

PSA successfully defends and promotes members' rights

Dispute: Unfair Labour Practice Relating to Promotion

A PSA member lodged a grievance with the NHLS after he was not shortlisted for the position he applied for with the NHLS and subsequently a colleague was appointed. The member in his grievance argued that the NHLS did not revise its policy to create a higher grade and ultimately include new requirements for the position/grade above his grade. The member argued that the state of the policy at the time when he applied for the position qualified him to be considered for interviews because he met all the post requirements.

Arguments at CCMA

The matter was referred to the CCMA as the grievance did not resolve the matter. The PSA argued that the policy of the NHLS was only changed after the successful candidate was appointed. The PSA also argued that the changes to the policy were only brought about after the member had raised concerns with the NHLS regarding the post requirements. The PSA further argued that the policy of the NHLS compels that when a post is advertised, it must be in line with the policy that determines post qualification requirements. The PSA was able to successfully demonstrate that the policy that appears on the intranet was common knowledge to all employees. The NHLS argued that the member was not having the qualification for the position, and he was not shortlisted for those reasons. The NHLS also relied on the policy that was questionable (authenticity) as opposed to the policy that was on the intranet and known by all, that it provided for the raised post requirements.

CCMA Commissioner ruling

The Commissioner remarked that *"I wish to state that from the onset that the applicant's evidence was not challenged during cross examination. The testimony of the respondent's witness was not put to the applicant during cross-examination. The respondent did not even cover the issues raised by the applicant when its witnesses were giving evidence."* Further the Commissioner remarked: *"The conduct of the HR department clearly shows that there was no approved C5 job description in January 2020. The C5 job description is the one that became active on 4 March 2020, and it was approved after the applicant questioned the issue of the C5 approved job description."*

The Commissioner ruled in favour of the PSA member and found that the NHLS committed an unfair labour practice against the member. The Commissioner ruled in favour of the PSA and the employee.

GENERAL MANAGER