GENERAL PUBLIC SERVICE SECTOR BARGAINING COUNCIL

Physical Address:
260 Basden Avenue,
Lyttelton, Centurion,
Pretoria

Postal Address:
PO Box 16663,
Lyttelton, 1040

Tel: 012 664 8132
Web: http://www.gpssbc.org.za

Panellist/s: Mahasha Dolly
Case No.: GPBC647/2026
Date of Award: 20 August 2026

In the ARBITRATION between:

PSA obo TG Dlamini — Applicant

and

Department of Correctional Services — Respondent

Arbitration Award

Details of hearing and representation:

1. The applicant referred an unfair labour practice dispute relating to benefits to the GPSSBC in terms of section 186(2)(a) of the Labour Relations Act 66 of 1995, as amended ("the LRA").
2. The matter was set down for arbitration on 13 August 2026, at Leeuwkop Prison, Main Road, in Bryanston.
3. The applicant, Mr. Thokozani Givenson Dlamini, attended the arbitration proceedings and was represented by Mr. Malebo Setlhodi , from the Public Servants Association (PSA).
4. The respondent, the Department of Correctional Services, was also in attendance and was represented by Mr. Ponti Molotsi: Manager Employee Relations
5. The proceedings were digitally recorded

6. The parties were directed to submit written closing arguments on 18 August 2026. Only the applicant complied with the directive.

BACKGROUND TO THE DISPUTE:

7. The applicant was appointed as a Centre Coordinator: Staff Support at the Lower Medium B Correctional Service Correctional Centre with effect from 1 May 2012, at salary level CB-4. At the time of his appointment, he earned a monthly salary of approximately R19,920.00.
8. He contended that, in terms of the applicable Occupational Specific Dispensation (OSD), the post ought to have been graded at CB-5 because he was employed at a medium correctional centre.
9. He accordingly referred an unfair labour practice dispute relating to benefits, seeking the retrospective adjustment of his salary notch progression and payment of the salary difference arising from the alleged incorrect grading.

ISSUE TO BE DETERMINED:

10. The issue to be determined is whether the respondent committed an unfair labour practice relating to benefits by appointing the applicant at salary level CB4 instead of CB5 and, if so, whether the applicant is entitled to the relief sought.

SURVEY OF EVIDENCE AND ARGUMENTS

11. At the outset it must noted that the below merely serves as a summary of what the writer believed to be the salient points presented and must be read in conjunction with the bundle of documents adduced.

APPLICANT'S CASE

12. **THOKOZANI GIVENSON DLAMINI** testified that he is currently employed at Maximum Correctional Centre. He explained that Maximum is classified as a Medium Correctional Centre because it is headed by a Deputy Director and that there are four centres within the group, namely Medium A, Medium B, Medium C and Maximum. According to him, each of these centres is headed by a Deputy Director and is therefore classified as a Medium Correctional Centre.
13. He testified that he was appointed on 1 May 2012 at Medium B Correctional Centre as Centre Coordinator: Staff Support at CB4. He explained that Medium B was a Medium Correctional Centre headed by a Deputy Director. He further testified that he had no knowledge of whether the post he occupied at Medium B was subjected to job evaluation after he left.
14. Referring to pages 2 to 5 of Common Bundle A, he identified his appointment letter, which confirmed his appointment as Centre Coordinator: Staff Support at CB4 at Medium B.
15. He then referred to page 6, which he identified as the Department of Correctional Services organisational structure created in 2003. He explained that the structure reflected the Head of the Correctional Centre at the top, with the Centre Coordinator: Operational Support, Centre Coordinator: Correction and Centre Coordinator: Staff Support reporting directly to the Head of the Correctional Centre. He testified that all the Centre Coordinators reported to the Head of the Correctional Centre.
16. He explained that when he was appointed in 2012, the Centre Coordinators reporting to the Head of the Correctional Centre were appointed at CB5, with the exception of the Centre Coordinator: Staff Support, which was graded at CB4.
17. Referring to pages 7 to 30 of the bundle, he identified advertisements for the position of Assistant Director: Centre Coordinator: Staff Support. He testified that on 1 February 2013, such posts were advertised in the Gauteng region at Low Cop Maximum A and Low Cop Maximum C. Similar posts were advertised in the Free State and Northern Cape region, as well as the Eastern Cape region.

18. He explained that Medium B was not included in the advertisements because he had already been appointed to the position on 1 May 2012. He testified that there was no difference in the duties and responsibilities performed by a Centre Coordinator: Staff Support at Medium B and those performed by Centre Coordinators at other Medium Correctional Centres.
19. According to him, although he had been appointed at CB4, he performed the same duties as Centre Coordinators appointed as Assistant Directors at CB5. He explained that Assistant Director: Centre Coordinator: Staff Support was classified at CB5, whereas his position at Medium B had been graded at CB4.
20. He testified that Assistant Director: Centre Coordinator: Staff Support posts were advertised in the Mpumalanga and North West regions at Correctional Services Centres. He stated that these posts were all graded at CB5 and that the duties performed at those centres were identical to those he performed at Medium B. He further testified that the advertisements on pages 10 to 18 similarly related to Centre Coordinator: Staff Support posts graded at CB5, with the same duties and responsibilities.
21. He testified that he was subsequently appointed as Centre Coordinator: Staff Support at CB5 with effect from 1 April 2016 at Bizana. He explained that there was no difference between the duties he performed at CB4 at Medium B and those he performed after his appointment at CB5. According to him, the only difference was the salary level.
22. He then referred to Resolution 2 of 2009, contained in the bundle, which he identified as the Agreement on the Implementation of the Occupational Specific Dispensation for Correctional Officials. He testified that the resolution was signed on 24 June 2009.
23. He explained that the resolution dealt with management positions within correctional centre-based workstreams. He testified that certain occupational groups, including Security Manager, Reintegration Manager, Unit Manager, Head of Correctional Services and Head of Community Corrections, fell within CB4.
24. He further testified that the resolution provided that Centre Coordinators working at medium or large correctional centres should be graded at CB5. Centre Coordinators working at large correctional centres headed by Directors should be graded at CB6.

25. He explained that correctional centres in Boksburg and Johannesburg are headed by Directors and that the Centre Coordinators at those centres are therefore graded at CB6 because they serve large correctional centres.
26. He then referred to pages 22 to 35 of the bundle, which he identified as documents dealing with the identification and classification of Correctional Services Act and Public Service Act positions, including SP codes of remuneration and the Occupational Specific Dispensation for Correctional Officials.
27. He testified that the documents referred to Resolution 2 of 2009, dated 17 November 2010, and also reflected a date of 5 April 2011.
28. Referring to page 35, he testified that the document reflected the Human Resource Management and Development component and included the position of Centre Coordinator: Staff Support under the Head of the Correctional Service Centre within the Custodial and Support Environment. He explained that CSA referred to the Correctional Services Act and that the position reflected at CB6 related to Centre Coordinators serving at large correctional centres headed by Directors.
29. He then dealt with his salary placement and the financial consequences of what he regarded as the incorrect grading of his position. He confirmed that he had been placed on notch R679,179,00 whereas he ought to have been placed on notch R710 220.00. He testified that the total salary difference he claimed amounted to R526,113.50.
30. Referring to page 36, he explained that he had served as Centre Coordinator: Staff Support at CB4 from 1 May 2012 until 31 March 2016. He testified that, because the OSD required Centre Coordinators working at medium correctional centres to be appointed at CB5, he calculated the salary difference that would have been due to him had the Respondent correctly implemented the salary benefit from the date of his appointment.
31. He testified that the salary difference for the period from 1 May 2012 to 31 March 2016 amounted to R211,611.25.
32. He further explained that although he was appointed at CB5 with effect from 1 April 2016, he was incorrectly placed on the first notch of CB5 instead of the notch he should have occupied had the salary benefit been correctly

implemented from 2012. He testified that this incorrect placement affected his subsequent salary progression.

33. He calculated the salary difference from 1 April 2016 onwards at R314,502.25. When added to the earlier amount of R211,611.25, this resulted in a total claim of R526,113.50.
34. He referred to the calculation on page 39 and testified that it required correction by deleting the reference to CB4 to CB5 and leaving only CB5.
35. He thereafter referred to pages 51 to 55 of the bundle, which he identified as documents relating to a similar matter. He explained that after he left Medium B in 2016 to take up another position at Kroonstad, the post of Centre Coordinator: Staff Support at Medium B was advertised at CB4.
36. He testified that the successful applicant was appointed on 1 August 2016 at CB4 but subsequently challenged the grading of the post. According to him, the official obtained an arbitration award confirming that the position should have been graded at CB5. He testified that the award was implemented, the official received the salary difference due to her and was promoted to CB5.
37. Referring to page 56, he identified a Labour Court judgment concerning a similar dispute. He explained that the employee in that matter had also been appointed as Centre Coordinator: Staff Support at CB4 and had obtained an arbitration award on the basis that the position should have been graded at CB5 because it was located at a Medium Correctional Centre.
38. He testified that the Respondent unsuccessfully took that arbitration award on review and that the Labour Court upheld the award in favour of the employee. In conclusion, he requested that the Respondent be ordered to correct the grading of his position retrospectively for the period from 1 May 2012 to 31 March 2016 and to pay him the resulting salary difference of R211,611.25.
39. He further requested that his salary progression from 1 April 2016 be corrected to reflect the notch he ought to have occupied had the Respondent correctly implemented his salary benefits from the date of his initial appointment. He accordingly sought payment of the salary difference from 1 April 2016 until 31 August 2026, together with all consequential benefits arising from the correction of his salary progression. His total claim was R526,113.50.

RESPONDENT'S CASE

40. **JOHANNA LINKIE NGOBENI** testified that she is employed by the Respondent at the LNN Regional Office as a Regional Work Study Official. She explained that her key performance areas include developing job descriptions, conducting job evaluations where applicable, determining grading levels, determining staff establishments and performing other work-study functions.
41. In relation to the Applicant's appointment, she testified that he was appointed as a Centre Coordinator: Staff Support at CB4. She explained that the Applicant had applied for the post after it was advertised at CB4, attended the interview and was subsequently successful and appointed to the position.
42. She further testified that the post was an Occupational Specific Dispensation (OSD) post and that it was a centre-based appointment made in terms of the Correctional Services Act.
43. When asked at what level the Applicant ought to have been appointed, she testified that he was correctly appointed at CB4 because that was the level at which the post had been advertised.
44. She referred to the Applicant's appointment letter in Common Bundle A, which recorded his appointment as Senior Correctional Officer: Centre Coordinator: Staff Support, Leeuwkop Management Area, at CB4. She testified that the appointment letter confirmed the level at which the post had been advertised and to which the Applicant had been appointed.
45. She thereafter addressed the issue of job evaluation. She testified that, in terms of Chapter 3, Part 5 of the Public Service Regulations, posts falling under Occupational Specific Dispensation are not subject to job evaluation. She explained that the Respondent does not conduct job evaluations for posts that fall within an OSD because such posts are regulated by the applicable occupational-specific dispensation framework.
46. According to her, Correctional Services posts are OSD posts and are therefore excluded from the normal job evaluation process in terms of the applicable regulations. She maintained that the Applicant's post was an OSD

post, had been advertised and filled at CB4, and that its grading was governed by the OSD framework rather than by the Respondent's ordinary job evaluation system.

ARGUMENTS

47. The applicant's closing argument substantially reiterated the evidence presented during the arbitration. I therefore do not consider it necessary to repeat the applicant's submissions in detail. Where relevant, the submissions are dealt with in the analysis below.

ANALYSIS OF EVIDENCE

48. Section 186(2)(a) of the Labour Relations Act defines an unfair labour practice as any unfair act or omission arising between an employer and an employee involving unfair conduct relating to the provision of benefits. The applicant bears the onus of proving, on a balance of probabilities, that the respondent acted unfairly by denying him a benefit to which he was entitled.
49. In ***Apollo Tyres (Pty) Ltd v CCMA and Others*** **(2013) 34 ILJ 1120 (LAC),** the Labour Appeal Court held that the term "benefit" includes not only contractual or statutory entitlements, but also existing advantages or privileges conferred in terms of a policy or practice, provided that the employer exercises its discretion fairly. The Court further held that commissioners must scrutinise the fairness of the employer's conduct and determine whether the employee was unfairly deprived of such benefit.
50. In the present matter, the applicant's case is not that he seeks the creation of a new benefit. His case is that the respondent failed to implement an existing benefit created by Resolution 2 of 2009, which regulates the Occupational Specific Dispensation (OSD) applicable to correctional officials. He contended that Centre Coordinators: Staff Support employed at medium correctional centres headed by Deputy Directors ought to have been graded at CB5, and that the respondent incorrectly appointed him at CB4 despite his performing duties identical to those of officials remunerated at CB5.

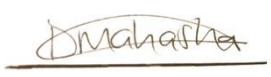
51. The applicant produced documentary evidence consisting of the OSD resolution, an advertisement reflecting a similar Centre Coordinator: Staff Support post at CB5, previous arbitration awards, and a Labour Court judgment involving substantially similar circumstances. His evidence remained consistent that there was no material difference between the duties he performed at the Medium B Correctional Centre and those performed by officials appointed elsewhere at CB5. Importantly, this evidence was not materially contradicted by the respondent.
52. The respondent's defence was confined to the contention that the applicant accepted appointment to a post advertised at CB4 and that OSD posts are excluded from job evaluation in terms of the Public Service Regulations. However, this defence fails to answer the applicant's complaint. The dispute does not concern whether the post required job evaluation. Rather, it concerns whether the respondent correctly implemented the applicable OSD when determining the grading attached to the post.
53. The respondent led no evidence demonstrating that Resolution 2 of 2009 authorised a CB4 grading for Centre Coordinators: Staff Support stationed at medium correctional centres, or explaining why the applicant's post was treated differently from identical posts advertised at CB5.
54. The applicant further testified that when he was appointed to CB5 in April 2016, he was placed on the first salary notch instead of the notch he would have occupied had he been correctly graded from 1 May 2012. The respondent did not dispute that an incorrect initial grading would inevitably affect his subsequent salary progression, nor did it produce an alternative calculation challenging the applicant's computation of his financial loss. Accordingly, the applicant's evidence regarding the financial consequences remains substantially unchallenged.
55. The previous arbitration awards and Labour Court judgment relied upon by the applicant are not binding on this Council, as each matter must be determined on its own facts. Nonetheless, they constitute persuasive authority demonstrating that the grading of Centre Coordinator: Staff Support posts at medium correctional centres has previously been interpreted consistently with the applicant's understanding of Resolution 2 of 2009. The

respondent presented no persuasive authority or evidence distinguishing those matters from the present dispute.

56. Having regard to the totality of the evidence, I find that the applicant established, on a balance of probabilities, that the respondent failed to correctly implement the applicable OSD and thereby deprived him of a salary benefit attached to his post.
57. The respondent's reliance on the fact that the applicant accepted appointment at CB4 cannot override the provisions of the binding collective agreement regulating grading and remuneration. Acceptance of an incorrectly graded appointment does not legitimise the continued denial of an existing employment benefit.
58. Applying the principle enunciated in *Apollo Tyres*, I am satisfied that the applicant has proved that the respondent acted unfairly in relation to the provision of a benefit contemplated by section 186(2)(a) of the Labour Relations Act.
59. Consequently, the applicant has discharged the onus resting upon him, and the unfair labour practice dispute succeeds.

AWARD

60. The respondent is ordered to pay the applicant an amount of R526,113.50 (five hundred and twenty-six thousand, one hundred and thirteen rand and fifty cents)**,** being the salary differential arising from the incorrect grading of the applicant's position from CB4 (salary level 8) to CB5 (salary level 9).
61. The amount of R526,113.50 (five hundred and twenty-six thousand, one hundred and thirteen rand and fifty cents**)**represents the difference in salary between salary levels 8 and 9 which ought to have been paid to the applicant.
62. The respondent is ordered to pay the aforesaid amount to the applicant on or before 30 October 2026**.**
63. I make no order as to costs.



_____

GPSSBC Commissioner: Advocate Mahasha Dolly