent employment. He also referred to *Zungu v Premier, Province of KwaZulu-Natal and Another (LAC)*, *Gaga v Anglo Platinum (2012) 33 ILJ 329 (LAC)*.

THE EVIDENCE OF THE RESPONDENT

THE EVIDENCE OF MOTLAKARI EUNICE MASEMOLA: THE CAMPUS MANAGER

35. She testified that she is overseeing campus operations, which include teaching and learning, infrastructure and related fields, HR and related fields, administration, which includes registration, examinations, and student support services, which include sports, student representative council, and other activities not necessary and campus related but assist the well-being of the students.
36. She testified that she knew the applicant, he was one of the contract Lecturers appointed under the NCV Business Field in the Programme Finance, Economics and Accounting (National Certificate Vocational).
37. She testified that as an educational institution or a college, they use fixed-term contracts for various reasons due to the nature of their business, which is teaching and learning. At times, they require such services due to leave, maternity leave, over enrolment. They usually have contract workers due to operations. Once the actual students who are to be in class, they then submit to Head Office for approval to approve the request, and once it has been approved, they then follow the HR process through HR processes. The principal approves the submission.
38. She testified that around 2020, the Department of Higher Education and Training came up with the Post Provisioning Norms (PPN). The intention was to standardize all 50 public TVET colleges in their operations. The PPN focused on permanent employees who were in the departmental structure so that they could be placed in the correct positions and have a well-crafted or developed job structure as per the job description. It focuses on permanent PERSAL and permanent college appointees. That was the discrepancy of the system.
39. She testified that the applicant was appointed on a fixed-term contract, which is therefore incorrect as an individual. The PPN is meant for permanent PERSAL-paid staff to be placed accordingly, and the contract permanent college staff.
40. She testified that she could not remember stating to management that the applicant would be permanently appointed, effective from this date. The respondent found out there were 74 contract lecturers, and they had to reduce to 33 positions.

41. She testified that an email from the principal wanted a final draft sent to them as Campus Managers. At the time, the campus had 13 contract lecturers, and the respondent continued to have short-term and fixed-term contracts.
42. She testified that the email was not sent to the applicant but to Managers and campus management to assist Senior Managers in complying with PPN. At the time, positions were identified to be put in permanent positions. They identified critical ones. These deliberations were at the very early stages. The matching and placement were solely for permanent employees. The three employees mentioned were administrators and are permanent.
43. She further testified that Ms Nkogasi was senior, whilst the applicant was a PL1 fixed-term contract.
44. She testified that the posts were advertised after they received a memo from the principal. The advertising was informed by PPN.
45. He testified that the applicant should not see his non-consideration based on his skin colour.
46. She also testified that as the Campus Manager, she does not have the authority to appoint and to make promises.
47. She testified under cross-examination that she could see that the principal signed a letter of appointment on 9 July 2019. The contract extension of the applicant was effective from February 2020 until 31 December 2020. The applicant's contract was further approved in 2021. She testified that even if the contract can be extended a hundred times is not an expectation because they need the service. She testified that the document was corrected, and it was at an early stage. There were deliberations between the labour and the staff on whether the posts would be advertised. She testified that there was no absorption. She also testified that the applicant did not replace Ms Nkogasi, but she was replaced by Ms Mothiba.
48. She further testified that the posts were advertised due to the respondent's limited positions, hence they had to give everybody a fair chance. Absorption under the current situation is not applicable. She testified that the post of economic environment was not of a permanent nature. Ms Nkogasi was teaching Economic Environment as one of the subjects and as a Senior Lecturer. Economic Environment was a Ministerial post.

THE EVIDENCE OF MAPULA NYALUNGU, THE HR RECRUITMENT SELECTION OFFICER

49. She testified that she knew the applicant as the Economic Environment Lecturer. The fixed-term contract was extended due to over-enrolment. The contract extension letter is from 1 April 2024 to October 2024. The reason for the extension was due to projected enrolment.
50. She testified that the applicant signed the notice of termination on 18 November 2024.
51. She testified that every contract has an end date.
52. She testified that the applicant was not successful in the application. The principal wrote a memo informing them about all the advertised posts. There was no one on a fixed-term contract who was absorbed.
53. She testified that she knows Ms Kekana, who is permanently employed. Unmatched means they could not find the salary slot.
54. She testified that the applicant received 37%, and he never lodged any grievance about not receiving a bonus. The Management came to the HR with the organized labour and informed them that there were 74 employees had come with a possible plan to accommodate the fixed-term contracts. The applicant was not part of those engagements as far as she knew. The respondent filled 22 of those advertised posts.
55. She testified that the PPN covers all the employees, but it does not apply to lecturers.
56. She testified that unmatched means they could not find the posts, and they had to be taken to other colleges.
57. She testified under cross-examination that the reason for terminating the applicant's contract is contained in the letter of termination. Mr. Modibane and Mr. Phukujwe from PSA were party to the consultation. She testified that the respondent did not absorb but ran advertisements. The applicant was one of the migrated officials. She testified that the applicant cannot replace PL2. She testified that the applicant must receive his annual service bonus in his birthday month, and he received his service bonus every month. He was paid medical aid, pension fund, housing allowance, and a service bonus of 37%.

THE RESPONDENT'S CLOSING ARGUMENTS

58. Ms Regina Habedi argued that the applicant was not dismissed as alleged, but his contract came to an end on 31 December 2024 due to effluxion of time. She

submitted that the applicant was appointed on a fixed-term contract from 1 April 2024 to December 2024 as per the operational needs of the campus. She indicated that it was stipulated in those contracts that the posts were due to over-enrolment and should not raise any expectation, as supported by the appointment letters. She also indicated that it is the evidence of both Ms Masemola and Nyalungu that from October 2022 to December 2023, 14 lecturers, including the applicant, migrated to the Department of Higher Education and Training, wherein the respondent requested assistance with a wage bill of contract employees, as it faced financial constraints. He was still the respondent's employee. She further indicated that the applicant also signed a notice of termination on 30 November 2024 to remind him that his contract would end, and it should not come as a shock to him, as he signed a contract that had a start date and end date, since he is a qualified professional.

59. She referred to the Labour Appeal Court case of *Enforce Security Group v Mwelase and 46 Others (DA 24125) (20217) 38 ILJ 1041 (LAC)*. She argued that the applicant has failed to refer the Council to the instruction the respondent deviated from, or at least to the provision that he must be absorbed as a permanent employee as per the PPN procedure manual. She argued that it is evident during cross-examination and evidence-in-chief that the applicant created his understanding from the email from the principal and created an expectation that he should have been absorbed, which was addressed to Campus Managers, not to him, and that understanding had misled him. She also referred to the case of referred to *National Director of Public Prosecutions v Phillips and Others*. She submitted that the applicant's expectation of permanent appointment is therefore self-created. She submitted that on a balance of probabilities, the applicant has failed to prove that termination of his fixed term contract based on the occurrence agreed eventuality constitutes a dismissal. She indicated that the respondent prays for the applicant's application to be dismissed.

ANALYSIS

60. In the pre-arb minutes signed by the parties under "NATURE OF DISPUTE", the parties had agreed that the nature of the dispute is "Unfair labour practice in terms of section 186(1) (b) of the LRA". First and foremost, the referred section does not deal with unfair labour practice, but his matter concerns an alleged unfair dismissal. The existence of a dismissal is in dispute. It then follows that the first and foremost enquiry is to establish the existence of the dismissal.

61. Section 192 (1) of the Labour Relations Act, 66 of 1995, as amended, "the LRA", places the onus on the applicant to establish the existence of a dismissal. Whilst section 192 (2) of the LRA places the duty on the respondent to prove the fairness of the dismissal after the existence of a dismissal has been established. The applicant did not call any additional witnesses and had submitted a bundle of documents [hereinafter referred to as bundle A]. Finally, the respondent has called two witnesses to support its case and has submitted a bundle of documents [hereinafter referred to as bundle R].

DEFINITION OF DISMISSAL

62. In terms of section 186 of the LRA, "MEANING OF DISMISSAL of the "LRA", dismissal is defined as: "(1) an employer has terminated employment with or without notice; (b) an employee employed in terms of a fixed-term contract of employment reasonably expected the employer to (i) to renew a fixed-term contract of employment on the same or similar terms but the employer offered to renew it on less favorable terms, or did not renew it; or (ii) to retain the employee in employment on an indefinite basis but otherwise on the same or similar terms as the fixed-term contract, but the employer offered to retain the employee on less favorable terms, or did not offer to retain the employee".

63. Given the above definition, it means that when determining whether or not a fixed-term contract does constitute dismissal, I have to take into account either the first part of the definition as set out in terms of section 186 (1) (b) (i) of the LRA, or the last part of the definition as set out in section 186 (1) (b) (ii) of the LRA. To put it into context, the applicant in the present matter must demonstrate that he had a reasonable expectation that the respondent was going to renew his fixed-term contract of employment on the same or similar terms, but the respondent did not renew his fixed-term contract of employment at all. It is now necessary to answer the first enquiry in this dispute I am facing, which is establishing the existence of a dismissal.

WAS THERE A DISMISSAL

64. Firstly, it is a common cause that the applicant has been offered several fixed-term contracts and contract extensions from 9 July 2019 until 31 December 2024. I do not have to repeat the same exercise for each fixed-contract and contract extension in this analysis.

65. The applicant's first allegation is premised on the fact that the respondent had publicly announced that they had been identified and would be permanently appointed. According to the applicant, those announcements and morning briefings created a reasonable expectation. This brings me to the question of credibility of the applicant.
66. I wish to record in this regard that the applicant had conceded during cross-examination that he never heard Ms Masemola saying that he would be permanently employed. Yet he referred to the briefings Ms Masemola made in the mornings, in which he alleged that she announced that he would be permanently employed. Moreover, the applicant failed to dispute Ms Masemola's version that she did not have any authority to make the promise of absorption or permanent employment. He could not substantiate his claim that Ms Masemola announced being permanently employed by the respondent, as he alleged.
67. Secondly, was there absorption? What informed the applicant that he would be absorbed was an email from the principal dated 2 January 2024, in which he was identified as the person to be absorbed. However, during cross-examination, he failed to refer to a paragraph identifying him to be absorbed.
68. An alarming remark about the email is that the email was not addressed to the applicant, but to the Campus Managers. I need to record in this regard that there is no reference as to how the applicant obtained the said email. It would appear to me that the said email was improperly obtained. Having regard to the above, I am of the view that the applicant's claim that the principal's email created a legitimate expectation of permanent appointment is misdirected, and the email therefore cannot come to his rescue.
69. Finally, the applicant relied on his allegation that he was appointed by the respondent to replace Ms Nkogasi. I wish to record in this instance that the applicant did not dispute both versions of Ms Masemola and Ms Nyalungu that he was employed as a PL1 Lecturer and therefore he could not replace Ms Nkogasi as she was a senior or PL2. Again, he failed to show any proof to substantiate his claim.
70. The question now to determine is whether the continuous renewals and contract extensions have created a reasonable expectation for the applicant. *In Mohajane v Emfuleni Local Municipality and Others (JR 338/20) (2022) ZALCJHB 32, dated 16 February 2022*, the Labour Court stated, "An employee is not employed permanently and on a fixed-term basis at the same time by the same employer. It is

either one of the other. An employee, who is permanent or indefinite, employed at the time of his or her dismissal, does not expect that his employment is going to be converted into permanent or indefinite employment, as envisaged in section 186(1)(b), as that expectation is already met."

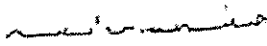
71. In the present matter, the applicant's version is that he expected his fixed-term contract to be renewed and extended on more than three occasions. I am of the view that that expectation cannot be regarded to be reasonable as he first conceded that he was on a fixed-term contract from 1 April 2024 until 31 December 2024. I also wish to record that the applicant had admitted during cross-examination that all the contracts he signed had a start date and an end date.
72. In the contract post appointment, which was effective from 1 October 2022, it was stated that he should note that the post was due to over-enrolment and should not raise any permanent employment expectation.
73. The above is evident that the applicant was always aware that the contract he entered had a start date and an expiry date. Turning to the contract that was effective from 1 April 2024, its expiry date was 31 December 2024.
74. I further wish to record that on 18 November 2024, the applicant was handed notice of termination to remind him that the contract would come to an end, and it would not be renewed.
75. In the Labour Court judgement [supra], the Labour Court went on to state that the continuous renewal or extension of fixed-term contracts does not amount to a legitimate expectation. In the present matter, the applicant conceded to the following: Ms Masemola did not give him something in writing to raise his expectation, she did not make a promise of permanent employment to him, he did not dispute that he did not replace Ms Nkogasi, he did not dispute the respondent's version that the PPN does not apply to fixed-term contract but to the PERSAL college employees. Taking all the above into consideration, I can only concur with Ms Mogami-Habedi's argument that the applicant had failed on a balance of probabilities to establish the reasonable expectation as envisaged in terms of section 186 (1) (b) of the LRA.
76. Having regard to the above, I am of the view that the applicant had failed to establish the existence of a dismissal in terms of section 186(1) and the onus as envisaged on him in terms of section 192(1) of the "LRA". Subsequently, the respondent's prayer to dismiss this referral or the applicant's claim should succeed.

77. In the premises, I find the following award:

AWARD

78. I find that the applicant has failed to establish the existence of the dismissal.

79. This dispute is hereby dismissed.


P. Maitsha
ELRC Panelist

