ARBITRATION AWARD

Commissioner: **Michael Howitz**
Case No.: **PSCBC247-25/26**
Date of Award: **29 July 2026**

In the ARBITRATION between:

PSA obo W Cekiso & 5 Others
(Union / Applicant)

and

Gauteng Department of Roads & Transport
(Respondent)

DETAILS OF HEARING AND REPRESENTATION

1. This award follows the arbitration that took place on 27 February 2026, 08 May 2026 and 10 July 2026 by means of the Zoom video call. The applicants, W. Cekiso & 5 Others, were represented by their union official Mr. from PSA. The respondent, Gauteng Department of Roads & Transport, was represented by Mr. Sinethemba Magodla, from the Labour Relations Department. The parties agreed to submit their closing arguments 18 July 2026.

2. This is a dispute concerning the interpretation/application of a collective agreement, arising from the Respondent's failure to comply with clause 7 (Overtime) of PSCBC Resolution 3 of 1999 read with the Respondent's Working Hours and Overtime Policy, which is to be arbitrated in terms of the Labour Relations Act 66 of 1995, section 24(2), [24 (5)] - Collective Agreement – interpretation or application.

ISSUES TO BE DECIDED

3. Whether the Applicants worked authorized overtime during March 2025. Whether the Respondent thereby became obliged to remunerate the Applicants for that overtime, alternatively to comply with the precondition in clause 6.2 of its own policy before substituting leave for payment.

4. Whether the precondition in clause 6.2, a written agreement between employee and supervisor/manager was concluded prior to the overtime being worked, was satisfied in respect of any Applicant.

BACKGROUND TO THE DISPUTE

5. The applicants are seeking to be remunerated for the outstanding payments for the authorized overtime that had been worked during the month of March 2025.

6. The respondent contended that there had been a staff meeting that was convened on 03 December 2024, to discuss the respondent's Overtime budget constraints, for the department, that would possibly be experienced during the upcoming three months going forward till the new financial year in April 2025.

7. The respondent contended that the relevant staff in the department, which included all the applicants for this case, had been informed that they were not obliged to work overtime in March 2025, but if they were to choose to work overtime during the month of March 2025, that there would be a possibility that

they would need to take time off for any overtime that they worked, due to the fact that there was not a sufficient overtime budget to payout for this overtime.

8. The respondent contended that staff (VIP Drivers) were even told that they should inform management if they were not going to agree to time off rather than not being remunerated, so that the department could inform all VIPs that they should make other arrangements for their transport after normal hours.

9. The respondent contended that when studying the guidelines of the PSCBC Resolution 3 of 1999, it states in Clause 6.2 that normal overtime can be compensated either by payment or by granting time off equal to the time worked. This shows that Clause 6.2 allows the employer to grant time off equal to the actual time worked instead of paying the cash amount.

10. The applicants contended, that they were never issued anything in writing to this effect and neither were they asked to sign any agreement on such an aspect. It would seem that some employees were remunerated out for the overtime that they had worked during the month of March 2025, but the applicants had not been remunerated.

11. The applicants contended that with regards to Overtime and Time Off Rules, Res3/99 in Clause 6.2 indicates that the choice of taking time off must be mutually agreed upon or clearly stipulated as part of the initial authorization framework within departmental policy.

12. The applicants contended that the alternative to payment (time off in lieu of overtime) must be in writing. The applicant party contended that under both South African national labour law and public service regulations, the choosing of time off instead of cash compensation requires a formal written agreement to be legally valid.

13. The applicant party contended that the Basic Conditions of Employment Act (BCEA) explicitly states that an alternative arrangement, such as giving an employee time and a half for every hour of overtime worked, is only permitted if the parties agree to it in writing.

14. The applicants contended that even the Public Service Framework (PSCBC Resolution 3 of 1999) states that in the public sector, any mandate or permission to perform overtime must also be negotiated and secured in a written commitment for time off in lieu of compensation before the hours are logged.

15. The applicants contended that any verbal agreements, as in a verbal instruction or casual handshake agreement is actually a violation of the BCEA and public service compliance directives, and are not valid. The applicants contended that Public institutions are strictly audited on hours worked. Without written authorization specifying the time-off alternative, the employer remains obliged to pay the monetary overtime rate.

SURVEY OF THE EVIDENCE AND ARGUMENT

16. The provisions of S138 LRA 66/95, as amended, enjoin me to issue the arbitration award with brief reasons. I intend in this award to focus only on the issues that I perceive to be pertinent to the issues that were disputed by the parties.

Applicants' Case

Mr Joseph Seme

17. The only witness that testified on behalf of the applicant party, was heard through Mr Joseph Seme (Mr. Seme). Mr. Seme testified on behalf the other applicants that the applicants are all employed as VIP Drivers who have the duty to transport/ferry VIPs to and from their destinations on a daily basis. Mr. Seme testified that their normal hours of work are from 08h00 to 16h30, five days a week.

18. Mr. Seme testified that, if the applicants were obliged to report for work before or after the normal working hours, they would qualify to be remunerated overtime. A situation arose in the month of March 2025 where the applicants, as well as three other VIP Drivers, had all been obliged to work normal overtime during the month of March 2025.

19. Mr. Seme testified that three of the other VIP Drivers were remunerated fully, for the overtime they had worked during the month of March 2025, but these six applicants had not been remunerated for any for the overtime they had worked in this month.

20. Mr. Seme testified that the applicants had worked the overtime in March 2025 and had submitted their claims and billed the department for overtime worked, as they would always do.

21. Mr. Seme testified that, when they realized that they had not been remunerated for their overtime worked for the month of March 2025, they set up a meeting with the Director in an attempt to get their overtime remuneration. Eventually they had to submit a grievance but they still never received any positive results/outcome so they had to refer their dispute to the Council.

Respondent's Case

Mr Vuyisa Mankumba

22. The first witness for the respondent, Mr Vuyisa Mankumba, who is the Director the VIP Pool/ Chauffer Drivers under the Sub Unit, testified the respondent was experiencing certain budgetary constraints with the Overtime budget, and as a result had come up with an alternative when it came to re-reimbursing employees for overtime worked. The idea was to come up with an acceptable plan in the event that the budget to pay out for overtime had run out. The other option available was to allow the employees who had worked overtime to take time off. This alternative would only come into place if or when, the funds from the Overtime budget had run out.

23. Mr Mankumba testified that with regards to Bundle A3, there are the minutes of a consultation meeting, that had been held on 3 December 2024, regarding alternatives to remuneration for overtime, if or when the Overtime budget was depleted. The employees were thus fully aware of the budgetary constraints that the respondent was experiencing and knew that if there was no budget to remunerate employees for overtime worked, they would need to take time off during working hours as an alternative to receiving remuneration for overtime being worked.

24. Mr Mankumba testified that the applicants' names are on these minutes of the meeting which dealt with alternatives to payments for overtime for the month of March 2024. The applicants were made aware of the situation and therefore they knew that there would be a possibility of them not being remunerated for working overtime, but instead they would have to take time off to make up the overtime that they would work.

25. Mr Mankumba testified that the applicants were not remunerated for their overtime as there was limited finances in the Overtime budget, so they should have agreed to arrange to take time off during normal working hours to compensate for the overtime worked. All the relevant employees were fully aware of this situation and knew that they would get time off instead of being remunerated. They never objected to this arrangement. (See bundle A 2)

26. Mr Mankumba testified that the respondent could not force employees to work overtime if they knew that the respondent could not remunerate for any overtime worked. The respondent would have stopped the service to the VIPs telling them there was no finances. But the applicants agreed to time off and not being remunerated.

27. Mr Mankumba testified that the applicants never commented or opposed this arrangement, when they were told that if they worked overtime that they would not be remunerated, but be allowed time off for the overtime worked.

28. During cross examination Mr Mankumba testified that he is responsible for remuneration process of work which is related to any cost factor. He is not responsible for allocating overtime but for the remuneration thereof. The person who is responsible for allocating overtime is Mr. Tabang Dlumomo.

29. During cross examination Mr Mankumba testified that all work that involves and results in overtime falls on the Deputy Director from HR. The Deputy Director is the custodian of overtime and such is managed accordingly.

30. During cross examination Mr Mankumba testified that Bundle A3 has the minutes of the meeting that was held on 3 December 2023 which all present had signed the attendance register. The applicant's names are on this register.

31. During cross examination Mr Mankumba testified that on page 2 of the bundle A3, regarding "Overtime" the paragraph stated that finance was a challenge for the Overtime budget as there was no finance to remunerate for overtime.

32. During cross examination Mr Mankumba testified that on page 8 of bundle A4 has a copy of minutes on 20 February 2025, which was a reminder of the problem that they would all face in the month of March 2025.

33. During cross examination Mr Mankumba testified that because of the very limited finance in the Overtime budget that was available for February and March 2024, they had to try to close the gap to try to pay out for overtime but they had a huge challenge when it came to March 2025 as too much overtime had been worked.

34. During cross examination Mr Mankumba testified that the overtime was worked during March 2025 and there was nothing adverse when the applicants carried out their duties. The applicants were not forced to work overtime.

35. During cross examination Mr Mankumba testified that the applicants had been consulted with about the unavailable finances to remunerate for overtime worked in March 2025. They were told that they could take off for the overtime worked. The employees were told that if they did not agree to this setup, then

they should just inform management that they were not prepared to work overtime under such conditions. Management would have just informed the VIPs regarding the budget and ask them to make their own arrangements for transport. The applicants then continued to work overtime in accordance with what the situation regarding non-payment for overtime would be.

Mr Martin Kgopa

36. The second witness for the respondent, Mr Martin Kgopa who is the Deputy Director for the HR Department, testified that he was the Custodian for overtime.

37. Mr Kgopa testified that with regards to the bundle A4 contents has the Overtime Policy as reference.

38. Mr Kgopa testified that this document has the purpose as a guideline the departments on how to manage hours being worked which include overtime.

39. Mr Kgopa testified that when employees needed to work overtime they would be authorized to work the overtime. There is a specific budget that is allocated for Overtime. The applicants were allowed to continue working overtime and the applicants had worked the overtime as authorized. At the time there was an unfortunate situation regarding finances lacking in the Overtime budget.

40. Mr Kgopa testified that Clause 6.2 states that if an employee worked overtime and there were no finances to be able to remunerate the employee, then the employee should take time off. The applicants had all been advised about the situation at the meeting on 3 December 2024.

41. Mr Kgopa testified that applicants were informed about the lack of budget to remunerate for overtime, so the applicants were told that they would be allowed to take time off during their booked shifts. The applicants were told/explained that if they worked overtime, they would only be remunerated if there was money in the financial Overtime budget to be able to do so. The applicants had a choice to work the overtime and take time off but they knew that there was no budget to remunerate them for this overtime. If the applicants had chosen to work overtime, then they were aware that there might not be any budget to remunerate for overtime and therefore they could take time off to offset the overtime worked.

42. During cross examination Mr Kgopa testified that it is not being disputed that the applicants had worked the overtime for which they are now claiming, but it is said that the applicants were made aware of the financial constraints and how their overtime would be addressed which would be granting them time off, instead of being remunerated.

43. During cross examination Mr Kgopa testified that the decision to allow time off due to the fact that the budget had constraints relied on the Overtime Policy which states that time off can be given instead of being remunerated. The Overtime Policy states that the employer cannot force the employee to work overtime.

44. During cross examination it was put to Mr Kgopa the applicants had never signed any agreement to state that they agree to time off instead of being remunerated. Mr. Kgopa testified that he was not aware of any employee who had signed an agreement to this effect.

ANALYSIS OF THE EVIDENCE AND ARGUMENT

45. Both parties explained their versions and standpoints in a very articulate manner. Simply put, the parties agreed about the issue in dispute, which revolved around whether the applicants should be remunerated for the overtime that they had been authorized to work when they transported the VIPs after hours, which had resulted in overtime being worked.

46. After listening to the witnesses and reading through the bundles and closing arguments of the parties' evidence and arguments I have broken the issue down to whether the respondent had acted unfairly or in error with regard to the decision not to remunerate the applicants but to allow time off for overtime worked. In this instance the respondent had not purposefully acted unfairly, but could have failed to cover themselves when the applicants were not called to come and sign an agreement to this payment situation.

47. There was an issue regarding the overtime budget which could not be ignored. The respondent took note of the fact that overtime compensation can be handled and managed in two ways. The two ways that would address this issue would be to either remunerate the applicants, or give them time off, for the overtime worked. Unfortunately there was no written agreement between the applicants and the respondent that states that they would not be paid but will have to take time off for the overtime worked.

48. It was pointed out that the second witness, Mr. Kgopa, who is the custodian and advisor on the Working Hours and Overtime Policy, read clause 6.2 into the record in full: "Employees shall be compensated for overtime worked in a form of time off. The employer shall grant an employee 30 minutes, time off on full pay for every hour of overtime worked, or grant 90 minutes paid time off for each hour of overtime worked. *Employees and supervisor or manager should agree in writing on this option prior to*

the start of overtime worked" (referencing the Basic Conditions of Employment Act, Chapter 2, section 10(3)(2)) — "no employee shall be forced to work overtime."

49. The one aspect in this situation that I had to consider is the fact that no signed or written agreement existed, recording that the Applicants accepted leave in place of payment. This factor, of not remunerating for overtime and expecting the employees to accept to be given time off without a signed agreement, goes against all the directives applicable to this dispute.

50. The Applicants requested that if the award goes in their favour then I should highlight and mention the factors that are applicable to the final finding of the award.

51. The Respondent failed to interpret and apply Resolution 3 of 1999 correctly, by refusing to remunerate the Applicants for authorized overtime worked during March 2025.

52. The Respondent is ordered to pay the Applicants the outstanding overtime amounts as set out below.

Applicant	Ordinary Hrs	Sunday Hrs	Amount Outstanding
Wandile Cekiso	35.5	31	R9,478.59
P. Chauke	49.5	21.5	R10,303.17
B.M. Komako	45.5	17.5	R12,433.28
N.L. Mametsa	19.5	21.5	R8,571.74
O.J. Mosehlana	31	5.5	R3,956.96
J. Nengovhela	89.5	43.5	R19,442.01
J. Seme	32.5	7.5	R5,243.04
TOTAL			**R69,428.79**

53. The amount awarded, as reflected above, shall bear interest at the rate prescribed in terms of section 2 of the Prescribed Rate of Interest Act 55 of 1975, as contemplated in section 143(2) of the LRA, from the date of the award to date of final payment.

54. The applicants contend that no order is sought as to costs. The Applicants seek to remain in the Respondent's employ. The Respondent's defence, though unsuccessful, was not frivolous or vexatious, and an order of costs is neither necessary nor appropriate to the fair resolution of this dispute.

AWARD

55. I find that the respondent had not interpreted and applied Resolution 3 of 1999 correctly when the applicants' overtime for the month of March 2025 was not remunerated to them.

56. The respondent, Gauteng Department of Roads and Transport, is ordered to pay to the applicants, Wandile Cekiso, P. Chauke, B. M. Komako, N. L. Mametsa, O. J. Mosehlana, J. Nengovhela, and J. Seme, their overtime payments as reflected below.

57.

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J. Seme	32.5	7.5	R5,243.04
TOTAL			**R69,428.79**

58. The respondent is ordered to pay the above amounts, as per the table in paragraph 57, into the applicants' bank account on or before 31 August 2026.

MICHAEL L. HOWITZ

PSCBC Panellist: