



# AWARD

Panellist/s: Zolashe Lallie

Case No.: PSCB 429-09/10

Date of Award: 30 June 2010

In the ARBITRATION between:

**PSA obo PEARCE F**

(Union / Applicant)

And

**THE DEPARTMENT OF LAND AFFAIRS**

(Respondent)

**Union/Applicant's representative:** Mr Kilian

Union/Applicant's address:

Telephone:

Telefax: 041 501 6812

**Respondent's representative:** Mr Makgato

Respondent's address:

Telephone:

Telefax:

## **DETAILS OF HEARING AND REPRESENTATION**

This arbitration was held at the Port Elizabeth offices of the Department of Agriculture on 17 June 2010. The Applicant was represented by Mr Kilian (Kilian) an official of the PSA and the Respondent by Mr Makgato (Makgato), one of its employees.

## **ISSUE TO BE DECIDED**

I have to determine a dispute about the interpretation and application of Resolution 14 of 2002 (Resolution), a collective agreement.

## **POINT IN LIMINE**

Makgato raised a point in limine that I lack the necessary jurisdiction to arbitrate this dispute as the grievance which forms the basis of this dispute was lodged outside the 90 day period referred to in the Resolution.

It is common cause that Ms Pearce, an employee of the Respondent received a letter on 19 June 2008 which informed her that the post against which she is employed had been upgraded from level 9 to level 12. She, as the incumbent was not upgraded. She felt aggrieved and lodged a grievance on 28 July 2009. The Resolution provides that a grievance must be lodged with the employer within 90 days from the date on which the employee became aware of the official act or omission which adversely affects him or her. As Ms Pearce received the letter on 19 June 2008 she became aware of the official act or omission which adversely affected her on the same day. She should have lodged her grievance 90 days from 19 June 2008. As the grievance has been lodged late and the Resolution is silent on the condonation of lodging grievances late I lack the necessary jurisdiction to arbitrate this dispute.

## **RULING**

The PSCBC lacks jurisdiction to arbitrate this dispute as the grievance was lodged late.

Signed and dated in Port Elizabeth on this the 30<sup>th</sup> day of June 2010.

**Z LALLIE**

Panelist