



PUBLIC SERVICE CO-ORDINATING BARGAINING COUNCIL

ARBITRATION AWARD

Case Number: PSCB332-13_14
Senior Commission / Panellist: Martinus van Aarde
Date of Award: 30 October 2013

In the **MATTER** between

PSA obo W Bezuidenhout

(Applicant)

and

Department of Police, Roads & Transport (FS)

(Respondent)

Applicant's representative: Mr. Clement Fandie

Applicant's address: C/o: PSA

PO Box 7673

BLOEMFONTEIN, 9300

Telephone: (051) 403 1300

Telefax: (051) 403 1315 / 19

E-mail: —

Respondent's representative: Mr Lekakeng Leiee

Respondent's address: Department of Police, Roads & Transport

BLOEMFONTEIN

Telephone: (051) 403 7426

Telefax: 086 212 1917

E-mail: —

1. Details of hearing / representation

The case was set down for an arbitration hearing on 30 October 2013 at Bloemfontein, PSA Offices. Mr. C Fandie: Official PSA represented the Applicant. Mr L Leiee: Labour Relations represented the Respondent (DPRT).

2. Issue(s) to be decided

This is an application in terms of the **Labour Relations Act 66/1995, section 24(2)(5)** *re* the interpretation/application of a collective agreement, with specific reference to Resolution 14/2002: (Grievance Procedure).

3. Background to dispute

3.1 The Applicant (Engineering Technician posted at the Government Garage/Fleet Management) lodged a grievance on 28 May 2013 *re* an alleged wrong OSD-translation (Annexure A).

3.2 The Respondent failed to respond to the said grievance within the prescribed time limits (30 days /at all). Subsequently, the Applicant lodged a formal dispute (LRA 7.11) on 21 August 2013 in terms of **section 24(2)/(5)/LRA '95**. The Applicant then filed a request for arbitration on 17 September 2013.

4. Survey of evidence / argument

4.1 Applicant's argument simply boils down to the fact that the Respondent failed to comply with Resolution 14/2002 – no response to the Applicant's grievance had yet been received.

4.2 Respondent, on the other hand stated that despite the various requests to the Line Manager, the latter did not attend to this grievance up to date — 'grievance thus held on ice for the past five months'.

4.3 Resolution 12/2002 deals with the handling of grievances in the public sector. In terms of the said Resolution (being a collective agreement within the context of **section 23/LRA '95**) it is incumbent on the Respondent to respond to an employee's grievance in writing within 30 working days. Respondent simply failed to follow suit.

4.4 The purpose of the said Resolution is simply to attend to internal grievances in a speedily manner. I believe the underlying reasons therefore are quiet obvious – *inter alia* to create 'harmony' in the workplace. It is irrelevant whether the response is acceptable to the employee. If the latter is not satisfied with the response/outcome of the grievance, then the employee can pursue the matter further through other means (e.g. unfair labour practice doctrine (**section 186/LRA**) or in terms of the

Employment Equity Act 55 1998). However not all grievances will be arbitrable – the Council must determine whether it has the necessary jurisdiction to entertain the dispute through conciliation/arbitration.

- 4.5 I believe the Respondent had ample time to respond to the Applicant's grievance but failed to respond for no apparent reason. As pointed out, the failure to take any positive steps in this regard can only cause disharmony in the workplace. Equally, one cannot ignore the fact that both the Respondent and Council operate on tax-payers money. By frustrating the dispute causes unnecessary costs.

5. Award

In case PSCB332-13_14 the following award is rendered—

- 5.1 The Respondent (Department of Police, Roads and Transport) failed to comply with the prescriptive timeframes contained in Resolution 14/2002.
- 5.2 The Respondent is hereby ordered to respond to the Applicant's grievance in writing within seven (7) days after date of receiving this award.
- 5.3 I have seriously considered to order cost against the Respondent but decided to rather caution the latter to attend to grievances in a prompt manner. Obviously, similar cases in the future would not be that easily tolerated.

Signature:



Senior Arbitrator: **Martinus van Aarde**