

Victory for PSA members

Gauteng Department of Education

The PSA assisted four members employed by a school governing body (SGB) regarding their salary levels. The members indicated that their years of service were not taken into consideration, thus their salaries were incorrect. The PSA intervened by holding a meeting with the chairperson of the SGB. At the meeting, the PSA made convincing submissions with evidence that the members were being incorrectly remunerated. The chairperson agreed with the PSA and requested the finance office to rectify the notches from the date of omission, including backpay.

Department of Home Affairs

The PSA represented a member who was unfairly dismissed by the employer in arbitration. The member was unfairly dismissed after she was charged with gross negligence and gross dereliction of duty. The PSA represented the member by cross-examining witnesses of the employer, lead evidence in presenting the member's case. The Commissioner found that whilst the member bore responsibility for some of the failures, the dismissal was substantively unfair. The Commissioner found the employer ignored severe organisational shortcomings and applied a harsh sanction. The Commissioner ordered the member be reinstated retrospectively partially and payment of backpay.

Department of Forestry, Fisheries, and the Environment

- A member was assisted by the PSA after the employer refused to grant grade progression, which the member believed he qualified for under GPSSBC Resolution 8/2009. The PSA referred the matter for arbitration at the GPSSBC. The PSA made strong submissions, and the Commissioner found the employer was applying policies incorrectly by inconsistently recognising service and failed to carefully consider the member's eligibility for progression. The Commissioner found the employer committed unfair labour practice relating to benefits and ordered the employer to pay the member compensation equal to four months' salary.
- In another matter, the PSA represented a member who was charged with misconduct relating to dishonesty by not disclosing as a panel member in interviews that she knew some of the candidates. The PSA cross-examined the employer's witnesses and presented a formidable case on behalf of the member. After meticulous closing arguments at the end of the hearing, the Chairperson found that the employer did not present sufficient evidence that the member knew the candidates. The Chairperson

found on a balance of probabilities and after considering the evidence in totality, that the member was not guilty of misconduct.

Department of Small Business Development

The PSA assisted a member who was unfairly dismissed in July 2023 following a disciplinary hearing where the member was found guilty of refusal to sign her performance agreement and refusal to carry out lawful instruction. During the arbitration, the member passed away, and the matter continued through her executrix following a favourable substitution ruling from the Commissioner. The PSA vigorously cross-examined the witnesses of the employer and could not lead oral evidence owing to the passing of the member but submitted that the dismissal was unfair and that the disciplinary route was inappropriate considering the member's circumstances. The Commissioner found that the disciplinary hearing should not have been convened in the first place as there was a breakdown in working relationship and ICAS (employee wellness) had recommended a transfer, which the employer failed to implement or properly pursue reasonable accommodation. The Commissioner emphasized compassion and balance in employer conduct in circumstances involving psychological difficulties. The Commissioner ruled that the dismissal was unfair. Because the member had passed away, reinstatement was not possible. The commissioner awarded seven months' salary compensation.

Independent Police Investigative Directorate

A member was charged with three counts of misconduct relating to unauthorised possession of confidential information, leakage of confidential information, and insolence. The PSA advised the member to plead not guilty and proceeded to interrogate the employer's witnesses through cross-examination and adducing of evidence. The Chairperson found the member guilty and issued a sanction of demotion and two months' suspension without pay. The PSA referred the matter to the GPSSBC for unfair labour practice, short of dismissal. During the arbitration hearing, the PSA robustly argued that the findings by the Chairperson were unsubstantiated, unwarranted, and without merit. The employer was persuaded and proposed to settle the dispute. Parties reached a settlement wherein the member would be reimbursed the two months' salary and would be reinstated in her original position.

South African Revenue Service

The PSA assisted a member who was charged for misconduct relating to two counts of breach of policy and one count of dishonesty. The PSA advised the member not to plead guilty. The PSA presented a convincing case on behalf of the member, by cross-examining the employer's witnesses and adducing evidence to suppress the charges. At the end of the hearing, the PSA submitted meticulous closing arguments. The Chairperson found the member guilty of one charge of breach of policy and procedure. The PSA then submitted compelling mitigating factors against the charge on which the member was found guilty. The Chairperson issued a sanction of final written warning for charges that were career limiting.

The members expressed gratitude for the PSA's support and successful resolution to their matters. The PSA is committed to providing strong representation in all matters.

Employees who want to join the PSA can visit the PSA's website or contact PSA Provincial Offices.

Reuben Maleka
GENERAL MANAGER