



GENERAL PUBLIC SERVICE
SECTOR BARGAINING COUNCIL



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JURISDICTIONAL RULING

Panellist/s: Mr Martin Sambo _____
Case No.: GPBC428/2021 _____
Date of Ruling: 20 January 2022 _____

In the ARBITRATION between:

PSA obo A MAKOLA

(Applicants)

AND

DEPARTMENT OF AGRICULTURE, RURAL DEVELOPMENT, LAND AND ADMINISTRATION

(Respondent)

Union/Applicant's representative: Mr Kobus Heyneke _____

Union/Applicant's address: _____

Telephone: _____

Telefax: _____

Respondent's representative: Mr Nate Gasa _____

Respondent's address: Department of Agriculture, Rural Development, Land & Admin

Telephone: _____

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JURISDICTIONAL RULING

BACKGROUND

This matter was scheduled virtually for arbitration 01 October 2021 at 9h00am. Both the Applicant and the Respondent were present. The matter could not proceed due to constant connection challenges. However since the Respondent proposed that the matter proceed with parties making written submissions since they wanted to raise three jurisdictional points. The proposal was accepted and the parties agreed that the Respondent will send their written submission on the 08 October 2021, the Applicant will answer by the 15 October 2021 and the Respondent will reply by the 19 October 2021. I will prepare a ruling from then that will also indicate the way forward.

The matter related to interpretation or application of a collective agreement dispute. The Applicant who is an Agricultural Advisor sought to be translated in terms of resolution 3/2009 to being a scientist.

The Respondent indicated that his three points in limine will be that I should recuse myself due to prior knowledge of the case, secondly that the matter is referred outside the timeframe and lastly that the matter is not arbitrable.

By the 20th October 2021 the Respondent had not raised their points in limine or had not sent their written submissions on the point in limine as agreed. The Applicant has then applied on that date to Council that the matter be set down as the Respondent has waived its right to raise the preliminary points. The Applicant further applied on the same date that the Applicants point in limine be dismissed and that the matter be set down by Council to proceed. The Respondent did not oppose to this application.

It is clear that the Respondent was duly served with the application for dismissal of this three points in limine. The Respondent failed to reply despite being duly served. Further the Respondent failed to raise its points in limine in writing as agreed on the 01 October 2021.

I therefore have no option but to give the following ruling:

RULING

1. The Respondents three points in limine are dismissed
2. Council is directed to set the matter down on the date to be determined by Council
3. I make no order as to costs



PANELLIST: MARTIN SAMBO
Date: 20 January 2022