



**IN THE PUBLIC SERVICE CO-ORDINATING BARGAINING COUNCIL
HELD IN MAHIKENG**

CASE NO: PSCB334-17/18

PSA obo SEGAMI, V B

APPLICANT

and

DEPARTMENT OF HEALTH – NORTH WEST

RESPONDENT

AWARD

DATE OF ARBITRATION: 9 NOVEMBER 2017

DATE OF AWARD: 10 NOVEMBER 2017

PANELIST: WILLIAM RICHARD PRETORIUS

DETAILS OF HEARING AND REPRESENTATION

- 1.1 The arbitration was held on 9 November 2017 at the offices of the Public Service Association (PSA) in Mahikeng, North West.
- 1.2 The Applicant, Ms Victoria Segami was present and was represented by Mr. Nceba Baardman, an official from the PSA. Mr Joseph Dlamini represented the Respondent, the Department of Health – North West.
- 1.3 The proceedings were digitally recorded.

ISSUE TO BE DECIDED

- 1.4 I am required to determine whether the Respondent was in breach of Resolution 14 of 2002 when it failed to respond to the grievance of the Applicant.

SURVEY OF EVIDENCE AND ARGUMENT

APPLICANT'S SUBMISSION

- 1.5 Mr Baardman submitted that the Applicant lodged a grievance with the Respondent on 29 May 2017 concerning various occupational abuses and unfair labour practices against Mr M.D. Monokoane, the Chief Executive Officer (CEO) of Bophelong Psychiatric Hospital. The Applicant indicated that despite a meeting convened by Ms Mokhutswane-Kaudi, the Chief Director for DHS on or about 13 August 2017 to find an amicable solution, the Respondent to date has not responded to the Applicant's grievance.

RESPONDENT'S SUBMISSION

- 1.6 Mr Dlamini submitted that an attempt was made for the parties to meet unfortunately its outcome was not successful. He admitted that no formal response was given to the Applicant; however the Respondent is prepared to make such response available to the Applicant.

ANALYSIS OF EVIDENCE AND ARGUMENT

1.7 Resolution 14 of 2002 contains the grievance rules for the public service. Schedule 1 to Resolution no 14 of 2002 states as follows:

“The purpose of this grievance procedure is to advance sound labour relations and address grievances in the public service by fulfilling the primary objectives of this procedure which are:

- [a] to give effect to section 196(4)(f)(ii) of the Constitution which empowers the Commission to investigate grievances of employees in the public service concerning official acts or omissions, and recommend appropriate remedies;
- [b] to give effect to section 11 of the Public Service Commission Act, 1997 (Act No. 46 of 1997) which empowers the Commission to make Rules to deal with grievances;
- [c] to promote -
 - (i) speedy, impartial and equitable handling of grievances;
 - (ii) sound labour relations;
 - (iii) resolution of individual grievances at the lowest possible level in a department.”

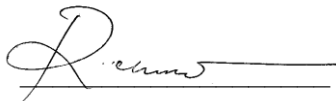
1.8 Clause 7 of Schedule 1 under the heading: “DEPARTMENTAL STAGES TO ADDRESS A GRIEVANCE” states that if the grievance cannot be resolved, the executing authority must inform the aggrieved employee accordingly. Clause 8 under the same heading states that the department (including the executing authority) has 30 days to deal with the grievance. The period may be extended by mutual agreement in writing.

1.9 If the employee is not satisfied with the response of the employer, then the employee can pursue the matter further through the relevant dispute resolution processes available.

1.10 The Applicant had submitted the grievance on 29 May 2017 and had not received a response. Therefore, the Respondent is in breach with Resolution 14 of 2002, because it had failed to respond to the grievance lodged by the Applicant within the 30-day time period referred to above.

AWARD

- 1.11 The Respondent, the Department of Health – North West failed to comply with the prescriptive timeframes contained in Resolution 14 of 2002 as referred to above.
- 1.12 The Respondent is ordered to respond to the Applicant's grievance in writing within seven (7) working days after date of receiving this award.
- 1.13 Failure to do so will result in the Applicant being allowed to refer the matter to arbitration in terms of the relevant dispute resolution procedures available.
- 1.14 There is no order as to costs.

A handwritten signature in black ink, appearing to read 'W R Pretorius', is written over a horizontal line.

W R PRETORIUS

PSCBC PANELIST