

ARBITRATION AWARD

Panelist: Wayne Paul _____
Case No.: GPBC2352-2018 _____
Date of Award: 17 July 2019 _____

In the ARBITRATION between:

PSA obo D Afrikander

(Union / Applicant)

and

Department of Education

(Respondent)

Union/Applicant's representative: M Zulu (PSA) _____

Union/Applicant's address: _____

Telephone: _____

Telefax: _____

Respondent's representative: D Thwala (E.R.) _____

Respondent's address: _____

Telephone: _____

Telefax: _____

ARBITRATION AWARD

DETAILS OF HEARING AND REPRESENTATION:

1. Mr Zulu represented the applicant and Mr Thwala represented the respondent.
2. The parties resolved not to present oral argument but to submit heads of argument due to the nature of the case.
3. The final head of argument was received 6 July 2019.

ISSUE TO BE DECIDED:

4. I must determine if the applicant is entitled to be paid an acting allowance by the respondent, the Department of Education.

BACKGROUND TO THE MATTER:

5. The applicant is currently employed by the Department as an Accounting Clerk and is on salary level 5.
6. In November 2005 the applicant was assigned the duties of a Chief Accounting Clerk salary level 7 and was not paid an acting allowance.
7. At that stage the post was vacant.

SURVEY OF EVIDENCE AND ARGUMENT:

Applicant's written submissions

8. According to the written submissions the applicant was called into the office in November 2005 and informed that he would assume the function of a Chief Accounting Clerk salary level 7.
9. On 13 December 2005 the applicant assumed duties of Chief Accounting Clerk after he was requested to do so by the CFO, who also informed him that he would be remunerated.
10. The applicant was never paid an acting allowance and is seeking to be paid in accordance with Resolution 9 of 2002.

Respondent's reply written submissions

11. The respondent's refusal to pay an acting allowance is based on GPSSBC Resolution No 1 of 2002.


12. In order for the applicant to receive an acting allowance a duly authorized person is required to authorize the appointment and the employee must receive and accept the appointment in writing.
13. My attention was drawn to Paragraph 3 of GPSSBC Resolution No 1 of 2002 that deals with Payment of an Acting Allowance.
14. Paragraph 3.1.1 of the Resolution reads as follows, ***An employee appointed in writing to act in a higher post, by a person who is duly authorised, shall be paid an acting allowance provided that – (a) the post is vacant and funded; and (b) the period of appointment is uninterrupted and longer than 6 weeks.***
15. Paragraph 3.1.2 reads that, ***the employee must accept the acting appointment in writing.***

ANALYSIS OF EVIDENCE AND ARGUMENT:

16. I am required to determine if the applicant is entitled to receive an acting allowance.
17. It is not disputed that the applicant has acting in the position.
18. The issue is that there is no record of a written offer of appointment and no record of a written acceptance of the appointment.
19. Furthermore it was argued on paper that a person in the position of CEO is not duly authorised to make such an offer.
20. It is indeed a matter of technicality, however it is a technicality that I cannot interfere with, as the collective agreement known as GPSSBC Resolution 1 of 2002, is specific in the requirements that must be met before an acting allowance can be authorized.
21. In this instance the applicant has unfortunately failed to provide me with proof of his acceptance in writing to act in the higher post.
22. I do not therefore have the power to interfere with a collective agreement and order the payment of an acting allowance that the applicant is seeking.

AWARD:

23. The application is dismissed.


Name: _____

Arbitrator

Mlungisi Vilakazi

From: Sylvia Mathole <SylviaM@gpssbc.org.za>
Sent: Thursday, 12 September 2019 09:34
To: Mlungisi Vilakazi
Cc: Thomas Sebola
Subject: FW: PROOF OF SERVICE TO PARTIES: AWARD GPBC2352-2018
Attachments: We sent you safe versions of your files; AWARD GPBC2352-2018.pdf

Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

Good Morning,

Attached herewith please receive the arbitration award as per your request.

Kind Regards

Sylvia Mathole
Case Management Unit: Officer
Tel:
Fax:
012 644 8132
012 664 8749
Email:
sylviam@gpssbc.org.za
Physical Address:
260 Basden Avenue, Lyttelton, Centurion, Pretoria
Postal Address:
PO Box 16663, Lyttelton, 1040
Web:
<http://www.gpssbc.org.za>

-----Original Message-----

From: Thomas Sebola
Sent: Tuesday, 30 July 2019 14:39
To: 'Dexter.Thwala@kzndoe.gov.za'; 'PERFECT.ZULU@psa.co.za'
Cc: Sylvia Mathole; Joe Masenya
Subject: PROOF OF SERVICE TO PARTIES: AWARD GPBC2352-2018

Your message is ready to be sent with the following file or link attachments:

AWARD GPBC2352-2018

Note: To protect against computer viruses, email programs may prevent you from sending or receiving certain types of file attachments. Check your email security settings to determine how attachments are handled.

Mlungisi Vilakazi

From: postmaster@psa.co.za
Sent: Thursday, 12 September 2019 09:32
To: Mlungisi Vilakazi
Subject: We sent you safe versions of your files



We sent you safe copies of the attached files

If you want the originals, you can request them. If you trust the sender, you can choose to always receive the original files they send you, after security checks.

Files

AWARD GPBC2352-2018.pdf (317.9 KB)

Message Details

From

"Sylvia Mathole" <sylviam@gpssbc.org.za>

Subject

FW: PROOF OF SERVICE TO PARTIES: AWARD GPBC2352-2018

Sent

12 Sep 2019 09:33

[Request Files](#)

[Request and Trust Sender](#)

Powered by **mimecast**

© 2016 - 2018 Mimecast Services Limited.