



ARBITRATION AWARD

Case Number: PSCB233-11/12
Commissioner: NOMSA MBILENI
Date of Award: 2015-07-08

In the ARBITRATION between

PSA obo DL BRITS

(Applicant)

And

DEPARTMENT OF AGRICULTURE RURAL DEVELOPMENT & ENVIRONMENT
AFFAIRS

(Respondent)

Union/Applicant's representative: PSA obo DL BRITS

Union/Applicant's address:

Telephone:

Telefax:

E-mail:

Respondent's representative: DEPARTMENT OF AGRICULTURE RURAL
DEVELOPMENT & ENVIRONMENT AFFAIRS

Respondent's address:

Telephone:

Facsimile

E-mail:

DETAILS OF THE HEARING AND REPRESENTATION

- [1] The above matter was set-down for arbitration on the 20th May 2015, at the offices of the respondent in Nelspruit. The applicant Mr. D.L Brits was represented by an official of PSA Ms. A. Sedibane. The respondent the Department of Agriculture Rural Development and Environmental Affairs was represented by its employee Mr. Phiwe Radebe.

ISSUE TO BE DETERMINED

- [2] The applicant is PSA on behalf of Brits, and it has brought an application to the PSCBC for the interpretation and or application of Resolution 13 of 1998. According to the applicant, the respondent has failed to comply with clause 6 of resolution 13 of 1998. It was agreed that the parties will dispose of the matter by submitting arguments. The applicants submitted its heads of arguments on the 6th June 2015.

The respondent has failed to submit any arguments in this regard. The matter is therefore determined on the basis of only the applicant's arguments.

SURVEY OF EVIDENCE AND ARGUMENTS

- [3] The applicants (PSA) has submitted that the respondent has failed to comply with clause 6 of PSCB resolution 13 of 1998, in that it has not increased the salary of Mr Brits as required by the resolution. According to PSA the salary should have been increased with effect from the 1st July 1998 but the respondent failed to effect the salary increase which has resulted in the pensionable salary of Mr. Brits being incorrectly calculated. It was further submitted by PSA that Mr. Brits has retired and migrated to New Zealand. The applicant further sought an order to compell the respondent to re-calculate the pension amount of Mr Brits.

ANALYSIS OF EVIDENCE AND ARGUMENT

- [4] The purpose of resolution 13 of 1998 is to:- "set a framework for senior managers to agree to individual performance agreements that shall determine their annual increments". Clause 3 of the said resolution provides that; "Nature of performance agreements" and it states the following:-

3.1 "A performance agreement aims

(a) to assist a senior manager to define her or his key responsibilities and priorities as well as measures for assessing her or his success.

(b) to encourage improved communication between senior manager's and their Supervisors.

(c) to enable the executing authority of a Senior Manager to assess the senior managers work and provide appropriate support and salary improvements”.

The resolution further provides for how disputes are to be resolved and which disputes may be resolved in terms of this resolution. Clause 5 of the above resolution provides that;

“Disputes about the nature of a senior manager’s key responsibility, priorities, methods of assessment and/or salary increment in an agreement

(a) shall be mediated initially by the DG DPSA and or her or his delegate, and

(b) if this mediation fails, the dispute resolution procedures provided by the relevant collective agreements...”

[5] It is therefore evident that this resolution envisaged a particular dispute resolution process as outlined above. The applicant should have therefore followed the above outlined process to resolve the issues which he has referred to the PSCBC. He has further not provided any other information regarding whether there was assessment on his performance or not and whether or not there was a dispute regarding the increment in salary.

[6] In the premise the resolution of this dispute does not reside with the PSCBC as can be seen from the above resolution.

AWARD

[7] The application is therefore dismissed.



NGJ MBILENI