



ARBITRATION AWARD

Case No: **PSHS633-18/19**

Commissioner: **Queendy Gungubele**

Date of award: **16 March 2020**

In the matter between:

PSA OBO MTETWA B.J AND NKOSI E.M

(Union/ Applicant)

And

DEPARTMENT OF HEALTH-GAUTENG

(Respondent)

BACKGROUND TO THE DISPUTE

1. This matter was initially heard on 14 June 2019 and concluded on 23 January 2020 at S G Lourens Nursing College. The parties requested that they submit their Closing Arguments within 10 days.
2. The applicants were represented by Mr Bongane Qankase, the LR Officer whilst the respondent was represented by Ms Phumelele Mabaso, the Assistant Director, who was accompanied by Mr Petros Ndaba, the Observer.

DETAILS OF HEARING AND PRESENTATION

3. The applicants are employed by the respondent as a Assistants Manager Pharmaceuticals. Mr Bongani Mtetwa was first employed on 15 April 2010 at

Heidelberg Hospital as a Pharmacist Grade 3 and during 2015 he was promoted to the position of Assistant Manager Pharmaceuticals. His salary was R938 964.00 per annum.

4. Mr Mandla Nkosi was employed at Bertha Gxhowa Hospital since 2009. They referred their alleged Unfair Conduct-demotion, as contemplated by section 186(2) (a) of the Labour Relations Act 66 of 1999, "the LRA". They referred their dispute to the Bargaining Council on 24 January 2019.

ISSUE TO BE DECIDED

5. Whether the respondent correctly implemented the Interpretation and Application of the PHSDSBC Resolution 1 of 2010, *"AGREEMENT ON THE ADDENDUM TO PSHDSBC RESOLUTION 3 OF 2009"* Occupational Specific Dispensation herein referred to as "the OSD". I am called upon to make an appropriate determination.

DETAILS OF HEARING AND PRESENTATION

THE FIRST APPLICANT'S CASE: BJ MTETWA

Applicant submitted 1 bundle of documents marked X

Respondent submitted 1 bundle of documents marked Y

FIRST APPLICANT'S CASE: B MTETWA

6. The first applicant, Mr B Mtetwa testified that he was currently employed as a Pharmacy Assistant at Heidelberg Hospital. He argued that his B Degree qualifications and experience, including his functions, duties and responsibilities were that of a Pharmacy Manager.

7. The second applicant, Mr E Nkosi is also employed as Assistant Manager Pharmaceuticals at Bertha Gxhowa Hospital with effect since 1 September 2009 and he is remunerated at R104 209.95 per annum. He said that he was working outside the Provincial Government when he applied for the position of Assistant Manager. When he was appointed, he declined the offer because it was at the entry level, whereupon the respondent reviewed the level and he ultimately accepted the offer of employment as a Pharmacy Assistant.
8. Mr Mtetwa submitted that the position of Pharmacist Grade 3 was non-existent but because of his experience, he was approached with other Pharmacists to attend interviews and he was successful. He said there was no advert issued before that.
9. Mr Mtetwa said that the position of Assistant Manager Pharmaceuticals was advertised in 2014 after he was requested to act in that position during July 2013. (See the advert on page 3 of bundle X).
10. Mr Mtetwa decried the fact that the hospital did not have a Manager Pharmaceuticals but he was an Assistant to no one. He added that his duties as per bundles X and Y are of the overall management of services. He argued that the title on the advertised position of Assistant Manager pharmaceuticals was incorrect and averred that it should have been reflected as Manager Pharmaceuticals because his overall functions were that of a Manager. He argued that his functions as per page 15 of bundle X met the requirements of the position of the Manager as follows:
 - i. Accreditation as Pharmacist
 - ii. Registration and recording of the Pharmacy with the South Africa Pharmacy Council as per his Certificate on page 1 of bundle X and the
 - iii. The maintenance of the registration
 - iv. By 2015 he had the experience of 25 years as a Pharmacist whilst the advert required 7 years and the Resolution on page 1 required 15 years of experience for Assistant Director Pharmaceutical Services. He pointed out the discrepancy in the latter position was the same as his current one as an Assistant Manager

Pharmaceutical Services as per the Resolution on page 14 of bundle X, Clause 2.8.

v.The overall management

vi.Quarterly Assessments

vii.Contracts for personnel together with the HR Manager

viii.Planning and the promotion of excellent service delivery

ix.Supervision of personnel including the after-hour allocation of Pharmacists

x.Development and alignment of the Standard Operating Procedures "the SOPS" as per the SAPC assisted by the Central Office

xi.Stock Control and co-ordination of as a manager in line with the targets set by the Province/National Public Sector Requirements of 98% level of Service

xii.Multi-disciplinary Clinical Governance Structure for Senior Doctors, Clinical Managers and Pharmacists and persons to ensure the functionality

xiii.The Batho Pele Principles from patient's assessment, waiting time and waiting for medication

xiv.Preparation of reports to Hospital Management and Central Office were done solely by him

11. Mr Mtetwa submitted, further, that he also served on about 6 various Committees in the hospital and chaired 90% as one of a member of Hospital Management participating in the main objective of setting up the Strategic Direction of the institution. He added that when he applied for the position of an Assistant, he was already acting as Pharmacy Manager, which made him think that the employer had entitled the position of Manager differently but after investigations, he discovered the discrepancies and lodged a Grievance.
12. Mr Mtetwa said he was told that Heidelberg Hospital was at a lower level of care, which disentitled it to have a Manager but he argued that the Resolution 1 of 2010 did not mention the size or level of care for a hospital to have a Manager Pharmaceutical Service. He thought that the duties of Manager Pharmaceutical Services as reflected on page 15 of bundle X clause 2:10 of Resolution 1 of 2010 were the same as the ones that he was performing as an Assistant although the advert required 7 years' experience, he had 25 years. He prayed that he be

appointed as Manager Pharmaceuticals Services as per page 34 of bundle X, which was prepared by the Central Office and distributed to all the institutions.

13. He said that he had already met all the requirements and he was the only one who assisted the Pharmacists and performed the overall management of the Pharmacy since his appointment. He submitted, therefore, that he was a Responsible Person in accordance with the title that established by the Pharmacy Council.
14. Mr Mtetwa also referred to page 40 of bundle X, which contained an advert of a Pharmacy Manager for Elliot Hospital in the Eastern Cape, which had 52 beds. He submitted that Elliot Hospital followed the provisions of Resolution 1 of 2010, and the OSD Resolution of 2017, unlike his hospital which had 125 beds because Mr Nkosi also shared Mr Mtetwa's sentiments in that their qualifications as B Pharm graduates and the functions, duties and responsibilities were that of a Pharmacy Manager and that they should be appointed to that position.
15. Under cross-examination, Mr Mtetwa said that he has a strong view that the respondent promoted him to an incorrect post. He argued that whether the Hospital structure had the position of Pharmacy Manager or not was irrelevant because the Resolution provided the Guidelines, which had that position.
16. He averred that he should be automatically appointed to the position of Pharmacy Manager from the date of his appointment in 2015. He said that he realized that after checking the OSD Resolution that he was inappropriately placed as Assistant Manager Pharmaceuticals from the date of his appointment. He denied that he could have been considered for the position of Deputy Manager before he could be a Manager by asking as to whom would he be deputizing? He said that he reported to the Clinical Manager who was not a pharmacist. He added that page 12 of bundle X of Resolution 1 of 2010 equated the position of Assistant Manager to that of Pharmacy Supervisor.
17. Mr Mtetwa also said that there was no difference between a big or small hospital because the duties of a Manager were the same regardless of the size as per the

Pharmacy Council and the Resolution. He argued that the respondent's emphasis on the Level of Care of a hospital was artificial because Elliot Hospital followed the prescripts of the Resolution despite that its Level of Care was far less than his.

RESPONDENT'S CASE

18. Ms Lorna Van der Linde, the HR Manager testified that the post of Director Pharmacy was advertised in 2014 and the OSD translated that position to Assistant Manager Pharmaceuticals. She averred that the applicant was placed correctly. She referred to pages 3 -4 of bundle Y, whereby the Benchmarking Document, upon the implementation of the OSD, did not have the Pharmacy Manager position and the Central Office confirmed that the Pharmacy Manager position was the Assistant Manager on 04 January 2010. She added that page 2 of bundle Y showed that the OSD has different categories of Pharmacy Staff and that Heidelberg hospital only had the post of Assistant Manager. She conceded that the OSD did not talk about the Level of Care. She added that there was no document, which talked about the specific issues to a Pharmacy.
19. Ms Van Der Linde said that when they advertised the position of Assistant Manager Pharmaceuticals, they used the OSD document as per page 14 of bundle..., which required 7 years' experience from the incumbent. She averred that the applicant was properly placed and that they could not change the structure because it was only the Central Office that could do so. She added that they did not have a structure at the hospital hence they could not change a structure that was not approved.
20. She added that they did not have the structure from the Central Office hence they could not comply with the OSD requirement, which had levels. She also conceded that the OSD on pages 3 of bundle X and Y provided that the Assistant Manager was equal to the Assistant Director position but the advert on page 1 of bundle Y was not in line with the Resolution. She said that pages Y3 and Y4 were authorized by the Pharmaceutical Management, viz; Louis, who had since retired and her position occupied by Zuleika.

21. She also conceded the applicant was also acting Pharmacy Manager in 2010 and registered as a Responsible Pharmacist with SAPC. Furthermore, that if the applicant was appointed in 2015, page Y3 did not apply to him and that the benchmarking/guidelines from the Central Office became irrelevant. She, however, denied that the applicant sat at EXCO meetings and argued that he reported to the Clinical Manager, who sits at EXCO. She conceded that the latter was not a Pharmacist and that the OSD made separate provisions to Doctors and Pharmacists, which meant that the reporting lines were also not in line with the OSD provisions.
22. Ms Van der Linde, conceded, furthermore, that the applicant also determined the Strategic Plans and made recommendations to HR and that he was responsible for all the functions that fell under the Pharmacy Manager. He operated as Pharmacy Manager and they referred to him as such because he did not deputize for anyone even as per his persal number. She also confirmed that he documents from Elliot Hospital reflected the same duties as the ones performed by the applicant save for the down referrals. She said she could see that the Elliot Hospital advert was in line with the OSD, as it did not mention the Level of Care and that the salary level of the Manager was higher.
23. Under re-examination, Ms Van Der Linde said that the advert on page 1 of bundle Y was in line with the OSD Resolution. She added that although they have complied therewith, the PSA equated the duties of the Assistant Manager to that of the Manager. There was no difference between their functions. She concluded that the benchmarking in the applicant's case was replaced by the provisions of Resolution 1 of 2010.

SECOND APPLICANT'S CASE:EM NKOSI

24. Mr EM Nkosi, the second applicant also testified and said that he was appointed at Bertha Gxhowa Hospital on 01 October 2009 as a Chief Pharmacist as per the advert requirements on page 7 of bundle X. He was appointed at R252 483.00 per annum.

His appointment was prior to the OSD process was implemented. He was also a Pharmacy graduate and registered with the SAPC. He had 25 experience and, same as Mr Mtetwa, he had been performing the duties of a Pharmacy Manager as a Responsible Person and an Accounting Officer. (See the duties in paragraph 10 herein above).

25. Mr Nkosi submitted that his OSD Translation Letter as per page 05 of bundle X was proof that he was translated wrongly as Assistant Pharmacy Manager because his experience was far above 10 years. The said translation was backdated to his appointment date of 01 October 2009. He averred that for the positions of Deputy/Assistant Manager ranged from 5 to 9 years' experience, whilst he had 25 years' experience as a registered Pharmacist with SAPC. He submitted, further, that he was not supposed to have been appointed as Assistant/Deputy Pharmacy Manager in accordance with Resolution 3 of 2009 as per the Letter of Appointment dated 01 October 2009 on page 5 of bundle X., which placed her at Grade 1, Salary R430 206.00 per annum. He averred, therefore, that he was supposed to have been translated as a Pharmacy Manager in accordance with Resolution 1 of 2010, page 15 of bundle X, which replaced *Annexure A2 PHSDSBC Resolution 3 of 2009*. Page 12 of bundle X reflects the relevant OSD Salary notches of, *inter alia*, Pharmacists, Doctors etc. Resolution 1 of 2010 required the Pharmacy Manager to have 9 years' experience after registration as a Pharmacist with SAPAC as per Clause 2.10 of page 15 of bundle X.
26. Mr Nkosi also averred that he was the Responsible Person in Bertha Gxhowa Hospital in charge of Pharmaceuticals Services and that he was a Responsible Pharmacist as per the Pharmacy Council title.
27. Ms Connie Molele, the Assistant Director, HR also testified and said that Mr Nkosi applied for the position of Chief Pharmacist level 10 on 01 September 2009. He declined he entry notch of level 10 as per the advert and after the engagement with the CEO, another letter of appointment was issued after they decided to accommodate him at the last notch because he had 10 years' experience. They also considered the fact that he was a sessional worker before his employment with

Bertha Gxhowa Hospital. She said Translation Tables on page 5 of bundle Y, Clause 2.3.4 was effective from 01 April 2010 and that employees who met the requirements of Annexure B page 9. She said that they used annexure B2 as per the Resolution guidelines as per page 10 of bundle Y, part H, which referred to the Translation of the Chief Pharmacist who was supervising the Pharmacists. She also referred to the Salary Tables on part H and averred that as the Chief Pharmacist, he was at the same salary level of the Assistant Director/Manager. She argued that although page 15 of bundle X, paragraph 2.10 required that his position was that of a Manager, the applicant was already appointed. She added that if they had the post of Manager, it would be advertised when it was available and budgeted for. She said that Mr Nkosi was the Chief pharmacist who was supervising the pharmacists as per the Translation could not be implemented according to the contents of page 15 of bundle X, Resolution 1 of 2010 because at the time of its implementation, he was already appointed.

28. Ms Molele referred to the MEMO on page 34 to 39 of bundle X, which reflected the Main Objectives of Pharmacy Manager and stated that Mr Nkosi applied for the overall management of the pharmacy Department and that he was appointed as a Senior person reporting to the Clinical Manager and not the CEO. She said that Mr Nkosi was not part of EXCO. She added that she did not know the origin of page 34 of bundle X. She, however, added that the latter was responsible for the Strategic Direction of the Hospital whilst Mr Nkosi was currently placed to oversee the Pharmacy Unit and the LRA issues like Leave Forms, Ensuring the Registration with SAPC, Compliance and co-ordination. She concluded by saying that Mr Nkosi was duly translated.
29. Ms Molele said that the advert of Elliot Hospital on pages 40 and 41 of bundle X were irrelevant to the respondent, as they did not have such a post at the moment. She noted the fact that Mr Nkosi would like to be placed correctly as Pharmacy Manager, backdated to 01 September 2009 but argued that they were unable to do so because they could not place him in a post they did not have.

30. Under cross-examination, MS Molele averred that they told the applicant in their offices that they only had the position of Chief Pharmacist as the highest in their structure until the implementation of the OSD. She argued that if should the applicant state that he was performing the functions of the Pharmacy Manager, she would refer him to the advert of Chief Pharmacist, i.e overall management even before or after the OSD up to date. She conceded that Mr Nkosi was doing the duties of a Pharmacy Manager although he was the Assistant Manager. She conceded that Mr Nkosi performed the duties on page 34 of bundle X and that he performed some of the duties like the processing of the compliance documents, which were reviewed and verified by the Clinical Manager.
31. Ms Molele conceded, furthermore, that Resolution 3 of 2009 on page 23 of bundle X was the first Resolution that was applicable to Mr Nkosi prior to the amendments. It was replaced by Resolution 1 of 2010. She also conceded that pages 24 and 26 of bundle X, the OSD introduced a New Occupational Career via the Progression of Pharmacists and others plus the Appointment Requirements. Furthermore, that the Implementation Date of Resolution of 3 of 2009 date was 01 July 2009, as per page 30 of bundle X. The Resolution was to be affected "within 3 months" as per clauses 6.1; 6.2 and 6.3, read with page 9 of bundle Y.
32. She also conceded that on 01 July 2009, the applicant was not yet employed and that his appointment was outside the implementation date of Resolution 3 of 2009 and that Clauses 4.1.4 and 4.1.5 were applicable to him. She also conceded that when they corrected the applicant's placement, they already had level A2 but knew that he was not employed when they implemented OSD on 01 July 2010. She, however, argued that they could not correct his appointment as of October 2009 because he was translated when he got appointed as Chief Pharmacist. She denied that the applicant should not be considered for translation as of 300 June 2009 because his appointment was as of 01 October 2009 but stated that her argument was not covered within the provisions of the OSD.
33. She argued, furthermore, that Resolution 3 of 2009 introduced New work Levels as per page 31 of bundle X, Clause 7.1, which did not apply to Mr Nkosi because his

post of Chief Pharmacist was already advertised before the OSD. He was a Chief Supervisor reporting to the Clinical Manager, who was not in the pharmacy but responsible for Clinicians, Pharmacists and Doctors. She said that she did not know that the OSD specifically dealt with various structures. She also conceded that because the applicant's employment was a new one after the implementation date of June 2009, they had to use the Appointment Measures of Resolution 3 of 2009 as per page 31 and that page 3 of bundle X, Clause 2.1.11 read with page 13 of the same bundle have replaced bundle A2. Furthermore, that page 5 clause 2.3.4.1/2 did not apply to the applicant because he was not there during that time. Therefore, clauses 2.3.4.3 of page 6 was not relevant to the applicant, because it referred to employees who met the translation requirements in paragraphs 2.3.4.1/2.

34. Ms Molele argued that page 9 of Annexure B was relevant to the applicant in so far as he was the Chief Pharmacist level 10. She said that she was revoking what she had stated above because she relied on the advert and the post level whereby the applicant was the incumbent. She argued that the Resolution could not consider the advert while there was no incumbent.

ANALYSIS OF EVIDENCE AND ARGUMENTS

35. The evidence of both parties was so much in sync and I will not dwell on the factors that were common cause; viz;
- i. That the provisions of Resolution 3 of 2009 were replaced and amended by those of Resolution 1 of 2010.
 - ii. That the 2 applicants were registered Pharmacists with over 10 years' experience post their registration with SAPC,
 - iii. That they both reported to the Hospital Clinician and not to the CEO
 - iv. That there was no senior Pharmacist overseeing their performance
 - v. That the 2 were responsible for the overall operation of their respective Hospital pharmacies
36. The respondent's bone of contention was that they did not have any funded position and or vacancy of Pharmacy Manager and that no such position was advertised.

Furthermore, the respondent argued that the applicant could not be automatically promoted to the position of Pharmacy Manager without having contested for the position. They argued, therefore, that the applicants were duly placed and translated to the positions of Assistant Pharmacy Managers. To crown it all, the respondent disowned the document that sought to highlight the Main Objectives of Pharmacy Manager, which strangely happened to coincide with the duties and functions that were performed by the 2 applicants. I found it strange that and convenient for the respondent to willy nilly challenge the existence of a document that outlined the functions of its institution and the only inference I could draw was that the respondent's bare denials were baseless. Furthermore, the respondent could not justify why it failed to move from its reliance on the amended Resolution 3 of 2009 whilst the replacement Resolution 1 of 2010 was put in place.

37. The fact that there was no funded vacancy and or advertised position of Pharmacy Manager was of no consequence because the purport of the OSD was to obviate such frustrations as per the gazette Definitions of OSD hereunder. I have considered that following guidelines and definitions:

"Public Services and Administration on Occupation Specific Dispensation

12 Jun 2007

Occupation Specific Dispensation (OSD) in the Public
Service

12 June 2007

Definition

1. Occupation Specific Dispensation means revised salary structures that are unique to each identified occupation in the public service.
2. These unique salary structures will:
 - * be centrally determined through grading structures and broad job profiles
 - * develop career pathing opportunities for public servants based on competencies, experience and performance
 - * provide for pay progression within the salary level
 - * consolidate certain benefits and allowances into the salaries of

employees.

3. The interval between notches in the revised remuneration structures will provide for significant increments between notches. The frequency of the pay progression within scope of the scales will be determined for each occupational category as it will be informed by the needs of the specific occupation. Such progression within scales will be subject to certain prescribed levels of performance.

4. The salaries of certain occupational categories will, where applicable, be aligned to the market.

5. The implementation of the OSD will not be a general increase for all employees in these occupational categories. OSDs will put in place a proper career pathing model for all occupational categories. Such a career pathing model is not an automatic salary increase, but it is a forward looking plan to systematically increase salaries after pre-determined periods based on specific criteria such as performance, qualification, scope of work, experience, etc.

6. The remuneration structure will provide for longer salary bands and substantial overlaps between salary levels to facilitate adequate salary progression to employees who choose to remain in the production levels instead of aspiring to move into the supervisory or specialist posts.

7. OSDs provide for dual career paths in terms of which professionals and specialists can progress to levels where they earn salaries that are equal to or higher than that of managers without moving into management or supervisory posts. In this regard, the specialist career path will accommodate the uniqueness of different professional or specialist jobs by acknowledging existing 'job families' in the specialist disciplines. Specialist career paths and related remuneration structures will be developed for all the identified occupational categories.

Why is government implementing the new occupation specific dispensation?

8. To improve government's ability to attract and retain skilled employees, through improved remuneration. Currently, employees in the public service are remunerated by a single salary structure. This does not adequately address the diverse needs of occupational categories in the public service.

9. The revised salary structures will result in public servants receiving substantially higher salary increases, through putting in place proper career pathing models for public

servants, recognising seniority and rewarding performance.

However, all these are proposals and subject to collective bargaining processes.

Implications of the new salary grading system:

10. The number of salary notches will be reduced and the increments between notches will be different from the standardised key salary scale.

11. New salary scales will be introduced by the OSDs, which will allow for overlaps between salary ranges.

12. Upward career pathing or upward mobility of employees is improved.

13. An employee who remains within the production level of the occupation throughout his or her career will by means of pay and grade progression receives substantial increases in salary.

14. Translation measures will be communicated to departments or provincial administrations to provide comprehensive guidelines on the changes effected in terms of the new dispensation.

15. Employees will be translated to the appropriate salary ranges attached to the posts subject thereto that they meet the criteria in terms of the appointment and the progression requirements of the OSDs.

2008. The rest of the health professionals will be implemented with effect from 1 April 2008".

38. It is interesting that the respondent would have the position of Assistant Manager for an indefinite period while there are no indications that a Manager could be appointed in the immediate future. I found the argument to be convenient for as long as it had qualified registered Pharmacists who have shown that they performed the overall duties of a Manager. I believe the OSD Resolution was aimed at addressing such inequities by acknowledging and rewarding such professionals appropriately. In *casu*, the most relevant guidelines are, indeed found in on page 15 of bundle X, i.e Resolution 1 of 2010 read with the OSD Post Grades on page 12 of bundle X. Clause 2.3.4 of Resolution 1 of 2010 provided that:

"the Translation tables to facilitate the translation of the post of Pharmacy Supervisor with effect from 01 April 2010 for the following serving employees:

2.3.4.1 who occupied a post of Pharmacist on salary level 8 or higher pre-OSD as at 30 June 2009, and

2.3.4.2 where it was required of the incumbent and contained in the formal job description/performance agreement to directly supervise more than one post of Pharmacist: Community Service) that was converted/aligned to Pharmacist Grade 1,2 or 3 on 1 July 2009 (regardless of whether such posts were filled or vacant).

2.3.4.3 Employees who meet the requirements in paragraphs 2.3.4.1 and 2.3.4.1 shall translate to the post/ job level of Pharmacy Supervisor in accordance with the translation tables contained in Annexure B2 of this Agreement". (See pages 12 to 15 of bundle Y).

39. The said Resolution 1 of 2010 should be implemented accordingly as per the above conditions, whereby measures should be undertaken to recognize the fact that the applicants met the OSD Requirements in that they were the registered Pharmacists with over 10 years' experience post their registration with SAPC. Furthermore, they were in charge of the Hospital Pharmacies and no evidence was submitted as to whether their performance was proven to be below the required standards. If their correct placement overlapped with the position of Pharmacy Manager as per the definitions herein above, that situation would have been in line with the purport of the OSD Resolution. As to whether the applicants should be entitled Pharmacy Managers would be dependent on what the respondent decide to do but even if they did not change their titles, the OSD Resolutions would have been implemented appropriately.
40. I am certain that the Central Office's Circulars and MEMOS should be alive to the fact that the primacy of Collective Agreements should be upheld.
41. It is evident that the applicants suffered prejudice by having been translated in appropriately in terms of the amended Resolution, which placed them below what they should be earning post their translation as per Resolution 1 of 2010.

Furthermore, the fact that the applicants met the requirements of the current Resolution 1 of 2010 by way of meeting all the requirements cannot be over emphasized and the respondent's arguments to the effect that the 2 pharmacists reported to a Clinician and also not attending EXCO did not negate the fact that their duties were the ones highlighted in Resolution 1 of 2010.

42. It would be fair and equitable under the circumstances to follow the guidelines provided by the OSD Resolution 1 of 2010 and translate them to the post/level of Pharmacy Supervisor. It would also be fair and equitable under the circumstances to translate them with effect to 01 April 2010, which is the effective date of the same Resolution.

AWARD

43. The respondent, the Department of Health, Gauteng, failed to interpret and apply the OSD Resolution 1 of 2010 in the cases of Mrrs Mtetwa and Nkosi.
44. The respondent must translate their posts/job levels to that of Pharmacy Supervisor in the Bertha Gxhowa Hospital and Heidelberg Hospitals, respectively, as per the Translation Key Tables of Manager, Pharmaceutical Services on page 12 of bundle X, hereto attached.

45. This award should be implemented within 14 days upon receipt thereof, or the applicants may approach the CCMA to have this award enforced as if it were an Order of the Labour Court. Such translated amounts shall be paid with the applicable rate of interest.

A handwritten signature in black ink, appearing to read 'Queendy Gungubele', written in a cursive style.

QUEENDY GUNGUBELE