GPSSBC
General Public Service Sectoral Bargaining Council

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ARBITRATION RULING

Panellist/s: Seretse Masete
Case No.: GPBC1751/2024
Date of Award: 26/03/2025

In the ARBITRATION between:

JX Mhlongo and 201 others

(Union / Applicant)

And

Limpopo Department of Economic Development

(Respondent)

Union/Applicant's representative: P M Mgomezulu
Union/Applicant's address:
Tell no:
Cell:

Respondent's representative: Deidre Reynecke
Respondent's address:
Telephone:
Cell:

Details of hearing and representation

1. The matter was held on 26 March 2025 at the employer's premises in Polokwane.
2. The Applicants, see the attached list, (employees) were represented by D Reynecke, a union official from PSA, and the respondent, Limpopo Department of Economic development Environment and Tourism (employer) was represented by Mr PM Mngomezulu.
3. The matter was held in English and digitally voice recorded.

Issues to be decided

4. I must decide whether or not the conduct of the employer by stopping the danger allowance of the employees constituted an unfair labour practice against them. However, the main dispute was not dealt with because the employer raised a jurisdictional issue. I therefore then, had to determine whether or not the Council has jurisdiction to handle the dispute of danger allowance as per the PSCBC Resolution 4 of 2015.
5. I further must determine the appropriate outcome based on the submissions made by the parties.

The employer representative, Mr Mngomezulu, raised a preliminary issue as follows:

6. The dispute was in fact an interpretation of the collective agreement 4 of 2015. It cannot be section 186 of the Labour Relations Act (Labour Relations Act 66 of 1995, as amended). The case emanated from that collective agreement. It will be unfair to believe that the dispute was an unfair labour practice in terms of section 186 of the Act. And the Council therefore did not have jurisdiction because the collective agreement was a Public Service Co-ordinating Bargaining Council PSCBC resolution. The matter should therefore be referred to the PSCBC.
7. Secondly the case dictates that the party that has interest should be joined. In this case, the Department of Public Service and Administration (DPSA) should be joined because it has vested interest in the matter. The employees were informed on a particular year that danger allowance was stopped, and that was the decision of the DPSA.
8. The Council did not have jurisdiction to handle the matter.

Employees' representative, Deidre Reynecke submitted as follows:

9. The employees have been receiving danger allowance all the previous years up until 2019 when the employer decided to stop it. The collective agreement has been correctly implemented before 2019. The employer told the employees that the allowance would be stopped, pending the inclusion of category of field ranger by the minister. The letter was dated June 2019. The letter further indicated that the arrangement was a temporary measure. The employees have been receiving the danger allowance for years. The dispute was therefore not an interpretation of the collective agreement but a section 186 unfair labour practice dispute. They (employees) had a legitimate expectation to continue receiving the allowance. The problem is the stoppage thereof. They needed the reinstatement of the danger allowance, and the Council does have jurisdiction to handle the matter.

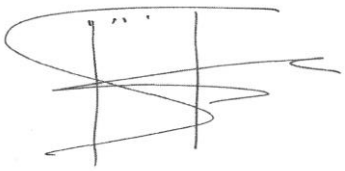
Analyses of the submissions made by the parties

10. The dispute before me was the stoppage of the danger allowance of the employees by the employer. PSCBC Resolution 1 of 2007, was amended by PSCBC Resolution 4 of 2015 annexure A thereof. Annexure A, clause1 provides that, *the employer shall pay the standard danger allowance to an employee who in the course of her or his employment experiences a genuine risk to her or his life and who is employed in one of the following occupational categories and identified areas at work (where indicated):*
    1.1 Traffic/Regulatory inspectors.
    1.2 Centre based correctional officers guarding prisoners
    1.3 ……
    1.4 ….
    1.5 ….
    1.6 Nature conservationists involved in law enforcement and investigations
11. The said Resolution / Annexure is the result of the collective bargaining between the employer and the representative trade unions within the context of section 23 of the Labour Relations Act 66 of 1995 as amended. The dispute is therefore not about interpretation. The employees' complaint was not about who should be paid the danger allowance, it was about the stoppage thereof because they were receiving it. The employer presentative also never indicated that the employees were not covered by the Resolution, but that the dispute emanated from PSCBC danger allowance collective agreement.

12. My finding on the balance of probabilities is that the dispute was not about the interpretation of the collective agreement but unfair labour practice in terms of section 186(2)(a) of the Act. There is no need to join the DPSA, but any party is at liberty to call the officials from the DPSA to come and serve as witnesses in the matter.

RULING

13. The Council has jurisdiction to handle the employees' dispute.
14. The Council must re-schedule the matter to sit again and inform the parties thereof.
15. No order on costs.



Seretse Masete Date 29/03/2025

GPSSBC Panellist