



In the matter between:

CASE NUMBER: PSCB 343 - 16/17

HOSPERSA obo ADAMS, J SCHOLTZ L AND ADAMS M

Applicants

And

DEPARTMENT OF HEALTH

Respondent

ARBITRATION AWARD

Date of the Ruling: 02 May 2017

Panellist: J A Van der Walt

Details of Hearing and Representation

This matter was set down for an arbitration hearing on 28 February 2017 in Port Elizabeth.

The applicants were represented by Mr TG Matsuko, a trade union official of HOSPERSA. The respondent was represented by Mr J. Hilpot an employee of the respondent stationed as Labour Relations Manager in Fort England.

I, Adriaan Van der Walt, was the appointed commissioner.

Issue to be decided

The issue to be decided concerned the interpretation and application of a clause in Resolution 1 of 2012 of the PSCBC.

The crisp question was whether the three individual applicants are entitled to receive a once – off cash bonus of 10% of his/her annual salary notch provided this does not exceed the minimum notch of salary level 8, in terms of Resolution 1 of 2012. In the light of the fact that they had been translated to Speciality PNB 1 nurses in terms of PHSDSBC Resolution 3 of 2007.

Background to the dispute

The three individual applicants work as speciality nurses at the Elizabeth Donkin Psychiatric Hospital in Port Elizabeth.

In terms of Resolution 3 of 2007 principles for a revised occupation specific salary structure were agreed upon by the PSCBC. The implementation of the new salary grading system entailed that employees were translated to the appropriate salary ranges attached to the posts subject thereto that they met the criteria in terms of the appointed and progression requirements. Qualifying periods and criteria for pay progression and grade progression would have been specifically indicated per identified occupation category. The revised salary structure was implemented to all categories of nurses with effect from 1 July 2007.

All three applicants were translated to the rank of professional nurse speciality grade 1. Immediately after the translation the qualification required for a professional nurse with the speciality in psychiatry was a Bachelor of Nursing Honours Advanced Psychiatric Nursing Science. Not one of the applicants held that qualification when

they were translated. They benefitted in terms of the so – called grandfather's clause contained in the resolution.

Subsequent to the translation three of the applicants furthered their studies at Nelson Mandela Metropolitan University and all three completed a Bachelor of Nursing Honours Advanced Psychiatric Nursing Science and were to be awarded their respective degrees during the autumn graduation ceremonies at NMMU.

In terms of Clause 7 of Resolution 1 of 2012, the agreement on Salary Adjustments and Improvements on Conditions of Service in the Public Service the employer (the Department) would recognize the attainment of an improved qualification which is related to an employee's scope of work and enhances the employee's performance and the service delivered by an employee.

Upon attaining of the said qualification the employee will receive a once – off cash bonus of 10% of his/her annual salary with provided this does not exceed the minimum of salary level 8.

Sectors must define the qualifications relevant to their respective areas of work and determine the conditions or criteria applicable for recognition of such qualifications.

It is common cause that the qualifications obtained by the applicants are relevant to their respective areas of work.

Mr Dalpat contended however on behalf of the respondent that the applicants had been translated to the rank of specialist nurse without the Hons qualification which became a requirement for the position immediately after the translation. It follows that they already benefitted without having obtained the qualification. It would therefore be incorrect to pay the bonus in terms of clause 7.2 of the 2012 Resolution. They only now qualify for the positions.

Mr Dalpat did not refer me to any express provision in a resolution that curtails the application of Clause 7.

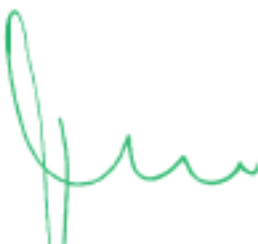
At the time of their translation the applicants qualified to be translated. The present requirement of a Hons degree did not apply to them.

They have now attained an improved qualification related to their scope of work and which enhances their performance and delivery of service. They meet the requirements set in Clause 7 of Resolution 1 of 2012. I was not referred to any provision on a resolution that bars the applicants from being paid the cash bonus referred to in Clause 7.2. The bonus must be paid to the individual applicants.

Award

The applicants, J Adams, L Scholtz and M Adams are entitled to be receive a once – off cash bonus of 10% of their respective salary notches not exceeding the minimum notch of salary level 8 as provided for in Clause 7.2 of Resolution 1 of 2012.

The Department is ordered to pay the bonuses to the applicants on or before 31 May 2017.



JA van der Walt

Commissioner

02 May 2017