



GENERAL PUBLIC SERVICE
SECTOR BARGAINING COUNCIL



Physical Address:
260 Basden Avenue,
Lyttelton, Centurion,
Pretoria

Postal Address:
PO Box 16663,
Lyttelton, 1040

Tel: 012 664 8132
Web: <http://www.gpsbc.org.za>

JURISDICTIONAL RULING

Panelist: PHEEHA DANIEL SEOPELA
Case No.: GPBC213-22
Date of Ruling: 30 September 2022

In the MATTER between:

PSA OBO MV MATONYA ----- APPLICANT
(Union / Applicant)

and

DEPARTMENT OF PUBLIC WORKS, LIMPOPO PROVINCE - RESPONDENT

Union/Applicant's representative: MS PATRICIA MATHLADISA

Respondent's representative: MR SEPHOKA

JURISDICTIONAL RULING

DETAILS OF HEARING AND REPRESENTATION:

[1] This matter was set down as arbitration on the 02nd of August 2022 at 09h00 at as a virtual hearing. The applicant, Mr MV Matonya was represented by Ms Patricia Matihadisa of PSA. The respondent, Department of Public Works was represented by Mr Sephoka of the Labour Relations Unit. Mr Sephoka raised a jurisdictional point to the effect that the Council does not have jurisdiction to entertain the case of the applicant stating that the matter should be referred to Public Service Coordinating Bargaining Council. The jurisdictional point raised by the respondent is opposed. The proceedings were digitally recorded. The point inlimine was raised just before we could complete pre-arbitration meeting.

ISSUE TO BE DECIDED:

[2] I must determine whether GPSSBC has the necessary jurisdiction to entertain the case referred by the applicant.

THE SUBMISSION OF THE RESPONDENT:

[3] The dispute is about the interpretation of PSCBC Resolution. The applicant joined the respondent through configuration from Department of Roads and Transport in 2015. The Resolution 1 of 2014 was signed in July 2014. Clause 4.12 which is about same salary was read. The dispute of this nature should be referred to the PSCBC. The GPSBC lacks jurisdiction.

THE SUBMISSION OF THE APPLICANT

[4] The dispute referred by the applicant is not about the interpretation of Resolution 1 of PSCBC. The dispute is about alleged unfair labour practice relating to promotion. This dispute was occasioned by job evaluation results as the applicant is at salary level 8 and was affected by the job evaluation results and the dispute has nothing to do with configuration. GPSSBC has jurisdiction as this case.

ANALYSIS OF ARGUMENTS:

[5] This dispute was referred to the Council in terms of Section 186 (2) (a) of the Labour Relations Act. The dispute is emanating from job evaluation which was conducted by the respondent. The applicant is at salary level 8. The contention of the respondent that the dispute is about interpretation of Resolution 1 of 2014 of PSCBC is misplaced.

[6] GPSSBC has jurisdiction to entertain dispute relating to unfair labour practice referred in terms of Section 186 (2) (a) of the Labour Relations Act. The point inlimine raised by the respondent stands to be dismissed. The point raised by the respondent is in fact a defense which should be used at arbitration to justify why the applicant does not qualify for the promotion and not as a point inlimine.

RULING:

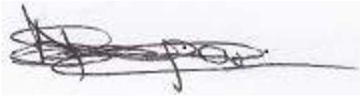
[7] GPSSBC has jurisdiction to entertain the dispute referred in terms of Section 186 (2) (a) of the Labour Relations Act 66 of 1995..

[8] The jurisdictional point raised by the respondent is dismissed.

[9] The council is directed to set this matter down as arbitration before a different Commissioner.

PHEEHA DANIEL SEOPELA

Name:

A handwritten signature in dark ink, appearing to read 'Pheeha Daniel Seoela', written over a horizontal line.

(GPSSBC) Arbitrator