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IN THE GENERAL PUBLIC SERVICE SECTOR BARGAINING COUNCIL

HELD AT GLENCOE

CASE NO: GPBC947/2024

PANELLIST: ADV. ET MHLONGO

DATE: 19 OCTOBER 2026

In the matter between

WALTER KITCHING APPLICANT

And

DEPARTMENT OF CORRECTIONAL SERVICES RESPONDENT

ARBITRATION AWARD

1. **DETAILS OF THE HEARING AND REPRESENTATIONS**
The matter was set down for Arbitration on 10 February 2025, 13-14 August 2025, 10 December 2025, 21 April 2026 and 10 September 2026. The Applicant was represented by Mr Charles Ngubane assisted by Charles Anderson, both union representatives from PSA. The Respondent was represented by SR Mntungwa an employee of the Respondent.

2. **ISSUE TO BE DECIDED**
The Arbitrator was to decide as to whether the dismissal of the Applicant was procedurally and Substantively fair or not.

3. **BACKGROUND TO THE ISSUE**
3.1. The Applicant Was employed by the Respondent and stationed at supply chain management section as the supervisor procurement.

3.2. His duties include among other things compiling and completing quotations above R30 000, authorizing prepayments and presenting compiled quotations for approval.

3.3. He was charged for misconduct relating to the forgery of signatures.

3.4. He attended a disciplinary hearing and the Respondent decided to dismiss him.

3.5. He appealed to the dismissal decision, but it was upheld on appeal.

3.6. The Applicant lodged a dispute with the general public service sector bargaining council GPSSBC vide case number GPBC947/2024.

4. SURVEY OF EVIDENCE AND ARGUMENTS

4.1. BY THE RESPONDENT

4.1.1. FIRST WITNESS: MZWANDILE BRIAN BWALI

4.1.1.1. He testified that he was an employee of the Respondent since 11November 2006, he started being employed at logistics in Glencoe Regional Center as a Procurement Officer.

4.1.1.2. He testified that his duties relate to obtaining quotations to deal with tenders less than R50,000 which are done in the form of a quotation and tenders above R50,000 which are named tenders.

4.1.1.3. On the closing date the officials attend the tender box at area Commissioner's Office. They would collect the tenders, check documents, the manager would come for the seating, check the documents, open the envelopes.

4.1.1.4. He stated that there are three people who are required when the tender box is opened, it must be two people who are working at supply chain and one independent person which implies that it was a person not working at Supply Chain Management.

4.1.1.5. He testified that management would come and assist to check all the tenders/ quotations received.

4.1.1.6. He stated that on 5 August 2016 he was on duty, but he was not part of the employees who opened the tender box and he cannot recall the duties he was performing on that day.

4.1.1.7. He testified that there was an opening of a bid price quotation on 5 August 2016, the signature under independent official was his. He saw one and reported it to Mrs. Zubane, Who is now deceased, he could not be an independent official because he was working at supply chain management office.

4.1.1.8. He testified that after the Applicant was called to account by the manager Mrs Zubane, the Applicant confirmed that he was not there but there were no bad intentions.

4.1.1.9. He testified that there were other incidents like his. He went to fax the order for the supplier, he saw the Applicant forge documents, he

reported this to Mrs. Zubane Since he was afraid that they might be caught in the future.

4.1.1.10. He testified that the Applicant was his direct supervisor and he was reporting to him and they had a cordial relationship even after this incident.

4.1.1.11. He stated that he no longer trusts the Applicant because he forged his signature and that of the manager Mrs. Zubane.

4.1.1.12. He testified that he was not removed from finance because he was rude, but he was removed because there was a misunderstanding with his manager in finance who refused to sign his leave form.

4.1.1.13. He further disputed that he was also removed based on dishonesty, fabricating and being rude against management.

4.1.1.14. He stated that it was only the financial manager, Ms Lynette, whom he had a misunderstanding with.

4.1.1.15. He further disputed during cross examination that he hated white people, and he goes all the way to have them dismissed.

4.1.1.16. He stated that Dudu Mthethwa was an independent official, but she signed in the place of the procurement officer Mr. Bwali Signed in the place of the independent official which was incorrect.

4.1.1.17. He testified that he cannot be able to explain as to why Dudu Mthethwa signed in the wrong place.

4.1.1.18. He testified that it was not his signature which was in the place of an independent official on page 62 of bundle A, but he stated that the signature was signed by the Applicant on his behalf.

4.1.1.19. He stated that he had no witness to confirm that the Applicant signed the document on his behalf because Mrs. Zubane Is now deceased.

4.1.1.20. He testified during cross examination that he had more than 5 signatures which he used in the official documents.

4.1.1.21. He stated that the signature on page 142 of bundle A and the one which appears on the register are not the same.

4.1.1.22. He further stated that on page 143 was a procurement advisor for 2016 and below was his signature he compared it with the signature on Page 3 as whether they are the same, he confirmed that they were not the same, but they are both his.

4.1.1.23. He was referred to bundle A, page 11 where he confirmed his signature and confirmed that the said signature was not the same as the specimen signature.

4.1.1.24. He stated that on page 144 of bundle B we confirmed the procurement document with his signature which differed from other signatures.

4.1.1.25. On bundle A, page 23, he confirmed the comparative list and his signature and stated that it was not the same with the comparative register on page of bundle A and that was his sixth signature.

4.1.1.26. He testified that on page 23-part A was the guide and checklist. He confirmed that he checked the documents which were collected from the tender box with the signature in dispute and by signing he confirmed that everything was in order.

4.1.1.27. He testified that he was a checker and signed to confirm that all documents were in order and he signed knowing very well that the documents were not in order, but he was instructed by the Applicant as a supervisor. He disputed that he signed because he was carrying out his duties.

4.1.1.28. He testified during re-examination that he was signing as the checker not confirming that all documents are correct.

4.1.1.29. He stated that he had no comment when asked by the arbitrator as to why he had so many different signatures.

4.1.2. SECOND WITNESS: DUDUZILE CELIWE CLEMENTINE MTHETHWA

4.1.2.1. She testified that she had been employed by the Respondents since 1 March 2004 as a state accountant. She was managing the state funds, cash, bass system, authorized payments and supervising.

4.1.2.2. She testified that on 5 August 2025 she performed her normal duties in finance. At around 11:00 am she went with the Applicant to open the tender box, took the tender envelopes and went back to SCM offices. They opened the envelopes and signed the relevant pages on the tender.

4.1.2.3. He testified that by mistake she signed at the wrong place. She requested another page from the Applicant in order to sign on the correct space. The Applicant promised to bring another page from 2016 to date.

4.1.2.4. She stated that she realized the mistake immediately and informed the Applicant.

4.1.2.5. She stated that there were two people in the office there was also, Mrs Zubane But she was not opening the tenders with them she was a manager SCM.

4.1.2.6. He stated that the first witness Mr. Brian Bwali was not with them. He was not available when opening the tender box.

4.1.2.7. She testified that her signature appeared on the place for procurement official which was the wrong space.

4.1.2.8. She stated that the tenders were supposed not to be processed. There was to be a loss for the state. The Applicant was in charge and the Applicant was responsible.

4.1.2.9. She testified that the statement she made to the investigation officer was not made under choice and she did read the statement before she testified at Arbitration.

4.1.2.10. She testified that in the statement she made to the investigation officer and the statement she made at Arbitration are contradictory to each other and she said the arbitrator must take the statement before him.

4.1.2.11. She stated that she had no comment when confronted during cross examination that she should not be trusted for making two contradictory statements.

4.1.2.12. She testified that the charge of instructing the independent official to sign in the place of the procurement official should not be dropped after she changed the statement and later agreed that it should fall away because it was her mistake.

4.1.2.13. She further testified that she did not know what the Applicant contravened in order to be charged.

4.1.2.14. She stated that the functions and powers of the independent officer were to ensure the correctness of the documents, signed next to the mistake with the red pen & the SBD13 as an independent official but she did not know that she had powers to stop the process if it was flawed.

4.1.2.15. She confirmed that the dismissal of the Applicant was unfair when she was confronted with signatures in SBD13 that all three people signed.

4.1.2.16. She testified that she never reported anything to Mrs. Zubane or Mr. Maharaj, who were senior officials, as an independent officer and stated that she never thought about it.

4.1.2.17. She later testified during cross examination that she had the power to stop the process as an independent and she did not have an answer as to why she did not stop the process.

4.1.2.18. She testified that the state lost the money because of the conduct of the Applicant, she was unable to specify the amount the state lost and further failed to explain as to why there was not a single charge related to financial loss or prejudice.

4.1.3. 3RD WITNESS: THABISO ISHMAEL NDLOVU

4.1.3.1. He testified that he was employed as the Assistant Director Investigations, by the Respondent. He was stationed in the Department of Investigation Unit mandated by section 95A of the Correctional Services Act 111 of 1990 as amended to investigate fraud, corruption, maladministration and theft by officials of the Respondent.

4.1.3.2. He testified that he had been with the investigation unit since 1 March 2022.

4.1.3.3. He stated that he was involved in an investigation related to fraudulent investigations of the price quotations on NGL10/2013. He stated that during the investigation he interviewed the people who were involved directed by the names in the BD13.

4.1.3.4. He started to interview the Applicant who was a supervisor. He confirmed the signatures although the signature of the independent official was in question when he presented BD13 to the Applicant, he confirmed the signature of Ms. Mthethwa and could not explain as to why there was the name of Mr. Bwala. He then obtained an explanatory statement.

4.1.3.5. He testified that he thereafter interviewed Mr. Bwala who stated that the signature in BD13 was not for Ms. Mthethwa and neither was it his signature.

4.1.3.6. Mr. Bwali Further stated that the signature indicated as the one belonging to procurement official that signature belonged to Ms. Mthethwa, not the one in the independent official space as stated by the Applicant.

4.1.3.7. Mr. Bwali Stated that the signature next to his name was not his signature because he was not present when they opened the bid box, he stated that it was only his name in BD13 not the signature.

4.1.3.8. He testified that Mr Bwali testified that he reported to Mrs. Zubane Who was the manager, who called the Applicant as the supervisor, where the Applicant confirmed to have signed on behalf of Mr. Bwali Since he could not find him, and the Applicant apologized. He then obtained a statement from Mr. Bwali.

4.1.3.9. He stated that he requested the Applicant to be recalled. He told him that he was mistaken he stated that the signature of procurement official was for Ms Mthethwa and the one in the space for independent official belonged To Mr. Bwali.

4.1.3.10. He stated that he interviewed Ms Mthethwa who confirmed that during the opening of the BD13 Mr. Bwali Was not present, it was only her and the Applicant.

4.1.3.11. He further stated that Ms Mthethwa told him that after opening the bid box the Applicant instructed her to sign on the procurement official although she was there as an independent official. She signed and the Applicant signed and the space for the independent official was left open.

4.1.3.12. He stated that he took the disputed signature for forensic verification, he took Mr. Bwali's Leave forms to be analyzed with the signature on BD13.

4.1.3.13. He testified that he received the report which confirmed that the signature on BD13 did not belong to Mr. Bwali when compared to the signature on the Leave forms.

4.1.3.14. He testified that he looked at the statements before; one issue was that the bid box was opened by two people instead of three, secondly the Applicant forced her to sign on a space of the procurement officer and thirdly the Applicant made false information when explaining BD13.

4.1.3.15. He testified that the Applicant was not trustworthy although all tenders were awarded but procedure was flawed.

4.1.3.16. He testified that BD13 in question was dated 5 August 2016 in the affidavits were dated 17 September 2023.

4.1.3.17. He testified that his decision to charge the Applicant was based on the evidence stated by the second witness, Ms Mthethwa, that the Applicant instructed her to sign in the place of the procurement official.

4.1.3.18. He further stated that he cannot be able to explain as to why Ms Mthethwa decided to change her statement when confronted with her testimony and Arbitration.

4.1.3.19. He testified that the purpose of an independent official was to prevent collusion and he was not aware that the independent official had the power to stop the process.

4.1.3.20. He testified that he was not aware that Mr Bwali had 6 different signatures and confirmed that at Arbitration that he had six signatures.

4.1.3.21. He testified that he was persuaded by the forensic report that the signature did not belong to him, and he stated that he was not aware of the other signatures.

4.1.3.22. He stated that he did not use it to identify the signature when confronted during cross examination that forensic analysis was hearsay evidence and he left procurement signatures and took leave forms which had different signatures.

4.2. <u>BY THE APPLICANT</u>

4.2.1. He testified that he was Walter Kitching employed by the Respondent as a Supervisor Procurement at Supply Chain Management (SCM).

4.2.2. His main duties were to compile and complete quotations above R30,000; supervise preauthorization of payments, he was a compiler for quotations and had to present them for approval.

4.2.3. He testified that he was dismissed on 22 May 2024 and the following charges were preferred against him;

4.2.3.1. Charge 1: **Prejudice the administration, discipline or efficiency of a department, office or institution of the state.**
In that on or around 5 August 2016, you improperly opened the bid box with the Independent Official Ms Mthethwa and made her to sign as the Procurement Official, which is contrary to paragraph 5.17 of the Procurement Procedure Manual.

4.2.3.2. Charge 2: **Forgery and Fraud**
In that on or around 5 August 2016, you unlawfully and intentionally forged a signature of Mr. Bwali On the BD13 and BD30 documents during the opening of the bid box by yourself and Ms Mthethwa, thus causing actual or potential prejudice to the employer/ Mr Bwali.

4.2.3.3. Charge 3: **Furnishing of false statements or evidence in the execution of official duties**
In that on 18 September 2023, you deliberately and dishonestly furnished false information under oath to the employer (investigator

Mr. TI Ndlovu) during investigation when you declared that the signature of the Independent Official on the BD13 document with the closing date of 5 August 2016 is that of Ms Mthethwa whereas it was not the case. Further that Mr B Bwali was the one who signed both the BD13 and BD30 documents whereas it was not the case and such was scientifically proven otherwise by the attached section 212 report.

4.2.4. he testified that he never instructed the second witness Ms Mthethwa To sign as a procurement official.

4.2.5. He stated that he was happy because at the disciplinary and Arbitration hearing she came to her senses and decided to tell the truth.

4.2.6. He testified and he disputed that she ever came back to him and asked him to print the document for resigning he would have gladly done so.

4.2.7. He testified that all three of them were present on duty on the day in question.

4.2.8. He stated that Ms Mthethwa was an independent official, they all hold the same rank of being state accountants, but he was appointed as a supervisor.

4.2.9. The independent official had a veto right to stop the process if there was no third person since she knew that they were supposed to be 3.

4.2.10. He stated that these two witnesses, Ms Mthethwa and Mr Bwali, did gang up on him to get rid of him, which was orchestrated by Mr. Bwali.

4.2.11. He testified that when he was dismissed, he had 33 years of service. When he was appointed as a supervisor in 2015, they have never been on the same page, he always tells him that they hold the same rank therefore he must stop giving him instructions.

4.2.12. He disputed that he ever forged Mr Bwali's signature in the bid documents. He stated that Mr Bwali lied because he did not like him. Mr Bwali was a very jealous person, he liked to argue for no reason. He always came late at work and did not like to be corrected about his behavior.

4.2.13. Mr Bwali testified at Arbitration when he was directed to his signature that he had six different signatures. They were working with very important documents, and a person cannot keep on changing his signature. He therefore cannot be trusted.

4.2.14. He testified that Mr Bwali was lying he was present at work, he did sign the document. The investigating officer should have analyzed and verified and compared with BD13. He had been working in 2016, why did he not take BD13 for fairness.

4.2.15. He stated that if the third witness, investigating officer, took procurement documents for verification it would have yielded different results when six different signatures were compared with the one in BD13.

4.2.16. In BD18 on page 23 of bundle A was the register which was completed on 5 August 2024. It was signed by Mr. Bwali, The Applicant and the manager Mrs Zubane. The form BD13 was also included in the documents taken to the manager for approval.

4.2.17. He testified that the third witness Mr. Ndlovu Showed him the e-mail they received and the signature of Ms Mthethwa. He stated that he knew her signature and only pointed to the signature.

4.2.18. He testified that the allegation was based on jealousy and hatred.

4.2.19. He stated that he was dismissed on 22 May 2024. He had been unemployed for two years and four months. He was a breadwinner at home; he has a 12-year-old son. He requested to be reinstated. In his whole 33 years of unbroken service, he has never been dishonest with the Respondent.

4.2.20. He stated that when submitting BD-18 for checking it was always accompanied by BD13. The first witness of the Respondent, Mr. Bwali did check BD18 on 5 August 2016 and signed the register and did not dispute the BD13 which was presented to Mrs Zubane for checking.

4.2.21. She testified that she agreed that Ms Mthethwa made a mistake signing in the wrong place and he only became aware when the third witness, Mr. Ndlovu, came to investigate.

4.2.22. He testified that he was not schooled in verifying the signature, but he believes that the signature which should have been compared are the signatures at supply chain management where the Applicant was employed.

4.2.23. He testified that when he was called for the first time, he was shown the signature, and he confirmed that it was a signature for Ms Mthethwa he did not look at the portfolio.

4.2.24. He stated that he was called by Mr. Ndlovu for the second time when he realized that Bwali signed in the place of independent official and Ms Mthethwa signed in the place of the procurement officer.

4.2.25. He disputed that he misled the investigation officer since he corrected himself when he was shown the discrepancy.

5. ANALYSIS OF EVIDENCE

5.1. I have taken into consideration all evidence submitted by both parties but I am not going to repeat all of it I am only going to repeat the evidence which has

assisted me to come to a just decision in this dispute that does not mean that the evidence not reported was not taken into consideration.

5.2. I am persuaded by the evidence of the third witness of the Respondent Mr. Thabiso Ndlovu that he took the decision and recommended that the Applicant must be charged based on the evidence which was before him.

5.3. The main evidence which was submitted by the second witness Ms Mthethwa was that there were two people when they opened the bid box instead of three and secondly, she was instructed by the Applicant to sign in the space for procurement signature instead of independent official.

5.4. The second witness, Ms Mthethwa, disputed that she gave it to the investigation officer and further failed to explain as to where that evidence was coming from.

5.5. I am therefore persuaded that the change of evidence at Arbitration causes her evidence not to be trustworthy, especially when she even failed to explain as to why she changed her statement except that she was telling the truth.

5.6. The first witness Mr Bwali testified that he was not present on 5 August 2016 when the bid box was opened, he did not sign. He confirmed that on the same 5 August 2016 he signed the SB18 confirming that everything was in order including the completion of BD13 which were submitted to the manager Ms Zubane for checking and she did not raise any dispute regarding his signature.

5.7. I am further persuaded that the first witness was not an honest person, I failed to understand why a state accountant had 6 signatures whereas he was working with such critical documents.

5.8. The evidence before me is that the incident happened in 2016, it only emerged in 2023 through an anonymous Informa who forwarded an e-mail to the Respondent.

5.9. I am persuaded that the first witness Mr Bwali testified that he saw a discrepancy on DB13, reported it to the late Mrs Zubane who did not report it to the higher authority. An e-mail was forwarded to the union who then reported to the Respondent. The Respondents sanctioned the investigation. It is evident that the only person who had pursued this matter was the first witness although there is no direct evidence linking him to the anonymous email, but circumstantial evidence suggests the same.

5.10. The third witness Mr. Ndlovu When giving evidence it was clear that he was schooled and knew what he was doing but I am shocked as to why this matter was not sanctioned to be investigated after it was revealed during internal disciplinary hearing that the first witness Mr. Bwali had more than six signatures he was using in an official document and the second witness Ms Mthethwa lied under oath when she disputed the evidence she made to the third witness freely and voluntarily.

5.11. I am persuaded that the evidence of the second witness Ms Mthethwa should be rejected in its totality especially after making two conflicting statements under oath and Especially on the evidence of incriminating the Applicant on the wrongdoing.

5.12. I am further not persuaded by evidence of the first witness that the name was his but the signature was not. Those signatures were not compared with signatures in the procurement documents they were compared to signatures on the leave forms.

5.13. I am further persuaded that the third witness did good work and recommended correctly based on the evidence presented to him at the time, he did not have access to the evidence now presented at Arbitration.

5.14. I am persuaded by evidence of the Applicant that the 1st and 2nd witness colluded to have him dismissed as the second witness issued a very scathing affidavit which persuaded the third witness to recommend what he did.

5.15. I am further persuaded that the third charge relates to identification of signatures of the 1st and 2nd witnesses. It is not disputed that both signatures were there according to the testimony of the Applicant which was correlated by the Respondent but not in the correct and relevant spaces.

5.16. I am not persuaded by evidence of the second witness that she ever persuaded the Applicant to reprint the BD13 since that would have happened on the same day when they completed the SB18 since it was done at supply chain management offices.

5.17. I am persuaded that the Applicant should not have been dismissed based on the contradictory evidence of the 1st and 2nd witness. Therefore, the Applicant must be reinstated retrospectively as if he was never dismissed.

5.18. I am persuaded that the Applicant had a period of 33 years of service and should not be dismissed on circumstances which are not so clear as to the intention of the witnesses.

5.19. I hereby exonerate the Applicant in any wrongdoing in this dispute.

5.20. I am not persuaded that I should order any party to pay costs of this Arbitration.

5.21. I am disappointed by the conduct of the Respondents in this dispute. The Applicant, the second witness, Ms Duduzile Mthethwa and Mr Bwali, should have been investigated and charged for discrepancy for dereliction of duty after the internal disciplinary hearing.

5.22. It was disclosed that Mr Bwali used six different signatures in the procurement documents.

5.23. Ms Mthethwa made two different statements under oath at the internal disciplinary hearing when she reneged on the statements she made to the investigation officer during the investigation.

5.24. The Applicant as the supervisor failed to ensure that all parties signed at the right place on BD13 that is tantamount to a dereliction of duty.

5.25. Ms Mthethwa further submitted evidence that the Respondents suffered financial prejudice by opening the tender box in the absence of Mr. Bwali of which she was found wanting to explain the same during cross examination which implied that she went all the way to nail the Applicant in this dispute. What financial prejudice was she referring to without any charges relating to finance.

5.26. I am persuaded that with the evidence before me the Applicant should not have been dismissed.

5.27. I am persuaded that the Applicant should be reinstated retrospectively to the position he held before he was dismissed. He must be reinstated with effect from 22 May 2024.

5.28. I am not persuaded that I should award compensation in terms of section 195 of the Labour Relations Act 66 of 1995, amended since he also contributed in this dispute by failing to ensure that the official signed at the right place provided.

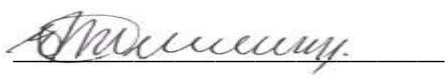
6. AWARD

6.1. The Respondent is ordered to reinstate the Applicant Mr. Walter Kitching retrospectively with full benefits as if he was not dismissed.

6.2. The Respondent is ordered to pay the Applicant Walter Kitching a back pay of 29 months with effect from 22 May 2024 up to the date of this award. Calculated as follows; R34 411.13 x 29 months = R997 919.77 less statutory deductions.

6.3. The Respondent is ordered to pay the amount on par [6.2] above on 15 December 2026.

6.4. There is no order as to costs



COMMISSIONER