



IN THE PUBLIC SERVICE CO-ORDINATING BARGAINING COUNCIL

Case No: PSCB 455-17/18

Date of award: 16 April 2018

Panellist: Clarence Randall

In the matter between

**PSA OBO MQUNQUTHO &
9 OTHERS**

Applicant

and

**DEPARTMENT OF EDUCATION –
EASTERN CAPE**

Respondent

ARBITRATION AWARD

DETAILS OF HEARING AND REPRESENTATION

1. The arbitration hearing in this dispute was scheduled for 10 April 2018 at the PSA offices, situated in Mthatha. The matter was referred to the PSCBC as a dispute relating to the interpretation/application of PSCBC Resolution 14 of 2002.
2. The Applicants are employees in the service of the Respondent. The Applicants were represented by Mr. L.Ngeketo, an official from the trade union PSA of which the Applicant is also a member.
3. The Respondent was represented by Mr. S.Mdondolo & Mr. Z.Nozelela, employees of the Respondent.

ISSUE TO BE DECIDED

4. The issue to be determined is whether the Respondent was in breach of Resolution 14 of 2002 when it did not deal with the Applicants grievances. I am therefore called upon, to make an appropriate arbitration award as per Section 138(9) of the Labour Relations Act, 66 of 1995, as amended (the Act).

BACKGROUND TO THE DISPUTE

The facts set out hereunder are common cause:

5. The Applicants submitted their joint grievance on 2 June 2017 and was received by the relevant person on 27 June 2017.
6. The grievance was submitted within ninety days of becoming aware of the relevant act or omission.

SURVEY OF EVIDENCE AND ARGUMENT

It must be noted that I have considered all the relevant evidence placed before me by the parties but I will only refer to that which I regard as necessary to substantiate my findings and the determination of the dispute.

Applicant's submissions

7. The Applicant party submitted that the Respondent has failed to attend to the grievance within the prescribed timeframes.
8. As a result thereof, the Applicant seeks an award to the effect that the Respondent be compelled to submit an outcome of the grievance to the Applicants, in writing, in accordance with the Resolution 14/2002.

Respondent's submissions

9. The Respondent submitted that no formal outcome, in writing, has been issued to the Applicants at the time of the arbitration. An undertaking was made to provide a written outcome of the grievance to the Applicant by 10 May 2018.

ANALYSIS OF EVIDENCE AND ARGUMENT

10. Resolution 14 of 2002 contains the grievance rules for the Public Service. The Resolution refers to the grievance rules. In terms of F: Departmental Stages to Address a Grievance, it states under 8 that the Department has 30 days to deal with the grievance. The period may be extended by agreement in writing. In terms of C, under 6, all matters pertaining to a grievance/s must be done in writing.
11. It was common cause that the Applicants had submitted a grievance and that no written feedback was received nor was there any agreement to extend the period. Therefore, the Respondent is in breach of Resolution 14 of 2002 as it did not give feedback within the required 30-day period.

AWARD

12. The Respondent breached PSCB Resolution 14 of 2002;
13. The Respondent must deal with the respective grievances and give feedback, in writing, by no later than 10 May 2018.
14. Failure to do so will result in the Applicant being allowed to refer the matter to the relevant Bargaining Council for in terms of the relevant Resolution;

15. There is no order as to costs.

A handwritten signature in dark ink, appearing to read 'Clarence Randall', written in a cursive style.

CLARENCE RANDALL
ARBITRATOR