



IN THE GENERAL PUBLIC SERVICE SECTORAL BARGAINING COUNCIL

Held in Pretoria

Commissioner: P M Ngako

Case No.: GPBC1417/2024

Date of Award: 4 September 2026

In the Dispute between:

PSA OBO R MOTSETO

(Union/Applicant)

And

DEPARTMENT OF NATIONAL TREASURY

(Respondent)

Applicant's representative: Mr. Velly Mashao

Respondent's representative: Adv Belinda Mkatshwa

ARBITRATION AWARD



PARTICULARS OF PROCEEDINGS AND REPRESENTATION

[1]. This matter was set down before me on 2 October 2025, 18 February 2026, 8 May 2026 and 13 August 2026 at the Department of National Treasury, 40 Church Square, Pretoria, Central. The applicant was present and was represented by Velly Mashao, a trade union official from PSA. Advocate Belinda Mkatshwa, instructed by the State Attorney, represented the respondent. After conclusion of oral evidence, parties submitted written heads of argument as agreed

THE ISSUE IN DISPUTE

[2] According to the pre-arbitration minutes, I am required to determine whether the non-payment of outstanding 26 leave days constitutes unfair labour practice

BACKGROUND TO THE DISPUTE

The following facts, according to the pre-arbitration minutes, are common cause between the parties:

- [3.1]. Applicant was denied leave for a total of 26 days by her manager due to operational reasons
- [3.2]. Applicant applied for reimbursement in terms of the Determination for Leave of Absence in the Public Service, and the application was declined.
- [3.3]. The Minister substantiated the applicant's grievance; the Applicant was directed to reapply for her 26 annual days in writing; however, the applicant was denied a leave payout
- [3.4]. Determination for Leave of Absence provides that outstanding leave that was denied and not rescheduled by the responsible manager due to operational reasons should be paid out to the employee.

The following facts, according to pre-arb minutes, are in dispute:

- [4.1]. The provisions of the Determination and Directive on Leave of Absence in the Public Service apply.
- [4.2]. The applicant qualifies to be reimbursed.
- [4.3]. The Minister supported the applicant's grievances, citing that the grievance were substantiated

SUMMARY OF EVIDENCE AND ARGUMENT

The applicant's evidence

[5.1]. Applicant **RAKGADI MOTSETO**, after being duly sworn, testified on her behalf as follows: she is employed by the respondent as Chief Director: Supply Chain Management Stakeholder and Client Management within the



office of the Chief Procurement Officer. She testified that she referred her dispute to the Council for unpaid leave days after her line manager refused to approve their payments. It was her evidence that during the financial year 2022 she applied for leave and her supervisor did not approve her leave application; after her supervisor refused to approve her leave, she lodged a grievance and the outcome of the grievance was the outcome is on page 47 of the respondent's bundle which found that her leave application was irregularly managed and advised her to reapply for 2022 leave days to her line manager in writing and the application will be used as evidence to the Human Resources, she then resubmitted her application and it was refused by her supervisor.

[5.2]. She conceded under cross examination that the reasons her line manager on page 10,11 and 12 was that she did not appoint an official to act on her behalf while she applied for leave, she however insisted that she did recommend a director to act on her behalf in relation to leave application on page 12 of bundle R, but she does not know what happened later, and she conceded that according to the outcome of the grievance from the Minister on page 47 of bundle R she was requested to resubmit the leave, that she is relying on the outcome that states that her application was found to be substantiated.

The respondent's evidence

MENDOE NTSWAHLANA

[6.1]. The respondent led the evidence of **MENDOE NTSWAHLANA** who after being sworn in testified as follows: she is employed by the respondent as Chief Procurement Officer and is direct manager of the applicant, she knows that applicant is aggrieved because she denied her applications for leave after she failed to recommend someone to act in her position for the sake of business continuity, that page 9 of bundle R is an email in which she was reminding applicant when she applies for leave, she must have an official who is going to act on her behalf. In compliance with Clause 5.5 of the Determination and Directive on Leave of Absence in the Public Service, which states that when you apply for leave, you are required to take the service delivery requirement of the department into consideration; hence the issue of the acting, and the applicant did not comply with the requirement when she applied for her leave. The letters on pages 47 and 48 of bundle R were the outcome of the grievance lodged by the applicant against her, and said the outcome was taken without interviewing her; she insisted that she responded to the applicant when she denied her application for leave. She further testified that payment of the 26 leave days was declined because her application did not comply with the prescripts, and when she considered the applicant's application she acted in good faith.



[6.2]. Under cross examination it was her evidence that applicant does not qualify to be paid for the 26 leave days credits because she failed to recommend an official who is going to act when she applied for leave for the sake of continuity which is terms of the prescript, it was her evidence that the outcome of the grievance of the applicant, she was not given an opportunity give her site before a decision was made, that when the outcome came out, she did not challenge the outcome, that she disagree with the outcome of the grievance from the Minister that applicant's leave applications were irregularly managed, and said she has always disagreed with the outcome.

ANALYSIS OF EVIDENCE AND ARGUMENTS

[7.1]. The applicant is aggrieved by the non-payment of outstanding leave days and submits that the decision amounts to an unfair labour practice because the applicant's supervisor's decision to decline her leave application was the outcome of the grievance from the Minister, which confirmed that the applicant's grievance was substantiated. The respondent submits that the leave applications were not declined arbitrarily, capriciously or for punitive reasons, but were declined because the applicant had failed to comply with an established operational requirement intended to ensure continuity during her absence.

[7.2]. It is common cause that the applicant lodged a grievance dated 10 April 2024, and she was aggrieved by the continued pattern of leave applications being declined by her supervisor. The outcome of the investigation at page 48 of bundle R of the letter to the applicant's supervisor from the Minister of the respondent, paras 2 and 3 of the letter, provides

" The grievances were duly investigated and found to be substantiated. During the investigation, it was found to be substantiated. During the investigation, it was found that Ms. Motseto's leave days credits application for the 2022 cycle was irregularly managed. In terms of Part 4, section 5.13 of the Determination and Directive on Leave of Absence in the Public Service, any refusal of annual leave must be confirmed in writing, stating the reasons and the reasons and the arrangement for rescheduling the annual leave. These three requirements were not adhered to in the management of Ms Motseto's leave applications.

The investigation recommended that Ms. Motseto reapply for her 26 annual leave days in writing retrospectively. Subsequently, you will be required to confirm your refusal in writing and state the reasons. The written refusal confirmation and reasons will constitute as evidence that will be submitted to the Human Resources Operations unit for Ms. Motseto's application for her unused 2022 leave credits to be considered for payouts"

[7.3]. This letter on page 48, heading " Grievance Investigation Outcome- Ms Motseto after the applicant's supervisor received it, she did not challenge the finding and is barred from claiming that she was not consulted



during the investigation when she did not challenge the grievance outcome, and I agree with the applicant's argument that the Minister's decision remains the only formal finding arising from the grievance process. The respondent submits that this process for the applicant to resubmit her application was intended to address the irregularity identified by the investigation; it did not, however, dispense with the requirement that the applicant's leave be properly considered and approved in terms of applicable frameworks. Reading the letter, the resubmission of the application does not mean the applicant could still go on leave, but the information is meant to enable her to apply for payment for the leave days.

[7.4]. The Determination and Directive on Leave of Absence in the Public Service governs leave in the Public Service and is binding on the applicant and the respondent. Part 4, clause 5.13 is the one that the grievance outcome found the applicant's supervisor had failed to comply with and provides:

"5.13 Any refusal of annual leave must be confirmed in writing, stating the reasons and arrangements for rescheduling of the annual leave"

The applicant's line manager, according to the grievance outcome for the 2022 financial year, failed to comply with this clause, and it prejudiced the applicant was unable to take the leave, and her supervisor failed to arrange for the rescheduling of the annual leave; because the applicant could not take the leave for the 2022 financial year, the reapplication was meant to enable her to claim payment.

[7.5]. The section of the determination that deals with circumstances when you apply for payment of unused leave credits is clause 5.14, which provides as follows:

" 5.14. If due to the employer's service delivery requirements, an employee's application for leave is denied and rescheduled, such leave must, upon request, be paid out to the employee at the end of the 6 months referred to in 5.6 above. Employee requests for unused leave credits must be:"

5.14.1. in writing and

5.14.2. accompanied by written proof of refusal of leave by the head of the Department

[7.6]. The respondent submits that the applicant's resubmission was denied because she failed to designate an official to act in her absence. The outcome of the investigation into the applicant's grievance found nothing wrong with her conduct; it lays the blame on the applicant's line manager in that her refusal to grant the applicant leave was not in writing, stating reasons and arrangements for rescheduling. In my view, if the applicant's line manager



had complied with this clause, as per the Minister's finding, there would have been a dispute that ended before the Bargaining Council.

[7.7]. The reason given by the applicant's line manager for refusing to approve her leave application is that the applicant had not identified a person to act in her position during her absence, which complies with determination clause 5.12, which provides

" 5.12. An employee's application for annual leave should not be unreasonably refused. An application for annual leave should take the service delivery requirements of a department into account."

[7.8] The application for reimbursement by the applicant on page 49 and 50 of bundle R at page 50 comments

"I have responded to you on this matter, as you will recall that we still need to settle the issue that I have responded to you on, so that there could be a way forward, note must be taken that I have put reasons of not approving in the various emails that were forwarded to you today, and those that I sent on the actual leave application I remain"

[7.9]. I agree with the applicant that the comments by the applicant's supervisor above effectively reject the outcome endorsed by the Minister, and she has not formally provided any evidence before me that she formally challenged the findings, lodged an objection, or requested a review, and as a result it is my view that she should have used the grievance outcome from the Minister as the Guideline in determining whether applicant should be reimbursed not revisit issues that the Minister has found she has acted irregularly. It is my view that the official position of the respondent in relation to the applicant dispute is the outcome from the Minister. The applicant and the respondent in their pre arb minutes agreed that is common cause that "the applicant was denied leave for 26 days by her manager due to operational reasons" this is confirmed in the evidence of both the applicant and the respondent's witness that applicant's application was denied for operational requirement, which is the reason an employee can apply for unused annual leave credits, and as per the finding of the Minister after the applicant application was denied it was not rescheduled by the applicant's supervisor, as per the outcome of the Minister outcome of the applicant's grievance. The Minister, as a solution, allowed the applicant to apply for the unused leave days because the applicant's supervisor had failed to comply with clause 5.13 of the determination.

[8.1]. The decision by the applicant's supervisor when he took the decision not to recommend payment of the applicant's annual leave for the year 2022 while the Minister, in the outcome of the applicant's grievance, found that the applicant's supervisor irregularly managed the applicant's application when it failed to comply with clause 5.13 of the Determination of leave, and her failure to comply with clause 5.14 of the Determination which is the



requirement as set down in the determination of leave was arbitrarily and amounts to unfair labour practice. The number of days of leave that are the subject of the dispute are not in dispute because these days are found in the letter of the Minister on page 48 of bundle R and referred to the leave cycle of 2022. Consequently, I make the following award:

AWARD

[9.1]. I find the refusal by the respondent to approve payment of the applicant's 26 leave days for the 2022 Leave Cycle amounts to unfair Labour Practice in terms of Section 186(2) (a) of the Labour Relations Act.

[9.2]. I find the applicant is entitled to be paid for the 26 leave days for the 2022 leave cycle in terms of clause 5.14 of the Determination and Directive on Leave of Absence in the Public Service

[9.3]. The respondent, National Treasury, is ordered to pay the applicant, Rakgadi Motseto, an amount of one million three thousand and seven hundred ten rands (R1 03 710.00) for her 26 leave credits for the 2022 leave cycle.

[9.4]. The order of compensation for the 26 leave credits must be effected within 14 days after receipt of this award.

[9.5]. There is no order as to costs

GPSSBC Commissioner: P M Ngako

Signature:

