GENERAL PUBLIC SERVICE SECTOR BARGAINING COUNCIL

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ARBITRATION AWARD

Panellist/s: **DIKELEDI GURA**
Case No.: **GPB1141-2025**
Date of Award: **16 OCTOBER 2026**

In the ARBITRATION between:

PSA OBO F MOLEKWA

(Union / Applicant)

and

DEPARTMENT OF CORRECTIONAL SERVICES LEEUWKOP

(Respondent)

In Attendance

Union/Applicant's representative: _____
Union/Applicant's address: _____
_____
_____
Telephone: _____
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In Attendance

Respondent's representative: _____
Respondent's address: _____
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Telefax: _____

ARBITRATION AWARD

DETAILS OF HEARING AND REPRESENTATION:

[1] The Arbitration took place as scheduled on 2 October 2026 at 9:00am, in the dispute between the parties, Frans Molekwa (Molekwa), the Applicant and, Department of Correctional Services, Leeuwkop. Both parties were in attendance during arbitration and the Applicant, Frans Molekwa was represented by Mr Malebo Setlhodi (Setlhodi), a Labour Relations Officer of the Respondent from PSA, whilst the Respondent, Department of Correctional Services, Leeuwkop, was represented by Mr Ponti Molotsi (Molotsi), Manager Employee Relations.

[2] The proceedings were conducted in English and there was no interpreter.

[3] The proceedings were digitally recorded and hand written notes were kept.

[4] All witnesses testified under oath.

[5] Only the Applicant submitted a bundle of documents which was admitted to the Arbitration. The authenticity thereof was not questioned.

ISSUE TO BE DECIDED:

[6] Whether the Respondent misconducted itself in failing to upgrade the position of Mr Frans Molekwa (Molekwa), the Applicant, from post level CB4 to post level CB5 in accordance with Resolution 2 of 2009. Should I find that the Respondent misconducted itself in failing to upgrade Mr Molekwa's position from CB4 to CB5 in accordance with Resolution 2 of 2009, I will determine an appropriate relief.

BACKGROUND TO THE MATTER:

[7] Molekwa was employed by the Respondent on 5 April 1993 as a Medium C Correctional Centre Security. He was later promoted to Unit Manager (Senior Correctional Officer) at CB4 level. On 1 March 2022, he was horizontally transferred to the position of (Divisional Head Security, but still at CB4 level. His predecessor at his current position was at CB5 level, earning a salary higher than that of Molekwa, being an amount of R579 738.00 per annum whilst Molekwa's salary was at R433 778.00 per annum.

[8] Molekwa wants his position to be upgraded to CB5 and be paid a salary that was earned by his predecessor, being an amount of R579 738. 00 at CB5 level.

SURVEY OF EVIDENCE AND ARGUMENT:

[9] The onus is on Molekwa to prove that the Respondent misconducted itself in failing/refusing to place him at a CB5 position, thereby also paying him a salary earned by his counterparts at CB5 level.

[10] I am guided by Section 138 (7) (a) of the LRA as amended to deal only with the evidence that is relevant to the issues in dispute.
The following is a brief summary thereof.

The Applicant's case

Molekwa was the only witness in his case and he testified as follows:

[11] He was employed by the Respondent as a Medium C Correctional Centre Security, on 5 April 1993. He was later promoted to the position of Unit Manager (Senior Correctional Officer) at CB4 level earning a salary of R433 778.00.

[12] On 1 March 2022, he was horizontally transferred to a Medium "A" Correctional Centre, at a Divisional Head Security position, but still at the same salary of R433 778.00. He testified that his predecessor was earning a salary of R579 738 at the time. He did not understand why that was the case as the tasks and duties he was performing were similar to that of his predecessor.

[13] He testified that his other colleagues occupying the same position of Divisional Head Security are earning the same salary as that of his predecessor and that, he was the only one being paid less even if the tasks and duties were the same as per his job description. He testified that the person who signed his letter of appointment to his current position, Mr E Khoza, Deputy Regional Commissioner, had authority to appoint him as such.

[14] He testified that his appointment started with a meeting between him and Ms Moasi, the Area Commissioner and Mr Mashigo, the Area Corporate Services Manager. During the meeting, the 2 officials informed him that they were experiencing problems in Correctional Centre A as of the offenders stab each other and that there were lots of escapes. He testified that during 2021-2022, a certain Ms Moloko who was a correctional Centre officer was also murdered by offenders. He was called to be moved to Correctional Centre A so that he could assist with resolving this problems, which he did. He testified that the tasks and duties in Correctional Centre A were

much more than those of Medium C Correctional Centre, where he worked, prior to his transfer. He testified that the Center has over 1000 offenders who he has to manage on daily basis with the support of his team.

[15] He testified that, part of the things they did was to come up with an Assault Prevention Strategy. He, together with his team ensured the safety of civilians as well as those of officials, to avoid incidents similar to that of Ms Moloko. He testified that, on daily basis, his job involves managing escorts of offenders to Courts and back. The Centre has to date, been classified as a Self Sufficient and Sustainable Centre (SSS). At this center, offenders plough their own vegetables, are engaged in farming and are also engaged in artisan work, manufacturing furniture for the Centre. He testified that, when offenders do all this activities, they have to be under severe guarding to avoid escapes. To date, there has been zero escapes with his contribution as Divisional Head Security. He testified that he also comply with the 6 pillars of security within the center.

[16] He referred the arbitration to pages 28-29 of the Applicant's bundle "A' regarding the grading of center based positions, CB4 and CB5. He referred the arbitration to this pages to demonstrate that officials at CB4 and CB5 are performing different tasks and duties. He could not comprehend why his salary remained the same even if his tasks and duties have changed and that, other officials at CB5 are paid salaries far more than his. He testified that, this was the reason why he had referred his dispute to the GPSSBC. He had lodged grievances regarding the same dispute and his Supervisor, Ms Moasi, Area Commissioner, had attempted to escalate it to the Regional Officer Work Study, Mr Venter, but there was no change. In Ms Moasi's opinion, his grievance had substance, hence she had escalated it to the Regional Office.

[17] He referred the arbitration to pages 51 -52 regarding an advertisement for the position of Divisional Head Security at CB5 level with a salary amount of R579 738.00 whilst he remained at CB4 level with a salary amount of R433 778.00. He testified that in 2022 when he was appointed to the position, he was put at a salary amount of R422 115.00 whilst his counterparts were at a salary amount of R461 115, leaving him with a variance of R3 261. 75. He testified that at the time he referred his dispute to the GPSSBC, the Respondent had already underpaid him with a salary amount of R175 023. 00. He wants the Respondent to put him at an appropriate salary scale as his peers as provided for by Resolution 2 of 2009, from 1 March 2022 to date.

DURING CROSS-EXAMINATION

[18] Molutsi asked Molekwa when he had become aware of the fact that he was underpaid and how did he become aware? Molekwa testified that he had become aware on 1 June 2025 through one of his colleagues occupying the same position as him. Molutsi continue to ask Molekwa what would be his response should the Respondent

allege that the salary he was receiving was correct and Molekwa stated that, that would be unfair based on the evidence he has, that his colleagues in the same position are earning more/higher than him.

[19] Molekwa testified that, it cannot be that his job was evaluated to receive the salary he was earning. He continued to state that in terms of Chapter 4 on Employment Matters, before creating a post, executive authority will confirm but with regard to (Occupation Specific Dispensation) OSD posts, such posts are not supposed to be evaluated.

The Respondent's Case

[20] No evidence was presented by the Respondent in any form as Molutsi had hoped that Molekwa's dispute would have been resolved internally and amicably by the Respondent. Molutsi did not dispute Molekwa's claim of being put at CB5 and be paid appropriately in terms of Resolution 2 of 2009

ANALYSIS OF EVIDENCE AND ARGUMENT

[21] It is not in dispute that Molekwa was transferred to a Medium "A" Correctional Centre, at a Divisional Head Security position on 1 March 2022. It is again not in dispute that his transfer was authorised by Mr E Khoza, Deputy Regional Commissioner. The only issue that was in dispute was that, when Molekwa was transferred, he was placed at CB4 position level instead of CB5 level. It was evident during arbitration that Molekwa's predecessor was at CB5 level, earning a salary far more than what Molekwa earned with the same tasks and duties that were performed by his predecessor. Molekwa was not happy with this, after he had become aware that, his colleagues occupying the same position at CB5 level, performing the same tasks and duties as him but earning a higher salary than him. He was made aware by a colleague in July 2025 and immediately thereafter, he referred his dispute to the GPSSBC under section 186(2) (a) of the LRA.

[22] Molekwa relied on Resolution 2 of 2009 which establishes the implementation of an Occupation Specific Dispensation (OSD) for certain public service employees, including correctional officials and community development practitioners, with defined salary structures, career progression, and deadlines for submission of experience. Resolution 2 of 2009 was designed to implement an Occupation Specific Dispensation (OSD) for public service employees, particularly correctional officials and community development practitioners (CDPs). The Resolution formalizes the OSD framework for specific public service employees, ensuring structured career progression, fair compensation, and recognition of experience. It also sets clear deadlines for employee submissions and provides mechanisms for resolving disputes, thereby standardizing employment conditions and professional development within the public service.

[23] Section 38 of the Public Service Act, 1994 provides for the recovery of salary or remuneration wrongly granted to public service employees. Section 38(1)(a) of the same Act provides that "If an incorrect salary, salary level, salary scale or reward is awarded to an employee, the relevant executive authority shall correct it with effect from the date on which it commenced".

[24] In *Minister if Justice and Correctional Servives v Popcru Obo Basini (C323/2021)[2025] ZALCCT* Mr M Basini was appointed in 2013 as a Centre Based Coordinator: Staff Support (CB4). In 2018, an arbitrator found that a Centre Coordinator in a medium/large Centre should be on CB5, not CB4, under Resolution 2 of 2009. Basini referred his own case in 2019, claiming he was in the same position and should receive CB5 remuneration. The Department argued that he did not occupy a CB5 post at the time Resolution 2 came into effect on 1 July 2009 and that, he should be paid according to the grade applicable at the time of his promotion. The Cape Town Labour Court held that the arbitrator was correct to treat the dispute as one over the *application* of a collective agreement, not its interpretation, and allowed an order for payment of correct remuneration under section 138(9) of the LRA.

[25] Molekwa testified that on 1 March 2022 when he was horizontally transferred to a Medium "A" Correctional Centre, at a Divisional Head Security position, his salary remained at R433 778.00 whilst his predecessor was earning a salary of R579 738. 00 in the same position, at the time. He did not understand why that was the case as he performed the same tasks and duties as those of his predecessor as alluded to in [para] 12 above. Molekwa wants to be remunerated at the same salary level as his predecessor.

[26] From 1 March 2022, Molekwa salary was at R422 115.00 whilst his counterparts were at a salary amount of R461 115, leaving him with a variance of R39 000.00 per annum. In 2023 his salary was R441 300. 00 whilst his counterparts were at a salary amount of R475 095.00 leaving him with a variance of R33 795.00 per annum. In 2024, his salary was R479 994. 00 whist his counterparts were at a salary amount of R515 532. 00 leaving him with a variance of R35 538.00 per annum. In 2025 his salary was R509 820. 00 whilst his counterparts were at a salary amount of R547 473.00 leaving him with a variance of R37 653.00 per annum. In 2026 his salary is R562 731. 00 whilst his counterparts were at a salary amount of R606 225.00 leaving him with a variance of R43 494.00 per annum. A variance of R43 494.00/12 = R3 624. 50 per month. This then means that, a pro rata payment of R3 624. 50 X 6 months, from 1 March 2026 to 30 November 2026 would amount to an amount of R21 747.00. This then means that, Molekwa must be paid a pack pay amount of R167 733.00 (One Hundred and Sixty Seven Thousand Seven Hundred and Thirty Three Rand Only) in outstanding remuneration by the Respondent.

FINDING

[27] I find that the Respondent misconducted itself in failing to place Molekwa at CB5 position and failing to remunerate him correctly at a CB5 salary level.

[28] I find further that Molekwa should be put at CB5 and be remunerated at a salary level for CB5 as per Resolution 2 of 2009. His salary must be adjusted from1 March 2022, being the date on which he was transferred to the position of Divisional Head Security at CB5 level, to date. This then means that, Molekwa should be paid back pay of an amount of R167 733.00 (One Hundred and Sixty Seven Thousand Seven Hundred and Thirty Three Rand Only) in outstanding remuneration by the Respondent.

AWARD:

[29] Molekwa should be placed at CB5 position and should be remunerated at a salary level for CB5 as per Resolution 2 of 2009.

[30] Molekwa should be paid back pay of an amount of R167 733.00 (One Hundred and Sixty Seven Thousand Seven Hundred and Thirty Three Rand Only) in outstanding remuneration by the Respondent.

[31] Payment of the above amount should be made to Molekwa not later than 30 November 2026, from there it will accrue interest in terms of section 143(2) of the LRA



Name: DIKELEDI GURA

(Council name) Arbitrator