



FOR PSA MEMBERS: **EASTERN CAPE – MTHATHA AREA**

27-08-2026

PSA secures major victory for member

The PSA Provincial Office in Mthatha secured a significant victory for a member in an unfair labour practice dispute against the Department of Education. The member had applied for a Deputy Director: Human Resources - Administration and Planning post, was shortlisted and interviewed, and was recommended as the second-best candidate, but was not appointed. Following arbitration, the Commissioner found that the Department's conduct amounted to an unfair labour practice in terms of section 186(2)(a)(a) of the *Labour Relations Act 66 of 1995*.

The Commissioner found serious irregularities in the recruitment process, including that the successful candidate had proceeded to the interviews without signing the mandatory declaration on the Z83 form, whilst the member had complied with this requirement by the time of the interviews. The Commissioner found that the successful candidate did not meet the advertised minimum qualification requirements and rejected the Department's attempt to justify the appointment on employment equity grounds, as there was no evidence that an approved employment equity plan, applicable targets or goals had been considered during the selection process. The award emphasised that employment equity cannot be used to elevate a candidate who does not meet the minimum advertised requirements above eligible candidates.

Importantly, the Commissioner found that for the Department's unfair conduct, the member qualified to be appointed to the position and ordered the Department to pay the member R455 535, equivalent to twelve months' salary, as compensation for the financial and professional prejudice suffered, including lost salary progression, pension contributions and other benefits. The amount must be paid into the member's bank account on or before 30 September 2026. This victory demonstrates the PSA's commitment to defending members and holding employers accountable for fair, transparent, and lawful recruitment and promotion processes.

For labour-related support or to join the PSA, contact the PSA Provincial Organisers: Zizipho Shukuma – zizipho.shukuma@psa.co.za / WhatsApp 082 880 2936 and Zingisile Mgxaji – zingisile.mgxaji@psa.co.za / WhatsApp 082 880 8959.

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