

FOR PSA MEMBERS: DEPARTMENT OF DEFENCE (DOD)

08-12-2020

Labour Court Case: Demilitarisation of then-Finance Division and Review of Arbitration Award on unauthorised deductions

Demilitarised Finance Personnel

The PSA attorneys informed us that the employer's Advocates submitted their Heads of Arguments on 20 November 2020. As reported, the PSA is to deliver to the Registrar and the employer's Advocates heads of argument on or before 18 December 2020. The basis of the employer's appeal is whether the honourable Judge erred in:

- Finding that December 1998 is when a part of the debt was due
- Finding that there was an ongoing effect, which supported the PSA's cause of action, and whether the notion of ongoing applies to breach of contracts cases
- Finding that the conduct of employer is continuous
- That the honourable Judge exercised his discretion judicially in granting condonation for the failure to comply with the provisions of the Institution of *Legal Proceedings Act*.

The PSA's attorneys confirmed that the arguments are being finalized after which they will immediately proceed in obtaining a date for the hearing of the matter.

Unauthorised deductions: Clerical Staff and Secretaries

The attorneys informed us that the Heads of Arguments were served and filed in February 2020. The file is before a Judge to have the matter allocated a date. The employer delivered its Heads of Arguments in October 2020, wherein it sought to raise and contest the issue of the set down of the matter and some form of opposition to the condonation albeit that no opposing papers in the condonation application were delivered. The condonation requested is in respect of late delivery of the supplementary affidavit. There was no prejudice suffered as a result of the late submission. An indulgence was granted to have the answering affidavit in the matter to be delivered thereafter. There was no objection notice delivered to the filing of the supplementary affidavit in terms of practice directive. As soon as the outcome is communicated to the PSA's legal representatives, it will be communicated to members.

Members will be informed of developments.

GENERAL MANAGER