

FOR PSA MEMBERS: KWAZULU-NATAL (DURBAN AREA)

16-11-2023

Reminder: Salary deduction rights

In light of the Constitutional Court judgement of *Public Servants Association obo Olufunmilayi Itunu Ubogu v Head of Department of Health, Gauteng and others (2018)*, it is important to remind all PSA members about their rights regarding salary deductions.

The Constitutional Court judgement found that the provisions of the *Public Service Act of 1994*, with specific reference to section 38(2)(b)(i), which allowed the state to unilaterally deduct money as a result from overpayments from employees' salaries, was unconstitutional. This section of the *Public Service Act* did not require the consent of the employees, giving the state unrestricted power to determine deductions without agreement. The Court also observed that this provision allowed the state to function as both judge and party, which was deemed unacceptable. Considering this ruling, it is crucial for all public servants to be aware of their rights regarding salary deductions and benefits.

This article aims to critically analyse the implications of the above judgement, focusing on the application and interpretation of the *audi alteram partem* rule in relation to salary deductions and benefits for public servants.

In light of this ruling, it is imperative that all public servants report any instances where their salary has been deducted from without their consent. It is advised that public servants should not sign any acknowledgments of debt without prior consultation with the PSA or full-time shop stewards. Furthermore, the PSA would like to send a strong message to employers, urging them to respect the laws and court decisions.

The PSA is here to provide members with information and equip them with knowledge of their rights. Members are encouraged to stay informed and vigilant, and to reach out to the PSA for guidance or clarification when necessary.

For more information or join the PSA, please contact Xolani Dhlamini on 073 813 9646, Cynthia Mbali on 082 880 8953 or Nkosephayo Zulu on 082 880 8994.

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