



**GENERAL PUBLIC SERVICE
SECTOR BARGAINING COUNCIL**



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ARBITRATION

AWARD

Panellist/s: K. Z. GARIKUE

Case No.: GPBC129/2025

Date of Award: 20 December 2025

In the ARBITRATION between:

PSA obo W. G. Maseng

(Union / Applicant)

And

NORTHWEST DEPARTMENT OF SPORTS, ARTS and CULTURE

(Respondent)



ARBITRATION AWARD

DETAILS OF HEARING AND REPRESENTATION

1. This is an arbitration award in terms of section 138(7) of the Labour Relations Act 66 of 1995 (“the LRA”), amended. This award is in relation to an alleged unfair labour practice dispute referred by PSA on behalf of Ms Wendy Gloria Maseng (“the Applicant”) to the General Public Service Sector Bargaining Council (“GPSSBC”).
2. The arbitration proceedings were held on 12 December 2025 at the Department of Sports, Arts and Culture (“Respondent or Department”). The applicant was in attendance and represented by Mr Nceba Baardman, a union official from Public Servants Association (“PSA”). The respondent was represented by Mr John Moloi, its Labour Relations official.
3. Parties agreed to utilise one bundle of documents brought by the applicant party and was admitted as evidence to the proceedings. At the end of the proceedings parties agreed to send their closing arguments in writing simultaneously on or before 09 December 2025 and they all complied. The proceedings were digitally recorded and the record thereof will be retained by the Council.

ISSUE TO BE DECIDED

4. The issue turns on the alleged unfair labour practice (ULP) contemplated in section 186 (2)(b) of the LRA. I am required to determine whether or not the respondent subjected the applicant to an unfair labour practice relating to an alleged demotion. If I find in favour of the applicant, the applicant seeks to be reinstated back to her position and to be compensated



BACKGROUND TO THE MATTER

5. The applicant contends that when she returned to work after being on a prolonged sick leave, she found that there was a letter which confirmed her transfer without being consulted and that there was someone performing her duties. She then lodged a grievance for that and the outcome thereof was that she was not transferred. According to her, she has been demoted because she is not given any duties to perform and further to that, she does not have anyone as a subordinate anymore like she used to, as per her appointment. She seeks to be reinstated to the position she is appointed for as Personal Assistant ('PA') to the Chief Director and be compensated.
6. The respondent contends that there was an attempt to transfer the applicant but that did not happen. According to it, what happened cannot be classified as demotion and that her tools of work being taken from her is another case.

SUMMARY OF EVIDENCE AND ARGUMENTS

Applicant's case

7. **The applicant, Ms Wendy Gloria Maseng** testified under oath and stated that she was employed by the respondent on 01 July 2012 as a PA to the Chief Director. Amongst her duties was to do the administration, logistical arrangements, taking minutes in meetings and managing a smooth run of the office. She confirmed that she was having a subordinate as a messenger driver employed in the office of the Chief Director and submitted that he had since passed on while she was on a prolonged sick leave from August 2023.
8. She submitted that she is currently on salary level 7 and supposed to report to the Chief Director. She explained that she got injured at work on 27 April 2023 and she had to be on sick leave from that time until she came back on 30 April 2024. During that period, she always submitted papers from the



doctors about her healing progress. When she was supposed to return to work on 30 April 2024, she was informed by the Chief Director not to come because he was not at the office on that day. She submitted that the Chief Director wanted to be available on her return to work because there was something he wanted to explain to her.

9. She further submitted that 2 days before her date to return to work, she received an SMS from her other colleague informing her that she was transferred. She was surprised to hear such a thing. She further explained that as she arrived at her work station on 30 April 2024, she found another lady, Ms Singh ('Singh') who introduced herself as a PA to the Chief Director. She (Singh) asked her if she did not receive a letter confirming her (applicant's) transfer. At that time, Singh was in possession of that transfer letter.
10. She furthermore submitted that on 02 May 2025, the HR Director was called for clarity but was on sick leave. She was then advised to remain at the office until HR Director had spoken to her. She then decided to go and speak to the respondent's Labour Relations official ('LR') to inform of what was happening at the office. The LR advised her to be given that letter confirming her transfer. Singh provided it but was not even addressed to her as it was meant for the Chief Director. According to her, she expected to be issued with that letter by the HR official.
11. She referred the proceedings to page 13 of the A bundle ('A13') to show the letter which confirmed her transfer to be Principal Community Development Officer (salary level 7) effective from 01 April 2024. The letter was dated 05 March 2024. After receiving it on 06 May 2024, she wrote in it that she was not accepting to be transferred. She was then asked by the HR Director to write to the HOD for not accepting to be transferred on 07 May 2024. The letter she wrote is found on A48.
12. She submitted that sometime in 2022, she requested to be transferred by the respondent but was rejected because she did not have the necessary qualifications for the position. She was then advised by the HR official that the position of Chief Auxiliary Service was vacant. The reason she wanted to



be transferred at that time was because she was once attacked by the community (artists) at the Chief Director's office. She was no longer feeling safe anymore.

13. She further submitted that since she wrote a letter to the HOD, she has never received any response. She has since written another letter on A14 and there was also no response. The letter was written on 22 May 2024 as a follow up on the one sent on 07 May 2024. She explained that from 30 April 2024 to 22 May 2024 she was coming to work to do nothing. She used the late messenger driver's office as her work station. While she was at her supposed office, she had to sit at the visitor's site. At some point, she was even shouted and reminded by Singh that she was transferred.
14. After all that happened, she consulted PSA and was advised to lodge a grievance on A12, dated 31 May 2024 because she wanted to be reinstated to her position as PA to the Chief Director. She confirmed that, the LR, Mr John Molefi ('Molefi') received her grievance. She then had to wait for the process to unfold. She was called by Molefi on 16 October 2024 to receive the grievance outcome on A22 which was in favour for her to be back at the office as PA to the Chief Director in accordance with the respondent's records.
15. She then asked Molefi as to when was the effective date and was promised by him that he would handle that. She referred the proceedings to A26 to show an email Molefi wrote on 22 October 2024 where it confirmed that she should return back to her appointed position. As per paragraph 5 of the email, "*it was requested for the involved officials to meet on any day but not later than 29 October 2024 about the implementation of the grievance outcome*". She was never told anything going forward and kept on coming to work doing nothing.
16. She further explained that since all this happening, she has become a laughing stock at work. She was even asked why she is fighting Singh. She wrote a letter to Molefi on 05 November 2024 as per A29 regarding the implementation of the grievance outcome. On 12 November 2025 as per A32, she wrote an email to the HOD seeking for his intervention regarding her employment status. She wrote



another email on 14 November 2025 as per A33 as a follow up of the email she wrote on 12 November 2025. She submitted that all that time, her PMDS were not attended to. A promise was eventually made that a meeting would be convened but there was no confirmation of the date thereof.

17. It was confirmed as per A36 that a meeting was to be held on 05 December 2024 but did not proceed as planned. Parties met officially on 10 December 2025 as per A37. In that meeting, there was HOD, 4 HR officials including HR Director and the LR, Molefi. The HOD indicated that he had approved her grievance outcome in his brief. She referred the proceedings to A18 to show the grievance resolution report which the HOD approved on A21 by signing on 03 October 2024. She read into record in the report on A20, para 6.11 as... “ *The aggrieved employee still occupies or holds the post of Personal Assistant Chief Director: Arts, Culture and Libraries and Achieves*”.

18. She further submitted that in that meeting, the HOD stated that he was considering to retract that approval because he wanted a legal opinion regarding the matter. The HOD went on to say that he did not want to hurt anyone whereas she was already hurt by this whole thing. The HOD further indicated that he wanted to have one on one sessions with her and Singh. She submitted that she clearly indicated to the HOD that she wanted to return back to her appointed position as PA to the Chief Director. During that time, Molefi advised the HOD that the respondent might incur high legal costs. The HOD replied that he was aware that it might even cost R600 000.00.

19. She furthermore submitted that the HOD in that meeting went to an extent of asking the HR to provide him with her employment file to check if proper procedures were followed when she was employed by the respondent at the beginning. The HOD then adjourned the meeting and requested to be given 7 days to seek for a legal opinion regarding the matter. She never heard anything since then until today where she is still coming to work doing nothing.

20. She explained that she forfeited to submit her assessment report for 2023/2024 performance cycle period. She had to make follow ups for it to be signed. Her immediate supervisor, the Chief Director



was acting somewhere else. When she made attempts with the acting Chief Director to sign it, he refused. It was signed by another acting Chief Director later. When she submitted, she was told that it was for record purposes. Her PMDS form was as if she was reporting to the Director and she eventually signed.

21. She further explained that she is currently relying on the Chief Director to sign her assessment agreement and leave forms. She reiterated that this has affected her emotionally. She tries to be strong for it but is not easy. She does not even know what to say to her family when they ask her how was it at work. She just want to be reinstated back to her appointed position as PA to the Chief Director.
22. Under cross examination, she agreed that she is not sure about who is her supervisor. She confirmed that she is relying on the Chief Director to submit her PMDS documents and leave forms. She further confirmed that she is having a fine relationship with the Chief Director and that he will not refuse to testify as such if called to do so. She submitted that the Chief Director was there when she went on sick leave and was still there when she returned.
23. She reiterated that she has forfeited to be assessed for 2023/2024 performance cycle. She submitted that the acting Chief Director said to her that he was still going to consult before he could sign anything. After consulting, he was informed that he did not know how to deal with her case because she was not at work for the whole year. The next acting Chief Director came in and the assessments were backdated from 2023/2024 until 2024/2025 performance cycle.
24. She confirmed that when she came back from sick leave, she found a letter confirming her transfer. She agreed that by refusing to sign it meant that she did not accept the transfer. She submitted that when she wrote a letter to the HOD for intervention, she expected a response. She submitted her grievance form on 07 May 2025 while the Chief Director was in office and that they were in speaking



terms. She confirmed that the Chief Director was also aware of her grievance because it was submitted through his office.

25. She did not deny that she did not report any of the abuse by Singh to anyone, even the HOD. She agreed that she was a supervisor to a driver messenger in the Chief Director's office before he passed on. She confirmed that she used to sign his leave forms and performance agreements before she went on sick leave. She did not know who carried her duties while she was on sick leave because she was not told anything. She only became aware when she came back that there was someone in her office.

26. She confirmed that when she applied to be transferred on 2 occasions before, her supervisor had supported the application by signing. She reiterated that she applied to be transferred because of being attacked by artists at the Chief Director's office. She felt that she was no longer safe. She was made to read her reasons on A45 about why she wanted to be transferred as..

“• to gain broader experience based on the qualification I acquired in Cultural Policy Development (Higher Certificate) and to explore a different field than administrative one.

• On a lighter note, I trust that management is aware of the constant violent attacks I have been experiencing from the community (artists) in the office of the Chief Director. I wish to highlight that this has affected my wellbeing and my performance more so that I am always in fear of what might transpire while in the office, considering the fact that the security measures are not yet upgraded. This also adds to the reasons for my request”.

27. She agreed that those were serious occurrences. She submitted that at that time, she was interested in pursuing a different field because of studying for a 'Higher Certificate Cultural Policy Development'. Her understanding of the grievance outcome was that she was not transferred and still a PA to the Chief Director. She agreed that not being given work to do like it is in her situation, is regarded as demotion. She submitted that during the meeting with HOD, he also promised that in the



one on one session he intended to have with Singh, if she agreed, she would take her (applicant) back to her position of PA to Chief Director.

28. She submitted that she had a problem of being transferred without being consulted while still on sick leave. She was even told by the HR Director that Singh did not bring herself to the office of the Chief Director. She submitted that the reason Singh was chasing herself from the office of the Chief Director was because she had a letter which confirmed her transfer to be Principal Community Development Officer.

29. She confirmed that she officially received her transfer letter on 06 May 2024 where she refused to accept the transfer. She submitted that the Chief Director was not in that meeting. She further submitted that she does not think the Chief Director does not want to work with her anymore because there are no problems between them. She furthermore submitted that the Chief Director has signed her 2025/2026 PMDS documents.

Respondent's case

30. **Waliyya Jacobs** ('Jacobs) testified under oath and stated that she is employed by the respondent as Deputy Director, HR administrator since 2018. Amongst her roles is to deal with recruitment, conditions of service and *persal* system. She submitted that if there is a transfer approved, either from the same or different departments, HR will implement that also on *persal* system.

31. She confirmed that the applicant had applied to be transferred on 2 occasions before. She referred the proceedings to A44-46 to show a letter the applicant wrote to be transferred as a Heritage Practitioner, level 7 in 2022. She submitted that the applicant never received a response. She further confirmed that the applicant is currently employed by the respondent as PA to Chief Director, level 7 and that is found on A43.



32. She further submitted that there was a meeting convened by HOD to resolve the applicant's grievance.

The meeting ended by the HOD indicating that he was going to seek a legal opinion regarding the issue. She further submitted that the applicant since she requested to be transferred, she never retracted her application. She has last dealt with the applicant's grievance in that meeting with HOD.

33. Under cross examination, she did not recall HOD intending to have a one on one session with Singh to check if she would accept to be transferred to Principal Community officer. She could only recall the HOD mentioning to seek for a legal opinion. She was not sure if the applicant qualified for the transfer she was seeking.

34. She did not know the applicant's qualifications. She explained that the applicant's application to be transferred was neither approved nor disapproved. She agreed that HR received the applicant's 2nd application to be transferred as a Chief Auxiliary and it was also not finalised. She confirmed that Singh on *persal* system appears as PA to the Director. She was not sure where exactly she is reporting to.

35. **Thapelo David Makgolo ("Makgolo")** testified under oath and stated that he is appointed by the respondent as Deputy Director, Organisational Development. His responsibility is to develop an organisational structure and ensuring that job descriptions are aligned to it. He also identify where there are vacant positions. He submitted that the applicant sometime in 2022 requested to be transferred because at that time she claimed that she was not feeling safe at the office of the Chief Director. Further to that, she wanted growth.

36. He further submitted that the applicant came to his office to check if there were any vacant positions available. According to him, there was an approval for the applicant to be transferred but she declined it on 06 May 2024. The applicant then later lodged a grievance complaining about the transfer. A meeting was then convened by the HOD to resolve the issue. At that meeting, the HOD closed by saying that he was going to seek for a legal opinion regarding the issue.



37. He furthermore submitted that the applicant requested a transfer within the heritage directorate and the one which was approved (Principal Community Development Officer), was in that stream. He confirmed that on A44, is the applicant's application letter to be transferred and that on A45, she had identified a '*Post of the Heritage Practitioner (Level 7)*'. He explained that the applicant's approval to be transferred, was done on 05 March 2024 but could not be communicated to her because she was still on sick leave. It was communicated to her on her return. He further explained that at the meeting, the HOD wanted to be given time to seek legal opinion about what he had approved.
38. Under cross examination he confirmed that the HOD had approved the applicant's grievance outcome which confirmed that she was still a PA to the Chief Director. He agreed that the HOD in seeking the legal opinion, wanted to review his approval decision. He submitted that the transfer which was approved for the applicant to be transferred as Principal Community Development Officer, is regarded as heritage directorate.
39. He reiterated that the applicant came to his office to check if there were any vacant positions available. He agreed that the applicant never applied to be transferred to be Principal Community Development Officer. He confirmed that when he engaged with the applicant, nothing formal was done, it was just a discussion between themselves on how she could be transferred. He submitted that the applicant wanted to be transferred to any position.
40. He was asked why the applicant was not consulted for being transferred. His answer was that, he declined in the meeting and that there was consultation to either agree or not. He furthermore submitted that since the applicant declined her transfer approval, there is no remedy to the issue. He was further asked if the transfer approval on A47 was a form of consulting the applicant to be transferred. His answer was that the applicant had an opportunity to agree or not.



41. He agreed that according to the respondent's records, the applicant is still employed as PA to the Chief Director. He confirmed to know Singh but did not know where she is working. He did recall that in the meeting with HOD, it was said that the applicant's position was taken by Singh.

ANALYSIS OF EVIDENCE AND ARGUMENT

42. This is an arbitration award issued in terms of section 138(7) of the LRA with my brief reasons. All the evidence including the closing arguments as submitted by parties were considered when writing this award. Section 185 of the LRA states that every employee has the right not to be subjected to unfair labour practice. Section 186 of the LRA goes on further to explain what conduct by the employer constitutes an unfair labour practice.

43. It is common cause that the applicant is still employed as PA to the Chief Director on the respondent's records. It is not in dispute that the applicant is not given any tasks or duties to perform as per her appointment by the respondent. I am mindful that I am not joined to the proceedings to determine whether the applicant was supposed to accept to be transferred as Principal Community Development Practitioner. What is in dispute is whether the respondent is wrong for not allowing the applicant to continue to work as PA to the Chief Director and that constitute a demotion according to her.

44. It then follows that the applicant has a duty to discharge the onus of proving that indeed there is an unfair conduct towards her in what happened. The respondent has a duty to rebut any evidence tendered by the applicant. The applicant relied on how everything unfolded until she ended up referring her case to the Council.

45. In **SAPS v Salukanza and others (P 284/09) [2010] ZALC 25; (2010) 31 ILJ 2465 (LC); 7 BLLR (LC)**, the Court found that demotion can manifest itself in many ways. It can arise through a reduction of salary, a change to terms and conditions of employment and a transfer. In fact, a demotion and a transfer have common attributes – there is a movement in both a demotion and a transfer. If the



movement leads to a reduction in status, it is a demotion. Thus, if transfer leads to a change in terms and conditions of employment which amounts to demotion, an Employee is entitled to bring a claim relating to unfair labour practice.

46. In **MTN (Pty) Ltd v CCMA and others (JR 803/18)**, the Court held that in the event that the transfer of an Employee leads to a reduction in status, prestige, importance and responsibility, this is tantamount to demotion, even if the salary and title have been maintained.

47. Accordingly it is the respondent who is supposed to provide the applicant with a job to perform as a PA to the Chief Director and that is not happening. This was confirmed by the grievance outcome and the HOD approval. The respondent did not rebut the applicant's testimony that she is not provided with any work to do and that has made her to be a laughing stock at work. The respondent further did not rebut her testimony that she is no longer having anyone as a subordinate as she used to. The reason is because she is not doing anything.

48. Here it maybe that there is no salary reduction, no change to terms and conditions of employment and no transfer occurred, but it has lead to the applicant's status being reduced. It cannot be denied that once she is not having someone as a subordinate, that on its own is a reduction of status. It cannot further be denied that the applicant's prestige has been lost. She is no longer responsible for anything at work and important. When she is at her office, she has to sit at an area reserved for visitors. I mean the respondent did not rebut any testimony tendered by the applicant to that regard.

49. The respondent in defending itself, shifted the goal posts by trying to make it as if the applicant had initiated the transfer because of her complaints. That defence is *neither here nor there*. The dispute has never been about whether it was correct for the applicant to be transferred. According to me, the respondent has failed to rebut any allegation preferred by the applicant claiming an unfair labour practice. It is my considered view that on a balance of probabilities, the applicant has discharged the onus of proving the unfair conduct towards her relating to demotion.



Relief

50. A relief sought by the applicant is that she wants to be reinstated back to her appointed position as PA to the Chief Director and to be compensated. It is my finding that the applicant has not suffered direct loss. She only suffered her PMDS to be signed for 2023/2024 performance cycle. I therefore conclude that the applicant should be given back her position in line with the grievance outcome and find 1 month of her basic salary (R30 518.75) to be a just equitable compensation as a *solatium*.

AWARD

51. The respondent, Department of Sports, Arts and Culture has committed an unfair labour practice related to demotion towards the applicant.

52. The respondent to pay the applicant R30 518.75 as compensation on or before 15 March 2025.

53. The applicant must report for duty as PA to the Chief Director on 02 March 2026.

54. In the event of non-compliance with this award, the applicant may invoke the prescripts of section 143 of the LRA.

Name: K. Z. GARIKUE

(GPSSBC) Arbitrator