



FOR PSA MEMBERS: **KWAZULU-NATAL - DURBAN AREA**

21-07-2025

Victory for PSA member

PSA blocks unlawful representation by employer: Legal victory in GPSSBC

The PSA, through successful representation of a member, obtained a ruling ordering the employer representative not to be allowed to continue representing the employer as a result of him no longer being an employee of the Department. The PSA's Provincial Office Durban was representing a member at the General Public Service Sectoral Bargaining Council with an unfair labour practice dispute. The employer had, however, continued to utilise a former employee of the Department to represent the employer. The appointment was procedurally irregular and legally defective.

The matter was set down before the GPSSBC on 3 and 4 June 2025 at the employer's premises in Ntuzuma. The employee was present and represented by Ernest Mkhize, a PSA Full-Time Shop Steward. It was not in dispute that the employer representative had resigned from the Department and was no longer in the employ of the employer. Following this, Mr Mkhize raised a point in *limine*, strongly contesting the employer's legal standing to act on behalf of the Department. The PSA's position was clear: The employer's representative involvement as an external party violated the GPSSBC Rules and the applicable disciplinary procedure Resolution, which restrict representation to duly authorised departmental employees or properly delegated people. After careful consideration of the submissions made, the arbitrator ruled in favour of the PSA, issuing the following binding ruling:

- The employer's representative lacks legal status to represent the employer in the proceedings regarding the employee. The employer is ordered to substitute the employer's representative with a representative who complies with the criteria stipulated in the Resolution.

The Council was directed to set the matter down for continuation on **2 and 8 September 2025**.

This judgement is a clear legal precedent that reinforces the limitations imposed on employer representation in the public sector. The ruling confirms that only duly employed or properly delegated departmental officials may represent the employer in GPSSBC proceedings. Any attempt to outsource labour representation to external entities is unlawful and unacceptable. The PSA remains the watchdog of procedural fairness, holding employers accountable when they deviate from established rules.

This outcome is a procedural win and a substantive legal victory that upholds the rights of workers and ensures the integrity of arbitration processes. The PSA will never allow employers to sidestep proper procedure, especially when such actions are intended to weaken the rights and protections of employees under the guise of convenience.

The PSA cautions all departments and institutions that where there is an attempt to bypass legal frameworks, the PSA will respond with firm legal resistance. The PSA's commitment to defend workers' rights is non-negotiable, and the Union's track record continues to reflect that. Justice was delivered. Integrity was upheld. The PSA prevailed.

Join the PSA

Please contact PSA provincial organisers or full-time shop stewards. You can reach Xolani Dhlamini on 073 813 9646 / xolani.dhlamini@psa.co.za, Nkosinathi Thwala on 082 880 8953 / Nkosinathi.thwala@psa.co.za, or Nkosephayo Zulu on 082 880 8994 / nkosephayo.zulu@psa.co.za.

Alternatively, you can contact the full-time shop stewards, Earnest Mkhize on 081 016 5028, Nondumiso Mvubu on 081 016 5024, Jabulani Bukhosi on 063 737 8498, Sthembile Ngcobo on 081 016 5085 or Brendon Fisher on 083 863 6754.

Reuben Maleka
GENERAL MANAGER